

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
YFE, Inc. :
t/a Eighteenth Street :
Lounge :
1230 9th Street NW : Protest
Retailer CT - ANC 2F : Hearing
License No. 118846 :
Case #21-PRO-00079 :
 :
(Application for a New :
License) :
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Wednesday
February 2, 2022

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

PRESENT:

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

ALSO PRESENT:

SARAH FASHBAUGH, DC ABRA Staff

LAMONT MAHONE, DC ABRA Staff

JORDAN NABER, Applicant

FARID NOURI, Applicant

ANDREW KLINE, ESQ., Applicant's Counsel

SIDON YOHANNES, ESQ., Applicant's Counsel

JOHN GUGGENMOS, ANC 2F

TRACY BUCK, ESQ., Protestants' Counsel

IAN THOMAS, ESQ., Protestants' Counsel

JELENA BUDJEVAC, Protestant

SHERENE JOSEPH, ANC 2F, Witness

LIEUTENANT CURTIS MILLER, DC MPD

AMIR SHAIKH, ESQ., Protestant

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

2 1:34 p.m.

3 CHAIRPERSON ANDERSON: Good afternoon,
4 everyone. We are on the record. I would like to
5 thank -- all right. Our next case is Case No. --
6 it's a continuation of Case No. 21-PRO-00079,
7 Eighteenth Street Lounge, License No. 118846.
8 Ms. Fashbaugh, please elevate the rights of all
9 the parties in this case, please.

10 MS. FASHBAUGH: Please stand by.
11 Andrew Kline, your rights have been elevated.
12 Farid Nouri, your rights have been elevated. Ian
13 Thomas, your rights have been elevated.

14 Jelena Budjevac, your rights have been
15 elevated. John Guggenmos, your rights have been
16 elevated. Jordan Naber, your rights have been
17 elevated. Lamont Mahone, your rights have been
18 elevated.

19 Robert Goldberg, your rights have been
20 elevated. Sherene Joseph, your rights have been
21 elevated. Sidon Yohannes, your rights have been
22 elevated. Tracy Buck, your rights have been
23 elevated. That is all, Chairperson.

24 CHAIRPERSON ANDERSON: Thank you, Ms.
25 Fashbaugh.

1 (Pause.)

2 CHAIRPERSON ANDERSON: Let me see
3 where it is. All right. Good afternoon,
4 everyone. This is a continuation of the protest
5 hearing for Eighteenth Street Lounge.

6 The protest hearing initially started
7 on January 19th, 2022. And because of the
8 lateness of the hour, this case was continued to
9 this afternoon. The Applicant had presented his
10 case in chief. And today the purpose of this
11 hearing today is for the protestant to present
12 its case in chief.

13 And I know there's several
14 protestants, but we had decided that Mr. Ian
15 Thomas, the attorney for one of protestants in
16 the protestant group would present its case. If
17 I remember correctly, I did inform the other
18 protestant that they could have a closing if they
19 so desire. But we're going to have Mr. Thomas
20 who will present the witnesses and cross-examine
21 the witnesses.

22 So just to bring -- all right. So
23 prior to starting the hearing this afternoon,
24 this matter comes before the Board as a protest
25 on the application for a new license filed by the

1 Eighteenth Street Lounge, Retailer Class CT, ABRA
2 No. 118846, located at 1230 9th Street,
3 Northwest.

4 Prior to us resuming the case this
5 afternoon for the protestant to present its case,
6 are there any preliminary matters that needs to
7 be addressed or started by either side?

8 MR. KLINE: Mr. Chairman --

9 CHAIRPERSON ANDERSON: I'm sorry.
10 Please, Mr. Kline. Please identify yourself for
11 the record, please.

12 MR. KLINE: Oh, I apologize. Andrew
13 Kline, Attorney for the Applicant. I would like
14 --

15 CHAIRPERSON ANDERSON: Hold on, Mr.
16 Kline. I see there is something in your
17 background, Mr. -- there's something in your
18 background. Maybe you need to look to see what's
19 in your background.

20 And I'm not sure how -- if you're
21 aware that there's something in your -- there's
22 another -- well, some people will say there's a
23 person. So there's a person in your background,
24 sir. So maybe you need to look at that person to
25 make sure that they're okay.

1 MR. KLINE: My puppy is fine. He
2 won't bother us.

3 CHAIRPERSON ANDERSON: Just wanted to
4 let you know that. I saw that they were making
5 themselves very comfortable. So I just want to
6 bring that to your attention. Okay.

7 MR. KLINE: He's quite comfortable.
8 Thank you.

9 CHAIRPERSON ANDERSON: All right. Go
10 ahead, Mr. Kline.

11 MR. KLINE: I would ask a proffer as
12 to who will testify for the protestants. This is
13 a very unusual situation in that I cannot think
14 of a case where the Applicant's case was put on
15 and then the protestant had two weeks to think
16 about what was put on.

17 I understand scheduling. But in
18 looking at the log of who was on and when they
19 were on, we were told at the conclusion, at about
20 6:04, when we were here two weeks ago, that the
21 protestants had no witnesses. And it seems, in
22 our review of who was on, it would seem all the
23 people that they're probably going to call were
24 online. And I don't really understand why it is
25 that we were told that there were no witnesses

1 available.

2 CHAIRPERSON ANDERSON: Well, Mr.
3 Kline, if I remember correctly -- and I'll have
4 Mr. Thomas respond -- Mr. Thomas had informed me
5 that he had six witnesses. That was what -- that
6 was a presentation made by Mr. Thomas the last
7 time. And I know that he had stated that he had
8 some childcare issues, that some of his witnesses
9 had left.

10 And I know that Mr. Thomas has not
11 practiced in front of this Board prior to this
12 hearing. And I was just reminding him -- I
13 reminded all the parties while we have these
14 hearings, we are here. The Board is available
15 for the duration. So this hearing doesn't end at
16 5:00 o'clock. The hearing ends when it's over.
17 So --

18 MR. KLINE: I'm well aware of that,
19 Chairman.

20 CHAIRPERSON ANDERSON: But as a
21 courtesy, I will just -- okay. But I was told
22 that there is some childcare issues and others --
23 and because I know that if you're in court --
24 because we're in court, I know that the court
25 building is over at 5:00 o'clock. But this

1 administrative hearing, the ABC Board, we will
2 make ourselves available until the hearing has
3 concluded. So therefore, I just want -- so I
4 want to alert everyone that it's my intent that
5 this hearing will be concluded today.

6 MR. KLINE: I get that.

7 CHAIRPERSON ANDERSON: I will not --
8 so there's no cut off in the sense that, okay,
9 it's 5:00 o'clock, we've got to leave. No. So
10 we're going to complete this hearing today. And
11 I would hope that Mr. Thomas -- it's your
12 witnesses. You can tell me who the witnesses
13 are, that they are aware that however long this
14 is that they will be available. I know that when
15 we started off this hearing, I said that each
16 side had an hour. But the first hearing took six
17 hours.

18 Again, the Board presented its
19 witness. Both the Applicant and the Protestant
20 had an opportunity to cross-examine the Board's
21 witness. And that took much longer.

22 But -- so I just want to let you know,
23 Mr. Thomas, I'm not going to say that you have an
24 hour to do this case. But I do hope that you are
25 -- in bringing the witnesses, that you are

1 mindful of that there are some time constraints
2 to ensure that we get this witness the hearing.
3 And so therefore we're not here at 10:00 o'clock
4 and then I'm being told that because the
5 witnesses were here at 1:30 and it's now 10:00
6 o'clock that a person had to leave.

7 So I just want to repeat that at the
8 forefront so you are aware that we're going to
9 complete this hearing today. And I hope whatever
10 witnesses are testifying, they're not repetitive,
11 that they bring new information, because I would
12 expect that counsel would object if -- and I
13 might object if I believe that the witness is
14 testifying just to what another -- I don't need a
15 witness to pipe what was said by another witness.
16 Any person who is testifying should bring new
17 information.

18 MR. KLINE: My concern was I thought
19 the representation was that there were no
20 witnesses available on the part of the
21 Protestants called at that time.

22 CHAIRPERSON ANDERSON: I think the
23 witnesses -- where he said that there were no
24 witnesses available because of the time
25 constraint -- because of the time constraint.

1 But as I stated before, I was told that he had
2 six witnesses. And the witnesses were disclosed.

3 But because of time constraint that --
4 because I think the hearing, I believe, had
5 started at 10:00 o'clock that morning and by 5:00
6 o'clock people had other obligations that they
7 had to make themselves available. But Mr.
8 Thomas, I know that you're not a potted plant.
9 So you can speak for yourself, sir.

10 MR. THOMAS: Yeah, thank you. I
11 appreciate that. Just for the purposes of
12 clarification, first of all, I don't really think
13 I appreciate the implication that's being made by
14 Mr. Kline at all and impugning my integrity as an
15 officer of the D.C. bar, an officer of the court
16 in the District of Columbia.

17 But putting aside that and trying to
18 keep this professional and moving forward, our
19 position the last time was that several of our
20 witnesses were going to be unable to testify
21 moving forward because of the fact of they had
22 sat there through seven witnesses that Mr. Kline
23 put on over the span of six hours. And so that
24 caused serious issues. Our police officer
25 witness, Lieutenant Miller, became unavailable

1 because his shift was over and he needed to go to
2 sleep so that he could wake up the next day and
3 protect the citizens of the District of Columbia.

4 Myself and one of my witness, Amir
5 Shaikh, had childcare issues. And you'll hear
6 Mr. Shaikh testify as to the fact that he has two
7 young children and lives -- abuts the alley where
8 Mr. Kline's client is planning on trying to open
9 his business. And there are several other
10 witnesses that had issues and would be unable to
11 attend the protest hearing if the protest hearing
12 was going to continue on for several more hours.

13 And so -- and I had no objection to
14 Mr. Kline running well over whatever the time
15 frame was in putting on his case. He was welcome
16 to call six, seven, however many witnesses he
17 wanted to call. And I think it's probably more
18 important that this Board gets the information it
19 needs to make the right decision.

20 So we are ready to proceed today. I
21 believe we had six witnesses last time in respond
22 to Mr. Kline's request for a proffer, I'm more
23 than happy to do. I certainly don't want to play
24 gotcha litigation.

25 We, I think, right now have four or

1 five witnesses that we intend to put on. One of
2 our intended witnesses, Mr. Kerr, who is a sound
3 expert, is actually now unable to appear because
4 he's gotten ill and is unable to appear and
5 testify today. So one of our witnesses has
6 unintentionally gotten hurt by the delay, and it is
7 what it is. We're ready to proceed anyway.

8 But we have two residents, potentially
9 three residents that will testify about the alley
10 and the impact of the proposed business. We
11 intend to call Sherene Joseph, the chair of the
12 ANC 2F. We intend to call Curtis Miller,
13 Lieutenant Curtis Miller, who is an MPD officer
14 in the area. And I believe that is the list of
15 witnesses that we intend to call today. And I
16 anticipate that it will not be nearly as long as
17 Mr. Kline's case in chief.

18 CHAIRPERSON ANDERSON: All right. Any
19 other preliminary matter that we need to address
20 before we start?

21 MR. KLINE: None from the Applicant.
22 (Simultaneous speaking.)

23 MR. GUGGENMOS: Mr. Chairman?

24 CHAIRPERSON ANDERSON: Mr. -- yes, Mr.
25 Guggenmos?

1 MR. GUGGENMOS: This is John from ANC
2 2F. When we were here last year, the ANC's
3 position was we had a statement that we did want
4 to read in the record at the very end and in our
5 portion and go ahead and take questions from the
6 Board. If we're still able to do that, we'd
7 appreciate it.

8 CHAIRPERSON ANDERSON: All right.
9 I'll give the -- I will -- maybe I'll have the
10 ANC just tell me not to forget. So maybe I'll
11 have the ANC make its statement, and then we'll
12 have Mr. Thomas. So I'll have the ANC -- yeah,
13 Mr. Guggenmos, if you have a statement from the
14 ANC, you can raise that. Do you have a question,
15 Mr. Kline?

16 MR. KLINE: Hang on. I would just ask
17 that if that's going to happen, then obviously
18 the witness will be sworn and we'll have the
19 opportunity to cross-examine --

20 CHAIRPERSON ANDERSON: I'm sorry. I
21 can't hear what you're saying.

22 MR. KLINE: I said I don't have a
23 question. I would just -- I want to be sure that
24 he's sworn --

25 CHAIRPERSON ANDERSON: I will, yes.

1 Right, and --

2 MR. KLINE: -- and then an opportunity
3 to cross-examine.

4 CHAIRPERSON ANDERSON: Yes, you'll
5 have that opportunity, sir.

6 MR. KLINE: Thank you.

7 CHAIRPERSON ANDERSON: All right. So
8 do you have any concern, Mr. Thomas, if I just
9 put the ANC on, because I don't want for us to --
10 then for me to forget to do this. So at least by
11 doing this at this juncture and then we'll move
12 on with your witnesses, sir. Is that okay?
13 That's what I'm going to do. And so --

14 (Simultaneous speaking.)

15 CHAIRPERSON ANDERSON: Go ahead, Mr.
16 Thomas.

17 MR. THOMAS: I was going to say
18 there's no objection from the Protestant provided
19 that we'll be permitted to put on our ANC witness
20 as well and this will not obviate our ability to
21 take testimony from the chair of the ANC, Ms.
22 Joseph -- Commissioner Joseph I should say.

23 CHAIRPERSON ANDERSON: Well, my
24 position is that whatever witnesses that are on
25 your disclosure, you can -- as long as the person

1 is on your disclosure, then you will be able to
2 call. I can look for the disclosure, but -- all
3 right. Who are the witnesses you plan to call?

4 I want to make sure that -- there
5 might be objections. But I don't want objections
6 raised based on the fact that they were not
7 disclosed. So who are the witnesses that you're
8 planning to call, sir?

9 So at least I can get some -- I can
10 get an understanding from Mr. Kline, if there is
11 an objection based on the fact that this person
12 was not previously disclosed. If there are other
13 objections, we can raise -- those objections will
14 be addressed when the witness is called. But the
15 only objection I want us to discuss now is if
16 this person was not disclosed pursuant to seven
17 days prior to the hearing.

18 MR. THOMAS: So all of them should've
19 been disclosed.

20 (Simultaneous speaking.)

21 MR. THOMAS: I'm going to give you the
22 names right now.

23 CHAIRPERSON ANDERSON: Yes, please.

24 MR. THOMAS: Amir Shaikh, Jelena
25 Budjevac --

1 CHAIRPERSON ANDERSON: I'm sorry.

2 Amir -- spell the name for me, please.

3 MR. THOMAS: First name, Amir, A-M-I-

4 R. Last name, Shaikh, S-H-A-I-K-H.

5 CHAIRPERSON ANDERSON: Yes. Who else?

6 MR. THOMAS: Jelena Budjevac, J-E-L-E-

7 N-A. Last name, Budjevac, B-U-D-J-E-V-A-C.

8 CHAIRPERSON ANDERSON: Okay.

9 MR. THOMAS: Sherene Joseph who is --

10 or Commissioner Sherene Joseph who is an ANC

11 representative.

12 CHAIRPERSON ANDERSON: Anyone else?

13 MR. THOMAS: Lieutenant Curtis Miller

14 who is an MPD representative.

15 CHAIRPERSON ANDERSON: Okay.

16 MR. THOMAS: Okay. And potentially

17 Hector Pinto who is a representative of another

18 Protestant, the Picnic Benchers.

19 CHAIRPERSON ANDERSON: All right. Mr.

20 Kline, do you have any objection just on whether

21 or not you're saying that these witnesses were

22 not disclosed seven days prior to the hearing?

23 MR. KLINE: I do not. They were all

24 disclosed on the PIF.

25 CHAIRPERSON ANDERSON: Okay, fine. If

1 you have other objections, when the witness is
2 called, then you can object. We can address it.
3 But I just want to make sure that there are no
4 objections raised at this juncture to say that
5 these witnesses were not previously disclosed.
6 All right. So Mr. Guggenmos, can you please
7 spell and state your name for the record, please?

8 MR. GUGGENMOS: Sure. It's
9 Commissioner John Guggenmos, John, J-O-H-N,
10 Guggenmos, G-U-G-G-E-N-M-O-S.

11 CHAIRPERSON ANDERSON: All right.
12 Thank you. And Mr. Guggenmos, can you just state
13 what your position is, sir?

14 MR. GUGGENMOS: Sure. I am the Vice
15 Chair of ANC 2F.

16 CHAIRPERSON ANDERSON: Can you raise
17 your right hand for me, sir, please? Do you
18 swear or affirm to tell the truth and nothing but
19 the truth?

20 MR. GUGGENMOS: I do affirm.

21 CHAIRPERSON ANDERSON: All right. Go
22 ahead, sir.

23 MR. GUGGENMOS: Yes. Thank you, Mr.
24 Chairman and Board members. This statement was
25 co-written by Commissioner Joseph and myself.

1 The Applicant, Farid Nouri, and his team first
2 approached the ANC in mid-August at our monthly
3 Alcoholic Policy Committee, or APC, which hears
4 and advises our ANC and ABRA-related matters.

5 At this meeting, the Applicant
6 presented information on his entertainment
7 concept, programming, architectural plans,
8 interior, and the rooftop. And the community had
9 a chance to ask Mr. Nouri questions about the
10 alley history of sound mitigation, security, and
11 other concerns he was asked to address. After
12 this meeting, the fellow Commissioner and I
13 toured the property, advised Mr. Nouri on a
14 specific list of points that we encouraged him to
15 address at the second meeting with the APC later
16 that night.

17 These included elaborating on the
18 rooftop plans, security, deliveries, occupancy
19 numbers, entertainment, and trash collection. At
20 this stage, these issues were paramount to both
21 the ANC and the neighbors. And as we wanted to
22 continue the conversation with Mr. Nouri, before
23 negotiations began on the settlement agreement,
24 Mr. Nouri said that he understood the issues
25 around noise and the alley.

1 He volunteered not to use the alley
2 door except in emergencies, to have indoor and
3 outdoor cameras with sufficient coverage and
4 footage in line with ABRA's requirements. He
5 said he'd have trained door and security staff
6 present. In addition, his team was willing to
7 work with other businesses in Blagden Alley to
8 lead on the responsibilities of a trash compactor
9 and other trash issues.

10 In all, we saw a good faith effort
11 from the Applicant to address these concerns.
12 Unfortunately, subsequent conversations between
13 the ANC and the community fell apart and became
14 increasingly difficult to reach common ground.
15 My fellow Commissioner and I offered the
16 community possible meetings but were unable to
17 make them work.

18 The ANC stated to the Applicant that
19 architectural plans were not satisfactory to
20 confirm that noise from the rooftop would not be
21 an issue and that we needed an acoustical
22 engineer for sound mitigation. And the ANC would
23 not be able to take a position on rooftop hours
24 without an acoustical study. To that end, I gave
25 Mr. Nouri a few options on sound engineers to

1 contact.

2 And he was able to retain Miller,
3 Beam, and Paganelli to conduct the acoustical
4 evaluation. Additionally, I also suggested that
5 Mr. Nouri consider modeling the hours of
6 operations to 1:00. That has successfully worked
7 elsewhere in our ANC.

8 This model allowed for timing beyond
9 the ANC's template settlement agreement but does
10 include clawback language that would be triggered
11 by two adjudicated sound violations in a rolling
12 time frame to ensure compliance. On December
13 21st, Lieutenant Miller, Commissioner Joseph, and
14 I had a chance to meet with some of the
15 Protestants from the community where they
16 presented us with a list of concerns. The
17 concerns were to remain confidential and were
18 about the Applicant and Blagden Alley in general.

19 When asked, we were told the
20 expectation was to have terms that would be
21 economically unattractive that the Applicant
22 would move to another location. This in-person
23 meeting was to serve as a reset point for the ANC
24 and the community. And we confirmed that night
25 that Commissioner Joseph would receive a list of

1 specific issues from the community that was
2 shareable with the Applicant at a follow-up
3 conversation.

4 Unfortunately, by the time the ANC
5 convened its January 2022 meeting, we did still
6 not have an acoustical study, revised plans from
7 the Applicant, nor did we have a list of
8 settlement points that we could share with the
9 Applicant from our December 20th meeting with the
10 community. At this stage with the protest
11 hearing eminent, the ANC voted -- it wasn't
12 unanimous, but voted at the January meeting on a
13 letter outlining our positions on hours of
14 operation, an entertainment endorsement, rooftop
15 hours, trash, and the use of the back door. The
16 ANC considered issues that the community had
17 raised and concerns we as Commissioners outlined
18 to the Applicant.

19 As the ANC, we are eager to support
20 our community however we can. Unfortunately, in
21 this instance, it was difficult to overcome some
22 of the mistrust that was built up during the
23 process. But we look forward to the Board ruling
24 to allow this Applicant to coexist with the
25 neighbors in a way that allows the neighborhood

1 to maintain its quality of life. Thank you very
2 much, Mr. Chairman. That's the state I wish to
3 submit.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Guggenmos. Mr. Thomas, do you have any questions
6 of Mr. Guggenmos?

7 MR. THOMAS: Has that statement been
8 approved by the ANC?

9 MR. GUGGENMOS: Commissioner Joseph
10 and I wrote it. No, it was not voted on in our
11 ANC meeting.

12 MR. THOMAS: Okay.

13 MR. GUGGENMOS: But it does represent
14 the facts of what happened as I was the
15 designated representative and Commissioner Joseph
16 was at all of the meetings with me.

17 MR. THOMAS: Okay. Was there any
18 other ANC Commissioners at these meetings with
19 you?

20 MR. GUGGENMOS: Commissioner
21 Romanowski was at the tour. APC meetings, no.
22 Just at the full ANC meetings, just Commissioner
23 Joseph and I.

24 MR. THOMAS: Are you of any outreach
25 that Eighteenth Street Lounge did to the

1 community in general outside of the ANC?

2 MR. GUGGENMOS: No, I'm not sure.

3 MR. THOMAS: Okay. Are you -- what do
4 you do for a profession, Mr. Guggenmos?

5 MR. GUGGENMOS: I'm in the hospitality
6 industry. I own two bars currently.

7 MR. THOMAS: Okay. Are you involved
8 in something called the DC Nightlife Council?

9 MR. GUGGENMOS: Yes, sir. I am. I'm
10 the Board Chair. We're a 501(c)(3) that does
11 advocate on nightlife issues.

12 MR. THOMAS: Okay. And what position
13 do you advocate?

14 MR. GUGGENMOS: In general, just the
15 wellbeing of the nightlife industry in the
16 District.

17 MR. THOMAS: But you advocate on
18 behalf of the nightlife industry, correct?

19 MR. GUGGENMOS: Our Board -- our
20 industry -- I mean, our organization does. But
21 we do not advocate on individual members. And
22 Eighteenth Street Lounge is not a member if
23 that's the question.

24 MR. THOMAS: No, the question is more
25 general, that the industry --

1 MR. GUGGENMOS: Okay.

2 MR. THOMAS: -- you advocate on behalf
3 of is the nightlife industry, correct?

4 MR. GUGGENMOS: Yes, in general. Yes,
5 then that's the answer.

6 MR. THOMAS: Okay. Have you
7 interacted with Mr. Nouri in the past due to your
8 role in the DC Nightlife Council?

9 MR. GUGGENMOS: No. The very first
10 time that I met Mr. Nouri was after their first
11 meeting with our APC Committee.

12 MR. THOMAS: Okay. And I think you
13 said that you provided the Miller -- the contact
14 for Miller and Beam to Mr. Nouri. Is that
15 correct?

16 MR. GUGGENMOS: I provided a number of
17 acoustical engineering, Polysonics, Fuse, Miller,
18 Beam & Paganelli. I gave him some that I know
19 have worked with the Board and that it worked
20 with other condo projects and were licensed here
21 in the District.

22 MR. THOMAS: Okay. As far as the ANC
23 goes and its outreach with Eighteenth Street
24 Lounge, I believe your statement said that you
25 had requested certain documentation from

1 Eighteenth Street Lounge in order for the ANC to
2 fully evaluate its position on its license
3 application. Is that correct?

4 MR. GUGGENMOS: One of the acoustical
5 studies so that we could evaluate the rooftop
6 hours.

7 MR. THOMAS: And I thought you -- I'm
8 sorry if I have it wrong. I thought you also
9 said that you wanted to see plans and permitting
10 for the --

11 MR. GUGGENMOS: He presented his
12 architectural plans at the first meeting --

13 MR. THOMAS: Okay.

14 MR. GUGGENMOS: -- of the APC meeting.

15 MR. THOMAS: Okay.

16 MR. GUGGENMOS: We felt that wasn't
17 enough.

18 MR. THOMAS: Why was that not enough?

19 MR. GUGGENMOS: Because it didn't have
20 -- I mean, it was architectural. But we wanted
21 an actual expert in acoustical and sound
22 engineering.

23 MR. THOMAS: And they're subject to
24 change too, correct?

25 MR. GUGGENMOS: Bet your pardon? I'm

1 sorry?

2 MR. THOMAS: Plans are subject to
3 change?

4 MR. GUGGENMOS: Plans are subject to
5 change, yes.

6 MR. THOMAS: Okay. Did the ANC ever
7 request that the Applicant commit to any noise
8 mitigation efforts?

9 MR. GUGGENMOS: Well, wouldn't take a
10 position on the hours until we had them. I will
11 say that I'm positive that Mr. Nouri understands
12 his legal obligation to the sound ordinance. And
13 that would've been in our template agreement.

14 MR. THOMAS: Is the template agreement
15 the standard agreement or is it a starting point?

16 MR. KLINE: Objection. I've been
17 indulgent, but we are perilously close to
18 settlement discussions and we're not there.

19 CHAIRPERSON ANDERSON: I mean, he's
20 asking a general question. I'm going to overrule
21 the objection. He's just asking whether or not
22 the template -- I'm going to overrule the
23 objection because at least to me this is -- it's
24 just general, asking general questions. It's not
25 specifically asking what was in the template. So

1 you can answer the question. I'm going to
2 overrule the objection.

3 MR. KLINE: My objection is we don't
4 recognize a template agreement. I know some ANCs
5 do them. We look at that as a rulemaking and
6 it's not permissible to try to set a standard for
7 the community. And if we're talking about that
8 as a starting point and we're talking about
9 starting point of negotiations. And it goes
10 directly to settlement negotiations.

11 CHAIRPERSON ANDERSON: But Mr. -- I
12 don't know what's in the agreement. I don't know
13 what's in the agreement. They're not
14 specifically discussing the contents of the
15 agreement.

16 So if we start talking about the
17 specifics of the agreement, you can raise your
18 objection at this juncture. But at this time,
19 I'm going to overrule the objection because it's
20 just -- we're just being asked a general
21 question. Now if you believe in further
22 questions if we're moving towards that, then you
23 can raise another objection and I will revisit
24 the issue. So go ahead, Mr. Guggenmos.

25 MR. KLINE: Thank you.

1 MR. GUGGENMOS: So the template has
2 been on our website for 15-plus years. And we
3 felt it was just a good indication that anyone
4 who wanted to do business in our ANC had at least
5 a framework of what we would expect. We have
6 deviated from that template.

7 So one that one hand, you would say
8 it's a starting point. But it is what we would
9 expect, by and large. That's what we're most
10 comfortable with, so --

11 MR. THOMAS: And is it the ANC's
12 position that they apply that template to
13 anywhere in the ANC, correct?

14 MR. GUGGENMOS: That is what we --
15 that is what we would prefer.

16 MR. THOMAS: Right. So it's not --
17 you would agree that there are different areas
18 within your ANC that have different
19 considerations, correct?

20 MR. GUGGENMOS: Yes. I mean, all of
21 our liquor licenses are in commercial or mixed
22 use zones. But yes, in general, that's a fair --
23 that's a fair statement.

24 MR. THOMAS: Okay. And the
25 considerations in a mixed use zone may not be the

1 same as the considerations in a commercial zone,
2 correct?

3 MR. GUGGENMOS: That's a fair
4 statement, yes.

5 MR. THOMAS: Okay. In terms of the
6 ANC's position, you said that the ANC voted to
7 protest, correct?

8 MR. GUGGENMOS: Yes.

9 MR. THOMAS: Do you recall how many
10 Commissioners voted in favor of the protest?

11 MR. GUGGENMOS: It was unanimous. We
12 were missing one Commissioner.

13 MR. THOMAS: Okay.

14 MR. GUGGENMOS: The original vote to
15 protest which would've been months ago. Then the
16 vote that I was talking about that was not
17 unanimous was in January just before this
18 hearing.

19 MR. THOMAS: Okay. So you originally
20 voted to protest when?

21 MR. GUGGENMOS: Back -- geez,
22 September, October. I'm sorry. Yeah, it was
23 October, at our October meeting. I'm so sorry,
24 sir.

25 MR. THOMAS: And then what was the

1 date of this follow-up protest vote?

2 MR. GUGGENMOS: Well, we protested,
3 then there were, you know, our mediation and roll
4 call and the attempts to try to -- try to find
5 some common ground. But in January, not having
6 really an agreement, we felt the ANC really
7 wanted to try to -- try to find some common
8 ground before we went to the protest hearing. So
9 --

10 MR. THOMAS: Sorry. That protest --
11 the second vote in January --

12 MR. GUGGENMOS: Yes.

13 MR. THOMAS: -- do you recall what day
14 that was?

15 MR. GUGGENMOS: January 2nd.

16 MR. THOMAS: And have you seen the
17 Miller and Beam study that the Protestant --
18 excuse me, that the Applicant has procured?

19 MR. GUGGENMOS: No, not at that point.

20 MR. THOMAS: Okay. Have you seen it
21 now?

22 MR. GUGGENMOS: Wasn't it part of the
23 --

24 MR. THOMAS: It's part of the
25 evidence.

1 MR. GUGGENMOS: It was part of the --
2 yes.

3 MR. THOMAS: And it was dated January
4 3rd, right?

5 MR. GUGGENMOS: I believe so. I
6 believe he just was engaged in late December.

7 MR. THOMAS: Okay. So the study came
8 out after your vote --

9 (Simultaneous speaking.)

10 MR. GUGGENMOS: Yes, that's correct.

11 MR. THOMAS: That follow-up protest
12 vote, you said it was not unanimous?

13 MR. GUGGENMOS: That's correct.

14 MR. THOMAS: How many dissenting
15 Commissioners were there?

16 MR. GUGGENMOS: I was the one
17 dissenter.

18 MR. KLINE: Objection to relevance.
19 We're here. There's a protest. What does it
20 matter? I mean, if it was 4 to 3 or unanimous,
21 the ANC protested. Here we are. And it's up to
22 the Board to make a decision as to what happens
23 here.

24 MR. THOMAS: If I may, the only thing
25 I was trying to get was that Mr. Guggenmos was

1 the lone person who did not vote in favor of the
2 ANC's position.

3 MR. KLINE: Objection. I move to
4 strike the testimony.

5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: All right.
7 Gentlemen, gentlemen. All right. I'm going to
8 overrule the objection. Just ask him the
9 question, sir.

10 And actually, Mr. Thomas, I just want
11 to caution you that you have a certain amount of
12 time to present your case. And I'm not saying
13 that you should not cross-examine a witness. But
14 if I have you on the clock, that will be taking a
15 lot of time from your direct testimony on cross-
16 examination because normally in these hearings,
17 the parties are advised that when they cross-
18 examine witnesses, that is also part of their
19 time.

20 So I just wanted to let you know as an
21 FYI. But I'm not doing that generally -- I've
22 not generally done that. But just wanted to keep
23 you aware of that, sir.

24 MR. THOMAS: I appreciate that. I
25 will keep that in mind. And I can represent I

1 don't have very much left here. So --

2 MR. GUGGENMOS: I'll answer that.
3 I'll answer it. When I voted to protest, I said,
4 we did not -- the terms that were there were far
5 less than what our template agreement was. And I
6 voted along that line. I felt it sent a bad
7 message to -- I think stated to all the rest of
8 the liquor Applicants and people that come before
9 us. It was a longstanding tradition that I felt
10 we were changing.

11 MR. THOMAS: What was?

12 MR. GUGGENMOS: That we were proposing
13 terms that were far more restrictive than what
14 our template agreement was which was, again, what
15 we were telling -- what we had for 15 years plus
16 said this is what we anticipate or expect
17 licenses to come into. It's what had been
18 discussed with Mr. Nouri throughout this time.
19 So that's why I voted to -- against the motion.

20 MR. THOMAS: The one in January?

21 MR. GUGGENMOS: Yes.

22 MR. THOMAS: Okay. Can you tell me --
23 I mean, you're here as an official representative
24 of the ANC, correct?

25 MR. GUGGENMOS: Yes, sir.

1 MR. THOMAS: Can you tell me what the
2 official position of the ANC is in this hearing?

3 MR. GUGGENMOS: We were a Protestant.

4 MR. THOMAS: And what is the relief
5 that you're asking from the Commission -- the
6 Board?

7 MR. GUGGENMOS: The settlement items
8 that were sent in a letter and our PIF.

9 MR. THOMAS: Be imposed upon the
10 Applicant?

11 MR. GUGGENMOS: That is -- that is the
12 position of the ANC.

13 MR. THOMAS: Okay. I have no further
14 questions.

15 CHAIRPERSON ANDERSON: Thank you. Mr.
16 Kline? You're on mute, Mr. Kline.

17 MR. KLINE: My apologies. Thank you,
18 Mr. Chair. Mr. Guggenmos, just for clarity of
19 the record, you referred to APC several times.
20 What is that?

21 MR. GUGGENMOS: Our Alcohol Policy
22 Committee. It's where we --

23 MR. KLINE: I want to go to something
24 that you said. You were working with the other
25 Protestants. Is that correct? And seeing if

1 this could somehow be resolved?

2 MR. GUGGENMOS: We were attempting to.
3 We had a very good mediation session. But I
4 proposed several other meetings that we couldn't
5 make happen. But we finally did, and we did hear
6 from some of the Protestants in December.

7 MR. KLINE: You said -- and I wrote it
8 down because it was so striking -- that those
9 other Protestants insisted on terms that were
10 economically unattractive. Is that what you
11 said?

12 MR. GUGGENMOS: That was the
13 expectation from the -- that was the expectation
14 that the ANC would propose those terms.

15 MR. THOMAS: I'm going to --

16 MR. KLINE: What does that mean --

17 (Simultaneous speaking.)

18 CHAIRPERSON ANDERSON: Hold on. Hold
19 on. What's the objection, Mr. Thomas?

20 MR. THOMAS: I mean, Mr. Kline just
21 raised an objection during my cross-examination
22 about weighing in on settlement discussions.
23 Settlement discussions amongst the parties and
24 settlement positions amongst the parties are not
25 relevant to this hearing. And Mr. Kline has just

1 taken that position not five minutes ago.

2 CHAIRPERSON ANDERSON: I'll overrule
3 the objection because again we're not having -- I
4 don't know what the settlement terms are. And so
5 if we start discussing settlement terms that
6 there is an objection. But I believe that you
7 opened the door where he said that he disagreed
8 with the position of the ANC.

9 And so he's now explaining why that he
10 disagreed as a member of the ANC, why he
11 disagreed with that vote in January 2 to move
12 forward with the protest. So I'm overruling the
13 objection. He can answer the question.

14 MR. THOMAS: Well, I would just say
15 it's not settlement terms. It's settlement
16 position. So while I agree we haven't gotten
17 into specific terms, he's characterizing my
18 clients' and other Protestants' settlement
19 positions in the context of a mediation that's
20 been held by ABRA. And so that would be
21 settlement discussions that this Board has ruled
22 on several times in this case is not an
23 admissible areas of testimony.

24 CHAIRPERSON ANDERSON: You are
25 correct, Mr. Thomas. But remember you made a

1 point to make -- you made it a point to put on
2 the record that he was the only member of the ANC
3 to vote against the process. So therefore, he's
4 just explaining why is it without being specific.
5 He's just giving his rationale why he voted as a
6 member of the ANC not to move forward with the
7 protest. So I'm overruling the objection. He
8 can answer the question.

9 MR. KLINE: All right. I'm going to
10 rephrase it, if I may. So Mr. Guggenmos, right
11 now we're talking about communications that you
12 had with the representatives of what are now the
13 other protestors. Is that correct?

14 MR. GUGGENMOS: Yes, but it was also
15 with Commissioner Joseph. So we were both there
16 at the meeting.

17 MR. KLINE: Okay. And someone said
18 that they wanted terms -- demanded that --
19 without getting into the terms because that's not
20 where we're going. But they wanted terms that
21 were, quote, economically unattractive, correct?

22 MR. GUGGENMOS: That's correct.

23 MR. KLINE: What did that mean,
24 economically unattractive?

25 MR. THOMAS: I would go objection on

1 hearsay grounds.

2 MR. KLINE: Administrative hearing.
3 It's permissible.

4 CHAIRPERSON ANDERSON: I'll overrule
5 the objection. But again, so yes, you're
6 correct, Mr. Kline. At an administrative
7 hearing, we -- this is not a court of law in a
8 sense that we go strictly by the hearsay. But --

9 MR. THOMAS: Well, then let me update
10 my objection. It calls for speculation as well.

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: I'm sorry. Mr.
13 Guggenmos, were you part of this discussion?

14 MR. GUGGENMOS: Yes.

15 CHAIRPERSON ANDERSON: He can answer
16 the question.

17 MR. GUGGENMOS: Because the terms and
18 the issues we were told to keep confidential, the
19 question is, what do you expect from the ANC to
20 do? And it was said to provide terms that would
21 be so economically unfriendly that they would
22 find another position. And that was the
23 agreement of all of the people at the table. And
24 it's -- Commissioner Joseph and I were both -- we
25 both walked away. That was -- that was clear.

1 MR. KLINE: Okay. So it was to make
2 it so they would look for another location? I
3 think you may have used the wrong word. I'm not
4 sure, though.

5 MR. GUGGENMOS: Yeah, I'm sorry. The
6 -- the -- you know, the hours were restrictive
7 that they couldn't operate.

8 MR. KLINE: All right. And there was
9 testimony previously about -- you were asked
10 about and I objected, but it was allowed -- about
11 a template agreement. And the ANC then was
12 asking for something more restrictive than the
13 template. Is that correct?

14 MR. GUGGENMOS: That's correct.

15 MR. KLINE: Okay. Now you also said
16 that even though there's a template that the ANC
17 will, from time to time in appropriate
18 circumstances, deviate from the template,
19 correct?

20 MR. GUGGENMOS: That's correct.

21 MR. KLINE: And isn't that deviation
22 done for operators who have proven themselves as
23 responsible and responsive to community concerns?

24 MR. GUGGENMOS: It's a fair
25 characterization, yes.

1 MR. KLINE: And based on what you know
2 and you learned of Mr. Nouri since you met him
3 and he started making presentations and
4 responding to concerns, isn't he indeed the type
5 of operator for whom the ANC might consider a
6 deviation from the template to be more
7 permissive?

8 MR. GUGGENMOS: I've never had a
9 former chair of an ANC Commissioner come to
10 testify for an Applicant in our ANC before. This
11 was the first time.

12 MR. KLINE: Okay. Now you said that
13 the goal is to have this template and have
14 everyone kind of abide by the template unless
15 there are deviations that are approved for
16 various reasons, correct?

17 MR. GUGGENMOS: Correct.

18 MR. KLINE: All right. Are you
19 familiar with the application that was made by
20 Causa, C-A-U-S-A, LLC in the fall of 2019?

21 MR. GUGGENMOS: They -- yes, I know
22 there was an application.

23 MR. KLINE: Okay. And was that for
24 920 N Street Rear?

25 MR. GUGGENMOS: Yes.

1 MR. KLINE: Okay. And that location
2 is in Blagden Alley, isn't it?

3 MR. GUGGENMOS: Yes.

4 MR. KLINE: And in fact, they were
5 approved for full hours inside and out, 10:00
6 a.m. to 2:00 a.m. Friday and Saturday and 10:00
7 a.m. to 3:00 a.m. -- I'm sorry, 10:00 a.m. to
8 2:00 a.m. Sunday through Thursday and Friday and
9 Saturday, 10:00 a.m. to 3:00 a.m., weren't they?

10 MR. GUGGENMOS: Yes, full hours.

11 MR. KLINE: All right. So they
12 weren't required to abide by the template, were
13 they?

14 MR. GUGGENMOS: There's -- yeah,
15 there's no settlement agreement with them.

16 MR. KLINE: Okay. And they have live
17 entertainment as well, don't they?

18 MR. GUGGENMOS: Yes.

19 MR. KLINE: Until 2:00 a.m. on Friday
20 and Saturday?

21 MR. GUGGENMOS: Yes.

22 MR. KLINE: And they're in the alley,
23 aren't they?

24 MR. GUGGENMOS: Yes.

25 MR. KLINE: Unlike this business which

1 has promised and intends to use 9th Street as its
2 entrance and exit?

3 MR. GUGGENMOS: That's correct.

4 MR. KLINE: And they also have live
5 entertainment on a summer garden approved as
6 well, correct?

7 MR. GUGGENMOS: Causa? Yes.

8 MR. KLINE: Okay. So you said that
9 there were attempts to find common ground to get
10 this resolved. Were those attempts frustrated by
11 the wishes of Protestants who wish to make
12 egregious -- or have made egregious settlement
13 demands?

14 MR. THOMAS: Objection as to
15 settlement discussions.

16 (Simultaneous speaking.)

17 MR. THOMAS: -- frustrated settlement
18 entirely goes to the settlement discussion
19 component of this.

20 MR. KLINE: Mr. Chair, counsel has
21 opened all sorts of doors on settlement
22 discussions with respect to everything except
23 substance of the various parties' positions.

24 MR. THOMAS: My only question was
25 about whether the template was a starting point

1 for them and that's it. Counsel has just asked
2 whether my clients' settlement positions stopped
3 settlement between the parties. That was the
4 direct question. To equate the two is like
5 comparing apples to oranges.

6 CHAIRPERSON ANDERSON: I still don't
7 know what your client's position is. So I'm
8 going to overrule the objection because I don't
9 know what the position are currently of the
10 parties. So I'll overrule --

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: I'm sorry.
13 Yes, sir.

14 MR. THOMAS: The accusation is that my
15 clients have forced a settlement not to occur.
16 That goes directly to the heart of settlement
17 discussions, absolutely directly to the heart of
18 settlement discussions.

19 CHAIRPERSON ANDERSON: But I don't
20 know that, sir. I mean, clearly, we're here at a
21 protest hearing because the parties were unable
22 to settle the matter. So that's why we're here.
23 So whether or not --

24 MR. THOMAS: The question is why they
25 -- the question that Mr. Kline is asking is why,

1 in Mr. Guggenmos' opinion, that the parties did
2 not settle. And he's attempting to attribute it
3 to the residents which entirely goes to why this
4 case didn't settle. It goes to the part of
5 settlement discussions.

6 CHAIRPERSON ANDERSON: Hold on a
7 minute. Hold on. Hold on a minute, please. I
8 see Mr. Kline is having some technical issues.

9 MR. THOMAS: And I'll add -- or if I
10 should hold off.

11 CHAIRPERSON ANDERSON: Mr. Thomas,
12 hold on. Mr. Kline is not with us. Ms.
13 Yohannes, are you able to find out what's going
14 on with Mr. -- okay. Mr. Kline, I can't hear
15 you, sir. Mr. Kline?

16 MR. KLINE: Yes, I'm sorry.

17 CHAIRPERSON ANDERSON: Yes. All
18 right. As I was saying before -- okay, what were
19 you saying, Mr. Thomas?

20 MR. THOMAS: I was saying Mr. Kline's
21 line of questioning goes directly into why
22 settlement may not have occurred and is asking
23 Mr. Guggenmos to opine on why settlement didn't
24 occur. It goes directly to settlement
25 discussions between the parties. That is --

1 there is no point in having settlement
2 discussions.

3 And the confidentiality of settlement
4 is completely eroded if a party can come in here
5 and claim the other side made terms too onerous.
6 And therefore, we didn't reach a settlement.
7 That completely goes to the heart of what
8 settlement discussions are.

9 So to claim that is not -- has nothing
10 to do with settlement terms is -- I mean, maybe
11 it doesn't go to the exact precise terms. But it
12 is characterizing the terms, characterizing the
13 parties' settlement positions, and attributing
14 causation to why this matter did not get resolved
15 in a settlement at mediation. To set a precedent
16 like this would chill settlement discussions in
17 future mediations in front of the ABC Board's
18 mediator.

19 CHAIRPERSON ANDERSON: Well, Mr.
20 Thomas. Let me see.

21 MR. KLINE: The night sale party who
22 attempted to completely stonewall the process.

23 (Simultaneous speaking.)

24 CHAIRPERSON ANDERSON: All right. All
25 right. Hold on. Hold on. Gentlemen, hold on.

1 (Simultaneous speaking.)

2 MR. THOMAS: -- then we can have Mr.
3 Kline's opinion.

4 CHAIRPERSON ANDERSON: All right,
5 gentlemen. All right. There are -- let me see
6 who the -- we have several groups here who are
7 protesting this matter. Now if the ANC was able
8 to reach a settlement with the establishment,
9 then the groups of -- I believe there are a
10 couple of groups by itself. They would've fallen
11 and we would've still moved forward with a
12 hearing because of the neighborhood association.

13 So it would've been clear to the Board
14 that the ANC was able to sign a settlement
15 agreement with this establishment. And so the
16 groups fell. But we still have a hearing because
17 since the neighborhood association has standing,
18 it would have been clear to the parties that,
19 okay, the reason why we're here, it is because of
20 this one specific group could not agree.

21 So I'm going to overrule the objection
22 because it's clear to the Board that the parties
23 were unable to reach a settlement agreement. And
24 by operation of law, the ANC itself could have
25 signed a settlement agreement with the

1 establishment. And all the other groups would
2 have fallen with the exception of your client,
3 sir. So --

4 MR. THOMAS: But with all due respect,
5 the ANC is here characterizing -- and is offering
6 sworn testimony characterizing my clients'
7 settlement position. So while he's not saying
8 the precise terms, he's using vague adjectives to
9 describe my client's settlement position and his
10 opinion. So that goes to the heart of
11 settlement.

12 I will also add that one of the
13 Commissioners at our last hearing asked a
14 question of one of the witnesses about what
15 positions that were taken were reasonable and
16 unreasonable. And Commissioner Anderson, you --
17 and Chairperson Anderson, you yourself shut down
18 that line of questioning saying it was
19 irrelevant. So if it was irrelevant two weeks
20 ago, it should remain irrelevant now.

21 CHAIRPERSON ANDERSON: All right. All
22 right.

23 MR. KLINE: Except for the fact that
24 the door was opened by counsel.

25 MR. THOMAS: It was not opened. I

1 mean, I fail to see how it opened.

2 CHAIRPERSON ANDERSON: I think part of
3 -- we're on this line of questioning, Mr. Thomas,
4 because you made it a point to state that it was
5 this Commissioner. He was the only ANC
6 Commissioner who voted against -- who disagreed
7 with the ANC moving forward with a protest
8 hearing. And so we're here because it's a
9 question that you had asked.

10 And so I'm going to allow this
11 question. But I think at the same time I'm not
12 sure if the information that we're gathering
13 today, if this is, like, relevant to the Board to
14 make a decision. I think I want to hear direct
15 testimony.

16 I want to hear from the parties why is
17 it that they believe that the Board should or
18 should not grant a license and not whether or not
19 one side was unreasonable or whether or not one
20 side was trying to make it economically non-
21 viable for the other side. That's not relevant,
22 I believe, for the Board, what we want to know.
23 I want to find out from the parties whether or
24 not we should grant this license or if we should
25 not, and if we're not going to grant the license,

1 why we should not grant the license. That's what
2 I'm waiting to hear.

3 So I'm going to overrule the
4 objection. But I'm telling the parties that
5 there are more important issues that I need to
6 hear to enable me to make an effective decision
7 today because it's clear if the parties were able
8 -- and one thing I've always stated, I prefer the
9 parties settle matters because if the license is
10 granted, you have to live together because -- and
11 everyone is happy. If the license is not going
12 to be granted by the Board, then one is going to
13 be unhappy.

14 So where I believe the Board wants to
15 hear today is that I need both sides to be clear
16 why the license should be granted or why the
17 license should not be granted. And if the
18 license should be granted, should there be
19 conditions? That's what I want to hear, and I'm
20 not hearing that.

21 So let's -- I'm going to overrule the
22 objection. But just letting parties know that
23 where we are now, it's not -- at least in my
24 view, it's not helpful to enable me to make --
25 enable me as one member of this Board to make a

1 decision. So let's move on.

2 MR. GUGGENMOS: Just the frustrating
3 part was there was never a list of items that we
4 were told to keep it confidential that we could
5 share to try a further negotiation. And yeah, I
6 view it as a personal failure of the ANC. We
7 tried to allow all the parties and we let -- our
8 responsibility was to move it forward. And I
9 think that we failed in that because we allowed
10 the bus to drive off the road is the best
11 analogy. So it's unfortunate.

12 MR. KLINE: All right. Mr. Guggenmos,
13 did you find Mr. Nouri to be responsive to
14 community concerns?

15 MR. GUGGENMOS: Yes. Prior to, I
16 think, this statement, prior to even
17 negotiations, he immediately volunteered a number
18 of positions, not to use the back door, to have
19 cameras, to get an acoustical engineer. So very
20 easy to work with in regards to those items that
21 were brought up. We unfortunately substantively
22 did not get into the rooftop hours which is where
23 I felt the issue was going to be.

24 MR. KLINE: All right. And there's a
25 suggestion that Mr. Nouri failed to reach out to

1 the community. Didn't he do that outreach
2 through the ANC?

3 MR. GUGGENMOS: The ANC -- yeah, that
4 would have -- unless he did some other ones, I'm
5 not aware of it. So traditional placards came to
6 our APC meetings. But if there was additional
7 outreach, I don't know.

8 MR. KLINE: Did you attempt to
9 coordinate meetings among all the parties,
10 including the Applicant and the parties that are
11 now protesting?

12 MR. GUGGENMOS: Not with the
13 Applicant. Just with the Protestants and the
14 Blagden Alley Neighbor Association, yes.

15 MR. KLINE: And what was the result of
16 that?

17 MR. GUGGENMOS: Unfortunately, I mean,
18 I thought we had a very good mediation session.
19 But we were not able to schedule them at all in
20 November. And then December was the first of
21 those meetings. And Commissioner Joseph had a
22 follow-up in December.

23 MR. KLINE: I have no further
24 questions. Oh, no. I have one more. I
25 apologize. You were asked about the plans and

1 you acknowledged the plans were subject to
2 change. Do you have any reason to believe that
3 the plans that were shown to the ANC were going
4 to change in some way?

5 MR. GUGGENMOS: No, none. I mean,
6 it's, again, I know that the Applicant understood
7 his legal obligation as far as the noise
8 ordinance are concerned. And that was, I mean,
9 very clear.

10 MR. KLINE: All right. That's all I
11 have. Thank you.

12 CHAIRPERSON ANDERSON: All right.
13 Thank you. Mr. Guggenmos, you mentioned -- I
14 think Mr. Kline had asked you about an
15 establishment that is in the alley. What's the
16 name of the establishment, please?

17 MR. GUGGENMOS: Causa.

18 CHAIRPERSON ANDERSON: I'm sorry.
19 What's the name, Cause?

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: How do you
22 spell that, please? Causa?

23 MR. GUGGENMOS: Mm-hmm.

24 CHAIRPERSON ANDERSON: Because I
25 didn't see that as one of the -- is this

1 establishment currently open? Is it operating?

2 MR. GUGGENMOS: No, not yet.

3 CHAIRPERSON ANDERSON: All right. No,
4 because when Mr. Puente testified, this was not
5 an establishment that was listed. So what are
6 the hours of -- what type of license -- I'm
7 sorry. What type of -- what category of license
8 does this application have, this establishment?
9 What is it, a CT? What type of establishment is
10 it?

11 MR. GUGGENMOS: Sir, I do not have
12 that in front of me. So it's either a CT or CR.
13 But that's not -- my answer is not helpful.

14 CHAIRPERSON ANDERSON: All right.
15 What were the hours of operation of this
16 establishment?

17 MR. GUGGENMOS: They were full hours.

18 CHAIRPERSON ANDERSON: So what are the
19 hours, please, if you're aware?

20 MR. GUGGENMOS: Till -- I mean, until
21 2:00 a.m. during the weekdays, so Sunday through
22 Thursday, and 3:00 a.m. on Friday and Saturday.

23 CHAIRPERSON ANDERSON: And so you're
24 saying that they're able to have live
25 entertainment?

1 MR. GUGGENMOS: Yes, until -- I mean,
2 I want to just speak specifically. But I believe
3 it's midnight on the weekends. I'm very sorry,
4 Mr. Chairman. We'd have to --

5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: That's fine.

7 MR. GUGGENMOS: -- in front of me. I
8 don't have it.

9 CHAIRPERSON ANDERSON: Do they have a
10 summer garden?

11 MR. GUGGENMOS: Yes, they do.

12 CHAIRPERSON ANDERSON: All right. Any
13 questions by any of the Board members?

14 (No response.)

15 CHAIRPERSON ANDERSON: All right,
16 fine. Let me ask. Mr. Thomas, do you have any
17 follow-up of Mr. Guggenmos based on the questions
18 that I asked?

19 MR. THOMAS: Yes, I think one or two
20 brief ones concerning -- what is it? It's Causa?

21 MR. GUGGENMOS: Yes.

22 MR. THOMAS: Is that the name of the
23 establishment? So that establishment is not open
24 yet, correct?

25 MR. GUGGENMOS: That's correct.

1 MR. THOMAS: Did the ANC protest that
2 license?

3 MR. GUGGENMOS: Sir, I believe so.
4 This was a while back, and there are a number of
5 meetings that I was gone at dealing with elderly
6 parents. But I do believe so. I believe that it
7 was not sent in, but --

8 MR. THOMAS: So the ANC didn't have
9 standing. Is that correct?

10 MR. GUGGENMOS: That's correct.

11 MR. THOMAS: Okay. So they didn't
12 actually -- they voted to protest, but the
13 protest wasn't properly submitted?

14 MR. GUGGENMOS: I don't think it was
15 submitted at all.

16 MR. THOMAS: Okay. So in fact, they
17 didn't actually formally protest?

18 MR. GUGGENMOS: Correct.

19 MR. THOMAS: Okay.

20 (Simultaneous speaking.)

21 MR. GUGGENMOS: -- exactly what I know
22 and if I wasn't there or wasn't a chairman at
23 that time. That's my hesitation.

24 MR. THOMAS: That's all I have.

25 CHAIRPERSON ANDERSON: Thank you, Mr.

1 Kline. All right. Thank you, Mr. Guggenmos.

2 All right.

3 MR. GUGGENMOS: Thank you.

4 CHAIRPERSON ANDERSON: Mr. Thomas,
5 your first witness, please.

6 MR. THOMAS: Yeah. BANCA calls
7 Lieutenant Curtis Miller.

8 CHAIRPERSON ANDERSON: Lieutenant
9 Curtis Miller. Lieutenant Miller, do you have a
10 camera that you can let us see you, sir?

11 LT. MILLER: Yeah, can you see me now?

12 CHAIRPERSON ANDERSON: Yes. Can you
13 raise your right hand, please? Do you swear or
14 affirm to tell the truth and nothing but the
15 truth?

16 LT. MILLER: Yes, I do.

17 CHAIRPERSON ANDERSON: All right.
18 Your witness, sir.

19 MR. THOMAS: Good afternoon,
20 Lieutenant Miller. Can you please state your
21 name for the record?

22 LT. MILLER: Lieutenant Curtis Miller,
23 Third District, MPD.

24 MR. THOMAS: Can you spell your name?

25 LT. MILLER: C-U-R-T-I-S M-I-L-L-E-R.

1 MR. THOMAS: And you said your rank as
2 a lieutenant, correct?

3 LT. MILLER: That's correct.

4 MR. THOMAS: How long have you held
5 that rank?

6 LT. MILLER: Two years.

7 MR. THOMAS: And how long have you
8 been a member of MPD?

9 LT. MILLER: Eighteen years.

10 MR. THOMAS: And have you been
11 assigned to a specific area during that time?

12 LT. MILLER: Several.

13 MR. THOMAS: Are you presently
14 assigned to the area that Blagden Alley is
15 located at?

16 LT. MILLER: Yes.

17 MR. THOMAS: And how long have you
18 been assigned to that area?

19 LT. MILLER: The two years I've been
20 a lieutenant at the Third District.

21 MR. THOMAS: Okay. And can you
22 quickly just describe to me what Blagden Alley is
23 like on a daily basis from a policing standpoint?

24 LT. MILLER: The alley itself provides
25 some -- it harbors some activity that stems from

1 a couple other blocks, 12th Street. There's a
2 prostitute problem. There's some drugs at 12th
3 and M. And a lot of that filters into the alley
4 because it gives refuge to the people for illegal
5 activity. So they find their way into the alley
6 a lot of times at night, needles, urinating in
7 public, sometimes assaults, fights between the
8 Johns and the prostitutes, stuff like that.

9 MR. THOMAS: When you say it gives
10 them -- I believe the word you said was refuge --

11 LT. MILLER: It's a hiding place.
12 It's an alley. So obviously, especially for
13 people that aren't familiar with the area, they
14 look at something like Blagden Alley or a place
15 like Blagden Alley, I don't they see a residence
16 space which is really what it is along with the
17 restaurants. So it appears especially at night
18 just as an alley. And so it attracts the type of
19 behavior that you would find in an alley a lot of
20 times that you would not see in a busy street,
21 say, along the 11th Street corridor or U Street
22 or something of that nature.

23 MR. THOMAS: Because it's more
24 secluded --

25 (Simultaneous speaking.)

1 LT. MILLER: Correct, correct. And
2 frankly, I mean, the officers -- and I've worked
3 with them. I mean, getting them to even know
4 that Blagden Alley is there and that people live
5 there sometimes is a challenge.

6 MR. THOMAS: Okay. In terms of the
7 current crime issues in Blagden Alley that you
8 discussed, how have those changed over the past
9 two years that you've been assigned to the area?

10 LT. MILLER: There's been an uptick in
11 the drug use. Like I said, that stems from stuff
12 coming from 12th and M, 1100 block of M Street.
13 The unhoused, which has been sort of addressed
14 down by Massachusetts Avenue, we're seeing a lot
15 of activity from the people who are unhoused that
16 come up 10th Street.

17 There's a CVS at 10th and M. And, you
18 know, that's kind of increased. You know, we
19 just had the prostitution problem is something
20 that's been ongoing for many years. So that kind
21 of remains -- that's stable. It's always been
22 there.

23 MR. THOMAS: So you mentioned drug use
24 just now and prostitution.

25 LT. MILLER: Right.

1 MR. THOMAS: In your experience as an
2 MPD officer, are those types of crime issues
3 exacerbated by the addition by a nightclub in an
4 area?

5 LT. MILLER: No, the stuff that I just
6 named that I'm talking about, I think honestly
7 they're separate from what the nightclub would
8 exacerbate. That would bring stuff like
9 robberies, drunk driving, noise at night
10 complaints, urinating in public from the drunk
11 patrons walking back to their cars. You would
12 have people parking in neighborhoods that they
13 typically, you know, aren't parking in with
14 Virginia and Maryland tags coming in to enjoy the
15 nightlife. So you're going to get a lot of theft
16 from autos, break-ins, stolen cars. That's the
17 type of stuff that you're going to see an
18 increase in.

19 MR. THOMAS: Okay.

20 LT. MILLER: And that's going to be --
21 that's going to be on top of everything I just
22 named.

23 MR. THOMAS: Got it. Okay. So these
24 are new problems that are going to arise from the
25 addition of a nightclub or nightclubs in the

1 area?

2 LT. MILLER: Correct.

3 MR. THOMAS: You mentioned noise
4 complaints. Have those become more frequent in
5 Blagden Alley recently?

6 LT. MILLER: Yes.

7 MR. THOMAS: Do you know --

8 LT. MILLER: Not recently. I mean,
9 since I would say my introduction to -- to the
10 ANC meetings and handling them and BANCA dating
11 back to last May is when I became aware of them.

12 MR. THOMAS: And do you know what
13 those noise complaints are generally attributed
14 to?

15 LT. MILLER: Patrons of -- of the
16 restaurants and the bars that come out of the
17 alley.

18 MR. THOMAS: Is it generally
19 attributed more to the bars that are open later?

20 LT. MILLER: I would have no way of
21 knowing for sure, but I could speculate, sure.

22 MR. THOMAS: Okay.

23 LT. MILLER: There's no other reason
24 to be back in that alley.

25 MR. THOMAS: Right. Are you familiar

1 with an establishment known as Never Looked
2 Better?

3 LT. MILLER: I am.

4 MR. THOMAS: Okay. And do you know
5 where that establishment is located?

6 LT. MILLER: I do.

7 MR. THOMAS: Where is that?

8 LT. MILLER: Well, I guess the address
9 it carries is 9th Street, but the back of it
10 faces into Blagden Alley.

11 MR. THOMAS: And is that where the
12 patrons --

13 (Simultaneous speaking.)

14 MR. THOMAS: Is that the area --
15 excuse me. Strike that. Is that area of Blagden
16 Alley where the patrons of Never Looked Better
17 enter and leave the bar?

18 LT. MILLER: So I've personally been
19 in the alley on Friday evenings and seen lines
20 stretching down the alley in the back, yes.

21 MR. THOMAS: Okay. And are you aware,
22 this Never Looked Better bar is located in the
23 same exact building that Eighteenth Street Lounge
24 attempting to open in? Is that correct?

25 LT. MILLER: I believe so. I don't

1 know the addresses, but that's my understanding.

2 MR. THOMAS: So I want to quickly ask
3 you, I guess, a little bit more generally. I
4 forget how long you've said you've been serving
5 on MPD for. Did you say 18 years?

6 LT. MILLER: Eighteen years.

7 MR. THOMAS: Eighteen years. So
8 during that time, you've watched the city change
9 a lot, correct?

10 LT. MILLER: Absolutely.

11 MR. THOMAS: And have you see
12 different sort of nightlife pockets expand in the
13 city?

14 LT. MILLER: Sure. H Street, 18th
15 Street, U Street, Adams Morgan decreased, U
16 Street has grown. I was an officer in the Fourth
17 District. I can speak to 800 block of Upshur
18 Street is a perfect example.

19 When I came on the department in 2004,
20 there was really nothing there. And by 2015,
21 there was vibrant restaurants, bars, several
22 restaurants. A few even made it onto the
23 Washingtonian's top 100 list.

24 It brought lots of pedestrians, people
25 from out of town to eat at these food spots that

1 were advertised in the post and that kind of
2 thing. And so it became a vibrant area. I've
3 seen it all over the city to answer your
4 question.

5 MR. THOMAS: And when these areas have
6 become more vibrant, crime issues have followed.
7 Is that correct?

8 MR. KLINE: Objection. He hasn't been
9 qualified as an expert to talk about crime trends
10 or crime statistics.

11 MR. THOMAS: He's a --

12 CHAIRPERSON ANDERSON: I'm going to --
13 go ahead, sir.

14 MR. THOMAS: I was going to say he's
15 a lieutenant with the MPD that's been serving for
16 18 years and is speaking to his own personal
17 experience.

18 CHAIRPERSON ANDERSON: I'm going to
19 overrule the objection. Go ahead.

20 MR. THOMAS: You can answer,
21 Lieutenant Miller.

22 LT. MILLER: The question was --
23 repeat the question for me. I'm sorry.

24 MR. THOMAS: When you've seen these
25 pockets become more vibrant with bars,

1 restaurants, nightclubs, has crime followed with
2 it?

3 LT. MILLER: Yes.

4 MR. THOMAS: Okay. And what types of
5 crime have followed with it?

6 LT. MILLER: Well, I'll use U Street
7 as an example since it's the most glaring one
8 that I currently deal with. And in the last ten
9 years, even going back further, when there were
10 only maybe one or two places to go eat or to go
11 out to the club, there weren't very many
12 robberies, no shootings to speak of, that type of
13 9:30 Club just around the corner was probably the
14 most lively spot. And now it is our hardest area
15 to manage as the Third District has in the entire
16 district for Thursday, Friday, Saturday, into
17 Sunday mornings, so much so that we have our own
18 unit specifically designated just for the U
19 Street corridor because of the robberies,
20 shootings, the theft from autos, the assaults, et
21 cetera. Violent crime has definitely increased
22 in that corridor over the last ten years.

23 MR. THOMAS: Okay. As hospitality and
24 liquor established have increased, correct?

25 LT. MILLER: Yeah. I mean, just in

1 general, restaurants, anything that brings people
2 to the area for a good time.

3 MR. THOMAS: Okay. Would it be safe
4 to anticipate that as those -- that if more
5 nightclubs and late night establishments get
6 opened around Blagden Alley, those issues could
7 occur as well?

8 LT. MILLER: It's likely.

9 MR. THOMAS: And would those issues
10 even be exacerbated by the fact that it is an
11 alley as opposed to an open street?

12 LT. MILLER: Yeah, I think that from
13 what I've been seeing so far, even the people
14 that are coming out of Never Looked Better, I
15 don't think they realize they're standing in a
16 residential area. So the noise, the urinating in
17 public, those types of behavior, they think they
18 go unnoticed essentially.

19 MR. THOMAS: I see. I see. And by
20 the way, you use U Street as a reference. Is the
21 character of U Street the same type of
22 residential character as Blagden Alley?

23 LT. MILLER: I think it's been what it
24 is for a long time at this point. I mean, it's a
25 mixed use area. I mean, I'm not going to --

1 MR. THOMAS: Okay.

2 LT. MILLER: I mean, that's the
3 reality. But there's apartments there -- there's
4 apartments there as well. We get the same kind
5 of complaints. I mean, everybody that lives in
6 D.C. sees the motorcycles in the summertime. I
7 mean, I could show you video, and I've seen
8 pictures and video of people that live on U
9 Street and I think within reason have an
10 expectation even though they're living on U
11 Street of some peace and orderliness.

12 But, you know, it just attracts so
13 much. Like, the motorcycles going up and down
14 the street and it's just -- it's just too much.
15 It's overwhelming for us from a manpower
16 standpoint. So, you know, it becomes party
17 central essentially.

18 MR. THOMAS: And that behavior used to
19 be located somewhere else?

20 LT. MILLER: Yeah. I mean, there was
21 no reason to go there if there's no people there.
22 Then there's no reason for everybody to go show
23 off or to hang out.

24 MR. THOMAS: One would say it's like
25 history repeating itself, correct?

1 LT. MILLER: Yes.

2 MR. THOMAS: So if more nightclubs
3 open up in Blagden Alley, would it be safe to
4 anticipate an increase in public urination?

5 LT. MILLER: Yes.

6 MR. THOMAS: Would it be safe to
7 anticipate an increase in public intoxication?

8 LT. MILLER: Yes.

9 MR. THOMAS: Would it be safe to
10 anticipate an increase in noise complaints?

11 LT. MILLER: Yes.

12 MR. THOMAS: An increase in violent
13 crime?

14 LT. MILLER: Likely in the form of
15 robberies, yes.

16 MR. THOMAS: For break-ins or
17 assaults?

18 LT. MILLER: There's probably going to
19 be patrons fighting. But I suspect most likely
20 we'll have an increase in robberies because
21 there'll be targeted people. So people that are
22 doing the robberies that come from further
23 uptown, they've going to come down and they're
24 going to see it as a target rich environment.

25 MR. THOMAS: Okay. Are you familiar

1 with a nightlife plan that is put forth by the
2 MPD?

3 LT. MILLER: You mean for what we deal
4 with on U Street?

5 MR. THOMAS: Just in general, a
6 general plan that's put forth by MPD for creating
7 security plans for nightlife establishments.

8 LT. MILLER: I mean, we have -- yeah,
9 I mean, I don't know specifically what you're
10 speaking to. I mean, we have a U Street
11 corridor. We have -- we provide a specific unit
12 for on-duty officers.

13 But then we also have an entirely
14 different plan for U Street and Adams Morgan for
15 RDOs which bars and restaurants all have to pay
16 into. They pay a fee to MPD, and then they
17 provide overtime. And so that ends up being an
18 overtime gig for officers.

19 (Simultaneous speaking.)

20 MR. THOMAS: Oh, I'm sorry. I didn't
21 mean to cut you off, Lieutenant Miller.

22 LT. MILLER: No, that's just -- I
23 mean, that's the plan. That's the approach that
24 MPD takes. We have RDOs designated for specific
25 areas like U Street. There used to be some up in

1 Adams Morgan. I believe there still are a few.

2 The Adams Morgan BID, the ADMO BID,
3 they help supplement that for the bars and
4 restaurants in Adams Morgan. That's decreased a
5 lot because U Street is kind of -- to your point,
6 U Street has kind of drawn -- it's grown, so it's
7 kind of drawn a lot of the attention off of 18th
8 Street. Not as many people go there as they did,
9 say, 15 years ago.

10 MR. THOMAS: Okay. And the
11 establishments -- essentially just so I
12 understand the program -- they fund security for
13 the outside of their establishments to ensure
14 that crime is minimized?

15 LT. MILLER: Correct.

16 MR. THOMAS: Okay. Are you aware of
17 whether Eighteenth Street Lounge has reached out
18 to MPD to request this type -- what is it, RDO?

19 LT. MILLER: Yeah, I don't know if
20 they have or not or if they've gone through our
21 personnel office or not.

22 MR. THOMAS: Are you aware of whether
23 Eighteenth Street Lounge has reached out to MPD
24 to request any sort of assistance in forming a
25 security plan for their particular establishment?

1 LT. MILLER: No, I'm not aware of one.

2 MR. THOMAS: Okay. I want to show you
3 -- if I can show the witness an exhibit.

4 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
5 can you give Mr. Thomas the ability to share his
6 screen, please? Are you still waiting, Mr.
7 Thomas, or do you have the ability?

8 MR. THOMAS: I don't have the ability
9 yet.

10 CHAIRPERSON ANDERSON: Ms. Fashbaugh?

11 MS. FASHBAUGH: This has been
12 accomplished.

13 CHAIRPERSON ANDERSON: Thank you.

14 MR. THOMAS: Thank you. All right.
15 Lieutenant Miller, do you see my screen now?

16 LT. MILLER: Yes.

17 MR. THOMAS: Okay. I'm showing you
18 what has been previously marked as Exhibit 15 in
19 the Protestants' PIF. It's a document that says
20 best practices for nightlife establishments. And
21 on the top, it says District of Columbia
22 Government Metropolitan Police Department. Do
23 you see that?

24 LT. MILLER: Yes.

25 MR. THOMAS: Are you aware if this is

1 a document that has been published by the
2 Metropolitan Police Department to assist
3 nightlife establishments in creating a security
4 plan?

5 LT. MILLER: I'm aware of it. I have
6 not read it.

7 MR. THOMAS: Okay. Do you know if
8 it's MPD -- do you know what the purpose of this
9 for MPD is?

10 LT. MILLER: I mean, I could
11 speculate. It seems like a guidance for --

12 MR. KLINE: Objection as to
13 speculation.

14 LT. MILLER: Yeah, I know.

15 CHAIRPERSON ANDERSON: Did you have an
16 objection, Mr. Kline?

17 MR. KLINE: Yes, I object it as to the
18 speculation. If he knows, he knows. If he
19 doesn't, let's move on.

20 CHAIRPERSON ANDERSON: What was the
21 question? I'm sorry. I know the witness
22 testified that he's aware of the exhibit. He has
23 not read it. So what was the question? I
24 apologize.

25 MR. THOMAS: I asked what the purpose

1 of this exhibit was for.

2 MR. KLINE: He said he didn't know.
3 He could speculate which is when I objected.

4 CHAIRPERSON ANDERSON: I'm going to
5 sustain the objection.

6 MR. THOMAS: Okay. Would you agree
7 that it is good practice, Lieutenant Miller, to -
8 - for a nightlife establishment to have a
9 security plan?

10 LT. MILLER: Yes.

11 MR. THOMAS: And would you agree that
12 the Metropolitan Police Department would be a
13 good source of information informing the security
14 plan?

15 LT. MILLER: Yes.

16 MR. THOMAS: Have you ever been asked
17 by a nightlife establishment to provide any input
18 in a security plan?

19 LT. MILLER: Yes.

20 MR. THOMAS: Okay. How frequently
21 does that occur?

22 LT. MILLER: Not that frequently. I
23 mean, a few times a year I do walkthroughs. I've
24 gotten calls. I know people in Adams Morgan.
25 For example, Grand Central just recently got

1 their license for gaming. So I've been contacted
2 by the owner, Brian Vasile, to assist with --
3 there's a whole different element there,
4 transportation of money and options looking for
5 what to do with the Department, if there was any
6 RDO opportunities which turns out there's not
7 because it falls into the same category as, like,
8 say, a strip club. So I worked -- I worked with
9 them quite a bit over the last six months while
10 they were getting their licensing.

11 MR. THOMAS: Okay. In terms of a
12 nightlife venue --

13 CHAIRPERSON ANDERSON: Do we need to
14 have this exhibit up, Mr. Thomas?

15 MR. THOMAS: No, we can take it down
16 now.

17 CHAIRPERSON ANDERSON: Close your
18 screen, please.

19 MR. THOMAS: Okay. In terms of a
20 nightlife venue's security obligations, would you
21 agree that its security obligations extend beyond
22 its front door?

23 LT. MILLER: Yeah, I mean, I've been
24 on ABRA hearings in the past as a sergeant where
25 I was called because stuff that has spilled

1 outside of the club stemming -- we can prove that
2 it comes from within. Then I've seen -- I've
3 seen licenses suspended. I've seen clubs closed
4 down -- closed down for a couple days. Stuff
5 like that has definitely happened.

6 MR. THOMAS: So you would agree that
7 any security plan should probably anticipate
8 activity that could happen outside the bricks and
9 sticks of a nightlife establishment, correct?

10 LT. MILLER: Yes.

11 MR. THOMAS: Okay. I have no further
12 questions at this time.

13 CHAIRPERSON ANDERSON: Mr. Kline?

14 MR. THOMAS: Thank you very much,
15 Lieutenant Miller.

16 LT. MILLER: You're welcome.

17 MR. KLINE: Good afternoon, Lieutenant
18 Miller.

19 LT. MILLER: Good afternoon.

20 MR. KLINE: I'm Andrew Kline. I am
21 counsel for the Applicant. Thank you first for
22 your service. I appreciate it.

23 LT. MILLER: You're welcome.

24 MR. KLINE: Isn't it a fact that crime
25 is increasing all over the District of Columbia

1 at this point?

2 LT. MILLER: Yes, it is.

3 MR. KLINE: And the premises that
4 we're talking about, are you aware that it's
5 currently vacant?

6 LT. MILLER: Yes.

7 MR. KLINE: So the fact of the matter
8 is in terms of service calls, the only thing we
9 might expect there at this point would be a
10 break-in of that very premises, correct?

11 LT. MILLER: At this point, yes.

12 MR. KLINE: And if a business opens
13 there, there would necessarily likely be an
14 increase in service calls for that location,
15 correct?

16 LT. MILLER: Correct.

17 MR. KLINE: All right. There was
18 testimony -- you testified concerning existing
19 crime issues in the alley, I think mostly
20 fighting, drugs, prostitution. Does that about
21 sum it up?

22 LT. MILLER: Correct.

23 MR. KLINE: Isn't it a fact that if an
24 establishment does not have its patrons enter or
25 exit its premises from the alley, then those

1 issues would be mitigated, wouldn't it?

2 LT. MILLER: Well, we would just end
3 up with the issues on the 9th Street side of the
4 establishment and people would be in the street.
5 We'd have pedestrian issues, people drunk out in
6 the street, getting robbed on 9th Street instead
7 of the alley, et cetera.

8 MR. KLINE: Right. But you testified
9 the alley seems to provide a certain cover that
10 doesn't exist out on the public street, didn't
11 you?

12 LT. MILLER: That's correct.

13 MR. KLINE: People don't realize that
14 are on the street -- or in the alley don't
15 realize there are residents there, correct?

16 LT. MILLER: That's correct.

17 MR. KLINE: And there are residents
18 there, right?

19 LT. MILLER: There are.

20 MR. KLINE: And on 9th Street
21 conversely, there really aren't any residents.
22 It faces the convention center, correct?

23 LT. MILLER: Correct.

24 MR. KLINE: You're familiar with the
25 term, eyes on the street?

1 LT. MILLER: Yes.

2 MR. KLINE: Are you aware that one of
3 the things contemplated with respect to this
4 application is a roof deck terrace?

5 LT. MILLER: I'm sorry. You broke up.
6 I didn't hear you. I'm sorry.

7 MR. KLINE: Are you aware that one of
8 the things that's contemplated with respect to
9 this operation is a roof deck terrace?

10 LT. MILLER: Oh, yes.

11 MR. KLINE: And that roof deck terrace
12 overlooks the alley, are you aware of that?

13 LT. MILLER: I'm sorry. You keep
14 coming in and out. Am I aware of what?

15 MR. KLINE: That a roof deck terrace
16 is contemplated to overlook the alley?

17 LT. MILLER: Okay. Yes, I'm aware of
18 where it's located or where it will be located,
19 yeah.

20 MR. KLINE: Okay. The presence of
21 patrons on that roof deck would tend to chill
22 criminal activity in the alley, wouldn't it?

23 LT. MILLER: I doubt it. I don't
24 think --

25 (Simultaneous speaking.)

1 MR. KLINE: You doubt it?

2 LT. MILLER: Yeah, I don't think a
3 whole bunch of people partying and drinking on
4 top of a rooftop would be too concerned with what
5 goes on in an alley.

6 MR. KLINE: And you don't think the
7 people in the alley that are perpetrating those
8 crimes of prostitution and drug usage and what
9 have you are concerned about being viewed and
10 identified from people on the rooftop?

11 LT. MILLER: No.

12 MR. KLINE: Isn't that the very
13 concept of eyes on the street?

14 LT. MILLER: Yeah, but that's not
15 exactly applied in the correct manner that you're
16 talking about. You're talking about people
17 partying. Let's be honest.

18 I mean, people going up to a rooftop
19 deck to have a good time aren't going to care too
20 much. I mean, I've witnessed people who aren't
21 even drinking or partying a lot of times aren't
22 the best witnesses. So I don't think somebody at
23 2:00 in the morning on a rooftop listening to
24 music drinking would be the exact application of
25 eyes on the street that you're referring to.

1 MR. KLINE: Isn't the concept of eyes
2 on the street not the behavior of the eyes but
3 those that are potentially being viewed? Isn't
4 their activity chilled by the possibility or
5 likelihood that they're going to be seen engaging
6 in criminal activity?

7 LT. MILLER: I mean, I could take you
8 to U Street and disprove what you just said every
9 single Friday and Saturday. I see it every week.
10 So no, I don't think so.

11 MR. KLINE: Okay. All right. So
12 you're saying if there's a sidewalk caf, on the
13 street and people are out there eating and
14 drinking that that doesn't tend to have any
15 negative effect on criminal activity?

16 LT. MILLER: I mean, if you're
17 familiar with any of the crime in the city, I
18 mean, last summer, we had a shooting right at
19 14th and -- right at 14th and R, right in the
20 middle of eating hours. Patrons were out in the
21 sidewalks, and it didn't deter the shooting one
22 bit.

23 MR. KLINE: Oh, I'm very well aware of
24 that situation. But that doesn't define trends.
25 But we'll move on. Now you were asked about

1 potential increasing crime based upon
2 concentration of nightclubs like U Street, 14th
3 Street, Adams Morgan. And you said that crime
4 tended to increase when there was a concentration
5 of such activity, correct?

6 LT. MILLER: Correct.

7 MR. KLINE: You don't believe the
8 addition of this one license is going to result
9 in the type of concentration of activity that
10 you're talking about that would increase crime,
11 do you?

12 LT. MILLER: Not to that -- not to
13 that degree, no. I know what you're getting at,
14 so no. But just it's about the consideration of,
15 you know, the community. But am I comparing that
16 to U Street? No.

17 MR. KLINE: All right. And you said
18 that one of the things that increases crime is
19 having a reason to go there, a reason to go to
20 the neighborhood, right?

21 LT. MILLER: Correct.

22 MR. KLINE: Isn't there already a very
23 big reason to go to this neighborhood in the form
24 of the convention center located directly across
25 the street from this proposed establishment?

1 LT. MILLER: Yeah, but not at 2:00 and
2 3:00 in the morning.

3 MR. KLINE: Okay. But the people that
4 go to conventions, don't they come to the
5 District to then enjoy eating establishments,
6 drinking establishments, nightclubs, taverns,
7 bars, whatever you want to call them?

8 LT. MILLER: Sure. They go up to U
9 Street.

10 MR. KLINE: They all go up to U
11 Street?

12 LT. MILLER: Yeah, go there on a
13 Friday night. That's where everyone is.

14 MR. KLINE: So everyone from the
15 Convention Center goes to U Street?

16 LT. MILLER: You get what I'm saying.
17 Not everybody, obviously, literally, but --

18 (Simultaneous speaking.)

19 LT. MILLER: There's a few places that
20 are in the neighborhood, Lost & Found, that are
21 on that street.

22 MR. KLINE: Okay. But Lost & Found is
23 not on that street. It's in the alley, isn't it?

24 LT. MILLER: Well, it's on 9th Street
25 just like the other --

1 MR. KLINE: Don't you enter from and
2 exit to the alley to Lost & Found?

3 LT. MILLER: I think you can go in
4 either side. I'm not sure. I don't know what
5 their regulations are.

6 MR. KLINE: All right. Now in terms
7 of increases in crime, we talked about public
8 urination and public drunkenness and other
9 things, doesn't a lot of that in many cases
10 depend upon the quality and the character of the
11 operator?

12 LT. MILLER: You mean impact in the
13 crime of the neighborhood?

14 MR. KLINE: Yeah. I mean, don't
15 better operators tend to manage that better and
16 don't they have more of a minimal effect on a
17 neighborhood than a not so good operator?

18 LT. MILLER: I honestly don't think
19 that the operator of the establishment has much
20 control over the crime in the neighborhood to be
21 honest with you. I think it's just the draw of
22 the people that creates the environment for the
23 criminals.

24 MR. KLINE: Okay. Even though as you
25 testified earlier they're supposed to be

1 responsible for activity outside the premises?

2 LT. MILLER: I mean, that's what
3 they're held to, yeah. I mean, I've seen it
4 happen. I've seen it where ABRA licenses are
5 pulled because of stuff that happens inside.

6 MR. KLINE: Okay. You were asked
7 whether you knew whether this operator had
8 reached out to MPD concerning RDO, reimbursable
9 detail?

10 LT. MILLER: Mm-hmm.

11 MR. KLINE: And you said you didn't
12 know. Is there any reason why an establishment
13 not yet open would reach out to MPD concerning
14 RDO unless it's likely they didn't know about it?

15 LT. MILLER: I mean, they may -- they
16 may be looking into it for, you know, getting it
17 set up for the future and the preparation. I
18 mean, I don't know why anybody would in good
19 faith open an establishment and then wait for
20 something bad to happen before looking into it.
21 I don't even know if it's an option for them. I
22 mean, they would have to go through risk
23 management to find out.

24 MR. KLINE: Okay. But they don't have
25 any need for RDO if they haven't opened yet,

1 correct?

2 LT. MILLER: Correct.

3 MR. KLINE: And certainly until they
4 get closer to opening and they have a license,
5 when you reach out to RDO, you're arranging for
6 RDO officers, correct?

7 LT. MILLER: Correct.

8 MR. KLINE: And there's no reason for
9 them to arrange for RDO officers if they don't
10 yet have a license, is there?

11 LT. MILLER: I guess not.

12 MR. KLINE: Okay. And then you
13 testified that MPD is a good source of info for a
14 security plan which I don't think anyone would
15 disagree with. But that was your testimony,
16 correct?

17 LT. MILLER: Mm-hmm.

18 MR. KLINE: But if someone has been a
19 successful operator for 25 years and operated
20 their establishment with almost no incidents,
21 they may not need that assistance. Isn't that
22 correct?

23 LT. MILLER: Yeah. I mean, if they're
24 comfortable handling their establishment.

25 MR. KLINE: And they have a proven

1 track record of handling an establishment, and
2 they may not need that assistance, correct?

3 LT. MILLER: I would agree with that.

4 MR. KLINE: Okay. So there's no
5 conclusions to be drawn as to whether someone did
6 or did not reach out to MPD concerning their
7 security plan?

8 MR. KLINE: No. I mean, I was just
9 answering the question as to whether or not they
10 did or not. I have no idea.

11 MR. KLINE: Understood. I think that
12 is all the questions I have. That's all I have.
13 Thank you.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you. Any questions by any Board members?

16 (No response.)

17 CHAIRPERSON ANDERSON: All right. Mr.
18 Thomas, do you wish to do redirect -- brief --
19 any brief redirect?

20 MR. THOMAS: I do not.

21 CHAIRPERSON ANDERSON: All right.
22 Thank you. Lieutenant Miller, thank you very
23 much for your testimony today. Thank you.

24 LT. MILLER: You're welcome.

25 CHAIRPERSON ANDERSON: You have a

1 great day.

2 LT. MILLER: All right. Take care,
3 everyone.

4 CHAIRPERSON ANDERSON: All right.

5 MR. THOMAS: Thank you very much,
6 Lieutenant Miller.

7 CHAIRPERSON ANDERSON: You have
8 another witness, Mr. Thomas?

9 MR. THOMAS: I do. I'd like to call
10 Amir Shaikh to the stand.

11 CHAIRPERSON ANDERSON: Amir Shaikh,
12 where is -- all right. Mr. Shaikh, can you raise
13 your right hand, please? Do you swear or affirm
14 to tell the truth and nothing but the truth?

15 MR. SHAIKH: I do.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you. Your witness, sir.

18 MR. THOMAS: Good afternoon. Could
19 you please state and spell your name for the
20 record?

21 MR. SHAIKH: Amir Shaikh, A-M-I-R S-H-
22 A-I-K-H.

23 MR. THOMAS: Thank you. So Amir,
24 where do you currently reside?

25 MR. SHAIKH: 1233 10th Street,

1 Northwest.

2 MR. THOMAS: Okay.

3 MR. SHAIKH: It opens up onto Blagden
4 Alley.

5 MR. THOMAS: Okay. So the rear of
6 your house is directly adjacent to Blagden Alley?

7 MR. SHAIKH: Yes, and it's accessible
8 as well.

9 MR. THOMAS: Okay. When you say it's
10 accessible, what do you mean by that?

11 MR. SHAIKH: I can enter -- I can walk
12 into the alley going up the back of my house.

13 MR. THOMAS: Okay. And how long have
14 you lived there for?

15 MR. SHAIKH: We've lived here since
16 2018, I think. 2017, we bought the house. In
17 2018, we moved in the house.

18 MR. THOMAS: Okay.

19 MR. SHAIKH: And I've lived in the
20 neighborhood since 2003.

21 MR. THOMAS: All right. And when you
22 say the neighborhood, how far away from Blagden
23 Alley?

24 MR. SHAIKH: I used to live three
25 blocks away.

1 MR. THOMAS: And now you live directly
2 on Blagden Alley?

3 MR. SHAIKH: Yes.

4 MR. THOMAS: Okay. Who do you live
5 with?

6 MR. SHAIKH: My wife and my two
7 children.

8 MR. THOMAS: And how old are your
9 children?

10 MR. SHAIKH: Three and a half months
11 which is why I'm so tired because she was up till
12 4:00 a.m. and not letting me sleep and at 1:00
13 a.m. and 2:00 a.m. So I apologize for being
14 sleepy. And my son is 27 months, so two years
15 old.

16 MR. THOMAS: Okay. What do you do for
17 a living?

18 MR. SHAIKH: I am the Advisor to the
19 Senior Vice President and General Counsel of the
20 World Bank.

21 MR. THOMAS: All right. And you said
22 general counsel. Does that mean you're a lawyer?

23 MR. SHAIKH: Yeah, I'm a New York
24 barred lawyer.

25 MR. THOMAS: Okay. And as a barred

1 lawyer, you have ethical obligations to be honest
2 and make honest representations, correct?

3 MR. SHAIKH: Yes.

4 MR. THOMAS: In addition to the oath
5 you just swore?

6 MR. SHAIKH: Yes.

7 MR. THOMAS: Okay. I'm going to pivot
8 for a second and ask you, so how long have you
9 lived in Washington, D.C. for?

10 MR. SHAIKH: On and off for probably
11 ten years. My wife was born and raised here who
12 also lives with me. She was actually born in the
13 District, so our kids are now second generation.

14 MR. THOMAS: Okay. And in that time
15 that you've lived in D.C. on and off, did you
16 ever become familiar with the Eighteenth Street
17 Lounge.

18 MR. SHAIKH: Absolutely. I used to --
19 I used to be a patron.

20 MR. THOMAS: Okay. And when you say
21 you were a patron, you were a patron at its old
22 location on 18th, correct?

23 MR. SHAIKH: On 18th Street, yes.

24 MR. THOMAS: Can you just describe
25 your patronage, what it was like?

1 MR. SHAIKH: I mean, I was in law
2 school at the time. We used to go there on a
3 regular basis. It kind of for us was more of an
4 afterhours spot. We actually used it as an
5 afterhours spot. After our wedding, we asked our
6 guests who wanted to stay later than the venue to
7 head to Eighteenth Street Lounge. And we
8 reserved some space. So my wife and I have been
9 patrons for a long time at Eighteenth Street
10 Lounge.

11 MR. THOMAS: And in your experience,
12 it's a spot that's open late, correct?

13 MR. SHAIKH: Yeah, it's a spot you go
14 to listen to music, have some drinks, have fun.

15 MR. THOMAS: Loud music?

16 MR. SHAIKH: Yeah.

17 MR. THOMAS: Lots of dancing?

18 MR. SHAIKH: Absolutely.

19 MR. THOMAS: It's noisy?

20 MR. SHAIKH: Yes.

21 MR. THOMAS: Okay. So sorry. Let me
22 -- I want to go back to the alley for a second.
23 How do you -- you live right next to Blagden
24 Alley. How do you use Blagden Alley on a daily
25 basis?

1 MR. SHAIKH: Yeah. So we use Blagden
2 Alley all the time, I mean, especially during the
3 pandemic. It's probably gone up a lot and since
4 we've had kids. We play with our kids in the
5 alley. They, like -- my son rides his tricycle
6 back and forth, up and down the alley.

7 We shop in the businesses. So we go
8 to all the restaurants. We order pick-up from
9 them. We've been supporting them throughout.

10 We go to Seylou. We actually invited
11 all of the Blagden Alley and Naylor Court
12 architects to bid when we did our renovation just
13 because we wanted to use kind of the local
14 businesses. So we're really active in the alley.

15 I used to be a Reformation Fitness
16 member which is a gym in the alley. We use
17 Dogtopia for our dog. So we're using all sorts
18 of businesses in the alley on a daily basis.

19 MR. THOMAS: Okay. And are you the
20 only family that uses the alley. Or do you see
21 other families using the alley as well?

22 MR. SHAIKH: I see other kids and
23 family, and people walk their dogs in the alley
24 and play back there. During -- you know, that's
25 what we do.

1 MR. THOMAS: How do the neighbors know
2 each other back there? Does everyone keep to
3 themselves, or do they speak and interact?

4 MR. SHAIKH: You know, it's
5 interesting. So on the side of the alley where
6 we're at especially, most of those are
7 homeowners. We're not -- there's not that many
8 renters that I'm aware of. There's a lot of,
9 like, primary owners who own the house and live
10 in the house or they're condos.

11 So a lot of us recognize each other
12 and know each other, say hi. We stop on the
13 street. You know, pre-pandemic, there used to
14 be, you know, sidewalk parties or things like
15 that that would happen so people could get to
16 know each other. That's how I met a lot of my
17 neighbors. And trick or treat, all of it, like
18 Halloween, we all get to know each other.

19 MR. THOMAS: So your neighbors
20 directly next to you on the alley all as
21 homeowners have a vested interest in that space?

22 MR. SHAIKH: Yeah, absolutely.

23 MR. THOMAS: It's part of your
24 community?

25 MR. SHAIKH: Yes.

1 MR. THOMAS: Now in terms of -- what
2 is it like living directly adjacent to an alley
3 that's sort of a mixed use alley? Because I
4 mean, I would be fair to say Blagden Alley is not
5 like other alleys, right?

6 MR. SHAIKH: No, that's fair. That's
7 why we bought our house here actually. We
8 specifically moved to this neighborhood because
9 of the alley. We like -- you know, I'm not
10 somebody who's, like, a NIMBY or who's like, not
11 in my backyard, stay out.

12 No, I moved here because there are
13 restaurants, because there are establishments,
14 there are businesses. We could walk to
15 everything. We could be there. We love the art
16 that's in the alley. We love the double historic
17 nature.

18 It's actually one of the things which
19 attracted us to the alley is that it had a
20 certain feel. It had a history to it. It had a
21 way of being. And I mean, you know, one thing
22 that we've got in our space is we've got a little
23 of a private enclave which is nice and quiet.

24 And then when you go out into the
25 alley, you can walk a little bit and it becomes a

1 little bit more lively. But that liveliness ends
2 at some point. So around 10:00 p.m. generally
3 the alley is quiet again.

4 So for us, it's a great mix of being
5 able to be, you know, in a place with activity.
6 You know, you don't have an alley that's only
7 used for trash cans and dumpsters and things like
8 that. But you have something that's, you know,
9 livable and walkable. We thought it was just
10 super. It's really unique in the city.

11 MR. THOMAS: Okay. And when you talk
12 about the unique nature of the alley and its
13 businesses there, what is the business community
14 like there?

15 MR. SHAIKH: I mean, it's interesting.
16 So, like, Seylou hires people in the local
17 community. You actually see them out there
18 sweeping in front. You know, it's a mix of
19 restaurants and professional services. And, you
20 know, there's some bars as well. So it's a mix.

21 MR. THOMAS: During the day, what's a
22 day in Blagden Alley look like?

23 MR. SHAIKH: Well, lately, it's been
24 a lot of delivery trucks and traffic which has
25 been quite frustrating. But, like, during the

1 day, I mean, I see, you know, my neighbors across
2 the street playing in the alley. My kids are out
3 there every day, either with us or with the
4 nanny.

5 You've got, you know, businesses kind
6 of operating. There's an office -- there's a
7 couple of offices. And you always see people in
8 and out of the alley. The coffee shop, La
9 Colombe, attracts quite a few patrons that kind
10 of walk through the alley. It's a chill place.
11 Anybody who's been there loves it.

12 MR. THOMAS: So what's a night like
13 then?

14 MR. SHAIKH: Usually the nights are
15 actually pretty quiet until Never Looked Better
16 came in. To be blunt, I think you guys have all
17 heard about that. It was -- like, Calico came
18 into the neighborhood. They have an outdoor
19 area. You go there. You can have a drink after
20 work or something like that.

21 And it kind of chills out after 9:00,
22 10:00 o'clock. I think they close stuff down or
23 it goes inside and goes quiet. And then the
24 alley is pretty -- I mean, it's quiet. I mean,
25 you know, there's not a lot.

1 Late at night, as you heard from
2 Curtis Miller or Lieutenant Miller, you know, we
3 have -- you know, we do find things out back in
4 the alley. We find, you know, needles. We do
5 find used condoms. We find stuff.

6 You know, we have artwork on a lot of
7 our garages. We actively chose not to put
8 artwork on our garage because we didn't want
9 people lingering outside of our alley because you
10 can hear it. Because noise carries like crazy in
11 the alley. So we discussed it as neighbors and,
12 you know, that's one of the decisions we made.

13 MR. THOMAS: In terms of things going
14 quiet, around what time do the businesses and
15 specifically for purposes of this hearing, the
16 ABC license businesses start to shut down their
17 operations?

18 MR. SHAIKH: So I think it varies a
19 little bit. I think the latest is, like, 12:00.
20 I mean, on the weekends, it might be a little bit
21 later. But, you know, when I go out there at
22 night, it's -- I mean, it's quiet.

23 There's just not a lot of -- you know,
24 it's, like, The Dabney is there. But it's a
25 restaurant, right? So restaurant finishes. I

1 mean, I feel like the kind of nature and
2 character of the alley is almost like a place you
3 go for kind of, like -- if you want to go party,
4 this is not the place you come, right?

5 Like, if you want to go out, you want
6 to have a late night, the alley isn't that. You
7 may start your night there or start your evening
8 there, but you're going to move on to U Street or
9 something else. It's very close to U Street, so
10 it makes it there.

11 But it's not an end of night
12 destination. It's kind of a beginning of night,
13 you know, maybe launching pad. So you go have
14 dinner, you know, go get a drink somewhere, and
15 then move on.

16 MR. THOMAS: Okay. So you wouldn't
17 describe the crowd as a nightlife -- or excuse
18 me, a nightclub type of crowd?

19 MR. SHAIKH: No. I mean, prior to
20 Never Looked Better, no. It tended to be a
21 little bit older, a little more sophisticated.
22 Never Looked Better has attracted much younger
23 patrons that are less respectful of their
24 environment for lack of a -- trying to say it
25 diplomatically. Sorry. That's my World Bank

1 side, sparing you guys the details.

2 MR. THOMAS: Well, why don't you tell
3 me about the issues that the community has --
4 well, first of all, just to confirm, Never Looked
5 Better is in the same exact building that
6 Eighteenth Street Lounge is proposing to open up
7 in. Is that correct?

8 MR. SHAIKH: Yeah, that's correct.
9 And that's -- I mean, going back to that, that's
10 something I noticed when Detective Miller was
11 testifying was, you know, I think he was asked
12 whether it was vacant, that building or not.
13 It's not vacant.

14 There's Never Looked Better in it.
15 And so Never Looked Better has had lots of line
16 issues going into the alley, blocking traffic.
17 There's a ton of trash, a lot of broken glass
18 bottles, and things like that have really been
19 increasing. We have kids playing in the alley.
20 So I'm, like, hypersensitive to having broken
21 glass in that space. You know, I'm very
22 conscientious of that.

23 There's Uber drivers, Lyft drivers
24 getting lost and stuck in the alley. That's
25 probably the most annoying thing I think all the

1 residents in the alley hate. You know, or the
2 Uber and Lyft drivers that get stuck, block our
3 traffic. I've had to sit there both in the day
4 and the night with that. You know, trash cans,
5 there's been the streeteries that have popped up
6 that have just blocked free flow and, like,
7 really changed the kind of nature of the area.

8 MR. THOMAS: Okay. And in terms of
9 the sound, you mentioned earlier that the sound
10 carries. Does the sound carry worse at night
11 when a lot of the other businesses, for example,
12 like, The Dabney or the other sort of have kind
13 of closed up?

14 MR. SHAIKH: Yeah, it does. I mean,
15 we -- like, a lot of -- you know, people have
16 roof decks in the alley, right? Most people in
17 the alley aren't using their roof decks 24/7,
18 right? They may use it once a month or whatever
19 it is or once, whatever.

20 You hear everything. Like, I can
21 literally participate in their conversations.
22 You know what there another place on N Street. I
23 can easily participate in their conversations.

24 The sound just -- I think because it's
25 an alley, because it's in the back, there's not a

1 lot of really tall buildings or anything knocking
2 it down. The roof -- the sound just carries. I
3 mean, I'm not a sound engineer or anything like
4 that.

5 But you can hear -- when people are
6 out back in the alley, I'm, like, I can hear
7 conversations from Lost & Found when people leave
8 out the back of Lost & Found which is on the
9 other side of the alley. So we have a straight
10 view to it. And the sound just carries through.

11 MR. THOMAS: I was going to say, does
12 the sound carry worse at night when there's not a
13 lot of sort of background -- when there's not a
14 lot of background noise?

15 MR. SHAIKH: Yes, absolutely.

16 MR. THOMAS: And you mentioned this
17 uptick in traffic. When you were talking about
18 uptick in traffic, I kind of want to talk about
19 two separate types of traffic, right? So first,
20 trucks, I want to show you an exhibit if you
21 don't mind.

22 MR. SHAIKH: Sure.

23 MR. SHAIKH: I believe I have the
24 share screen ability already. So bear with me
25 one second as I pull it up. Show you -- there we

1 go. Do you see that?

2 MR. SHAIKH: Yeah.

3 MR. THOMAS: Okay. I'm showing the
4 witness what has been marked as Exhibit 10 in the
5 BANCA Protestant PIF.

6 (Whereupon, the above-referred to
7 document was marked as Protestant
8 Exhibit No. 10 for identification.)

9 MR. THOMAS: Do you see those pictures
10 there?

11 MR. SHAIKH: Yeah.

12 MR. THOMAS: Is that sort of an
13 accurate representation of how the delivery
14 trucks operate in the alley presently?

15 MR. SHAIKH: All too often -- and my
16 son loves it, though, because he gets to watch
17 the delivery trucks and trash trucks. He gets
18 very excited. But we often get stuck in the car
19 trying to get out of the alley because, I don't
20 know, if you look in the Exhibit 10, the middle
21 picture, you see the garbage truck where it's
22 parked.

23 Basically, that happens way too often.
24 We get delivery trucks parked around there. And
25 that blocks all -- well, four ingress and egress

1 points to the alley. It's really dangerous.

2 But we oftentimes have trucks just
3 stop there. It's a crap shoot. We play a game
4 when we come home of which alley entrance we can
5 use to get to our house where we won't find a
6 delivery truck blocking it.

7 MR. THOMAS: And these delivery trucks
8 are servicing the businesses of the alley,
9 correct?

10 MR. SHAIKH: Yes.

11 MR. THOMAS: Now that middle picture
12 that you were just referencing that has -- let me
13 see if I can use my -- right here, right by the
14 little murals on the garage doors. Do you see
15 that?

16 MR. SHAIKH: Yeah.

17 MR. THOMAS: Am I correct? Is that
18 the sort of row that you live in there?

19 MR. SHAIKH: We live a little bit
20 further back from that. There's a resident who
21 lives up there above the love sign, but --

22 MR. THOMAS: Right there. Right
23 literally in those windows right above there?

24 MR. SHAIKH: Yeah.

25 MR. THOMAS: Okay. In terms of sound,

1 are these trucks loud?

2 MR. SHAIKH: Yes.

3 MR. THOMAS: How frequently do they
4 come?

5 MR. SHAIKH: I mean, every day. I
6 mean, I don't know. There always -- there always
7 seems to be something. I mean, there's a trash
8 truck every morning that goes through. You see
9 alcohol delivery, restaurant delivery, food
10 delivery. There's all sorts of stuff happening.

11 MR. THOMAS: And --

12 MR. SHAIKH: And I'm not out there
13 24/7, right? So I hear it, though, when I'm
14 sitting, you know, in my kitchen. You hear the
15 trucks go by.

16 MR. THOMAS: Right. And so -- and
17 then in terms of your time, I think you said four
18 years living there, there have been more
19 businesses that have opened up there since you
20 have lived there, correct?

21 MR. SHAIKH: Yeah. I mean, businesses
22 have come and gone through the alley.

23 MR. THOMAS: Would you say there are
24 more businesses there now than when you first
25 moved in?

1 MR. SHAIKH: Probably. Like, Calico
2 opened since we were there. There's some other
3 stuff on 9th Street which has come and gone. So
4 I think Seylou -- Seylou opened after we were
5 there.

6 MR. THOMAS: Has the truck traffic
7 increased?

8 MR. SHAIKH: Yes. I think it's also
9 just gotten worse during the pandemic. Sometimes
10 -- something -- I don't know what switched. But
11 suddenly, we had a lot of delivery trucks whereas
12 before there weren't nearly as many. It didn't
13 seem to be nearly as big of a problem. Now it's
14 a nuisance.

15 MR. THOMAS: And then in terms of not
16 commercial traffic but sort of Uber, Lyft,
17 ridesharing, personal car traffic, has that
18 increased at all?

19 MR. SHAIKH: Yeah. I mean, it's
20 increased. It's probably been there for a while.
21 But you can tell who the Uber and Lyft drivers
22 are because they turn down to our side of the
23 alley which does not have an exit.

24 And so they run into the dead end.
25 And then they also tend to have Virginia and

1 Maryland -- they're not D.C. license plates. And
2 quite frankly, we know the cars that, like -- the
3 people -- like, you see some of the cars parked
4 there.

5 You know, I can tell those are, like,
6 usually people going to La Colombe. That truck
7 that's there, if I'm not mistaken, that's either
8 one of the residents who lives right there at the
9 end of the alley. Sometimes they park their
10 truck.

11 MR. THOMAS: This truck?

12 MR. SHAIKH: The pickup truck if you
13 go down. There's, like, a nose of a pickup
14 truck. I'm pretty sure that's their truck. We
15 know the cars. We know the people in the alley,
16 right? So you know who lives in the alley and
17 you know who is passing through the alley. It's
18 pretty easy to identify.

19 MR. THOMAS: Are the rideshare cars
20 loud? Do they create noise issues?

21 MR. SHAIKH: Not really noise issues.
22 I mean, when people get in and out, it's more you
23 have kind of -- in the evenings, you have drunk
24 people looking for their rideshares. And so
25 they're kind of walking up and down the alley

1 because it's a -- you put in Blagden Alley and
2 it's an H-shaped for those of you who aren't
3 familiar with it. So there's multiple ingress
4 and egress points. So you have people walking up
5 and down and around looking for where their
6 rideshare is going to be.

7 MR. THOMAS: Right. So do you have
8 people lingering in the alley looking for a
9 rideshare --

10 MR. SHAIKH: Yeah, all the time.

11 MR. THOMAS: -- or waiting for a
12 rideshare?

13 MR. SHAIKH: Yes.

14 MR. THOMAS: And do they create sound
15 issues?

16 MR. SHAIKH: Yeah, they're talking to
17 each other while they're waiting or looking. And
18 you hear them. I mean, noise carries, especially
19 at night.

20 MR. THOMAS: Right. And is that --
21 and these are people that are patrons of the
22 businesses that abut the alley, correct?

23 MR. SHAIKH: That's correct.

24 MR. THOMAS: I want to talk about
25 trash for a second too. So I'm going to scroll

1 down here. And you see these photographs here.
2 Is this an accurate depiction of what the trash
3 situation in Blagden Alley currently looks like?

4 MR. SHAIKH: Sadly, yes. It was not
5 like this when I moved in.

6 MR. THOMAS: Okay. So it's only
7 gotten worse recently?

8 MR. SHAIKH: Oh, absolutely.

9 MR. THOMAS: And where is this trash
10 coming from if you know?

11 MR. SHAIKH: I mean, it's definitely
12 not any of the residential buildings because you
13 can kind of tell the Tenleytown Trash, they're
14 all private trash vendors. They're not the
15 public city ones. Most of it is food and alcohol
16 bottles. So it's probably coming from the
17 businesses along -- in and around the alley.

18 MR. THOMAS: Okay. And do you have
19 any knowledge as to why this trash has sort of
20 gotten worse?

21 MR. SHAIKH: I think a lot of it's
22 probably due to the streeteries and the pandemic.
23 So, like, you can no longer access the alley,
24 like, kind of places where they were. There's
25 also been a turnover in businesses.

1 So, like, it's funny. The pictures
2 that you're showing don't show some of our -- I
3 would call them better neighbors. So like,
4 Calico doesn't have its trash out. Dabney
5 doesn't put its trash out into the alley. So
6 there's -- you know, we have kind of people who
7 take price in the alley and own the alley with
8 the community and those who don't.

9 MR. THOMAS: Okay. And has there been
10 any plans to deal with any of these trash issues?

11 MR. SHAIKH: We have complained to the
12 city many times because I don't understand how
13 you can store, like, in a historic alley that was
14 -- is supposed to be, like, a residential and
15 pedestrian traffic, they just literally block the
16 streets with trash cans. I don't -- I don't know
17 what else to do. We've tried DDOT. We've tried
18 311.

19 We've tried -- and I'm a citizen. I'm
20 not full time sitting here trying to do
21 everything. You can only complain so many times
22 and you just get frustrated.

23 MR. THOMAS: Right. Has there been
24 any proposal for the businesses to deal with the
25 trash in Blagden Alley?

1 MR. SHAIKH: I mean, I've heard for
2 the first time -- what, two weeks ago, I heard
3 Mr. Nouri say that they were -- or I don't know
4 if that was Mr. Nouri or Ms. Jordan say that they
5 were going to do a trash compactor with the
6 businesses. Nobody has talked to me about that
7 before. That was news to me.

8 Never heard it when we asked about
9 trash plans along the way. At the ANC meetings
10 when we were here, we kept asking about trash and
11 noise and all the typical things anybody would be
12 concerned with. First time I hear it is at a
13 protest hearing that they have a new plan.

14 MR. THOMAS: Right. And do you recall
15 where they said that trash compactor is going to
16 be located?

17 MR. SHAIKH: No, they didn't say it.
18 And they said -- I think they said Patrick
19 Welch's lots. And Patrick lives across the
20 street. Like, we know Patrick. I know he owns a
21 bunch of the lots in the alley. You know, a lot
22 of those, some of the empty lots that it would
23 get placed on that he owns are on the -- like, on
24 our side of the alley next to the residences.

25 (Simultaneous speaking.)

1 MR. SHAIKH: So I don't know where
2 they're planning on putting it. There's no
3 specificity. As a community member, I have no
4 way of knowing.

5 MR. THOMAS: Do you have concerns as
6 a community member as to whether a trash
7 compactor will cause noise issues for your house?

8 MR. SHAIKH: Yes. I'm sure everything
9 buys a multi-million dollar house to live next to
10 a trash compactor. No, of course. Yeah, I'm
11 being sarcastic. But yes, of course I have
12 issues and concerns.

13 MR. THOMAS: And do you have issues
14 and concerns about pests and rodents that could
15 come from a trash compactor next to your home?

16 MR. SHAIKH: Oh, my son, again, loves
17 watching the rats that come in and out of the
18 alley because of all of the trash from the
19 restaurants.

20 MR. THOMAS: Right.

21 MR. SHAIKH: He gets very excited by
22 them. We do not. However, we try to keep them
23 away. I mean, it costs us money. We have pest
24 control. We call 311, have the DC Rat Squad come
25 out. We have private pest control as well,

1 because trash is a huge problem in the alley.

2 MR. THOMAS: Right. Let me -- you
3 also mentioned sort of some of the more unsavory
4 aspects of living in an alley that I think
5 Officer Miller also talked about in terms of
6 drugs and prostitution and things like that. I'm
7 going to -- I'm showing you a picture right now.
8 Are these sort of accurate pictures of the alley
9 and what you would see in the alley?

10 MR. SHAIKH: I mean, they're objection
11 taken --

12 MR. KLINE: Objection. This
13 establishment is not open. What does this have
14 to do with my client's application or his
15 proposed establishment?

16 MR. THOMAS: If I may respond, it goes
17 to the current issues that are in the alley and
18 whether adding 270 drunk patrons at 3:00 a.m.,
19 whether they will be exacerbating these
20 particular issues. It was testified to about by
21 Lieutenant Miller. And I think the character of
22 the alley and the issues that exist are extremely
23 relevant.

24 CHAIRPERSON ANDERSON: I'm going to
25 overrule the objection. Answer the question if

1 you can.

2 MR. SHAIKH: Yeah. I mean, we've had
3 an increase in trash and things like that over
4 the past 12 months. I don't exactly know, 15
5 months, something like that. It's been a huge
6 increase.

7 And I think just maybe I'm going to
8 just take a little liberty and just say, look, as
9 a community member, one of our challenges is
10 we've been seeing this increase in crime. We've
11 seen an increase in trash. We've seen an
12 increase in noise. We've seen an increase in
13 traffic. It's been harder to park.

14 And we want -- before we add more load
15 into the alley and things like that, we want to
16 make sure that there's a plan. We expect
17 businesses and residents to come with something
18 so we can fix the existing issue. We don't want
19 to add on to the existing issues. We want to --
20 you know, we want a place that we can live and
21 work and play.

22 MR. THOMAS: And these are -- I'm
23 showing you another picture that is people
24 urinating, it appears, at night in the alley. Is
25 that consistent with things that you've seen in

1 the alley?

2 MR. SHAIKH: Smelled more than seen.
3 But yeah, a little of both.

4 MR. THOMAS: Okay. I'm going to move
5 to let Exhibit 10 into the record, to admit
6 Exhibit 10.

7 CHAIRPERSON ANDERSON: Mr. Kline? Any
8 objection, Mr. Kline? I can't hear you --

9 MR. KLINE: My question is to --

10 CHAIRPERSON ANDERSON: -- Mr. Kline.

11 MR. KLINE: -- what Exhibit 10
12 encompasses. There are a number of pictures that
13 are not broken up. Let me just make sure that
14 we've identified all of them for 44 pages.

15 I object. I don't object to those
16 that have been identified. I don't object to the
17 photos in terms of what he says they
18 characterize. But there are other photos here,
19 another language here in which I do object to.
20 And I think we're at a disadvantage in that these
21 exhibits were not properly separated as distinct
22 exhibits.

23 CHAIRPERSON ANDERSON: All right. So
24 what is Exhibit 10?

25 MR. THOMAS: Exhibit 10, and I've been

1 scrolling through it, it starts here.

2 MR. KLINE: Are you able to give me a
3 page number on one of these?

4 MR. THOMAS: Yeah, absolutely,
5 absolutely. Exhibit 10 starts in the PDF. It
6 would be page 363.

7 MR. KLINE: 363? Okay.

8 CHAIRPERSON ANDERSON: So let -- so
9 how many pages is Exhibit 10?

10 MR. THOMAS: It goes from page 363 to
11 368.

12 MR. KLINE: Only the first page and a
13 half has been identified and discussed, and we
14 don't have any objection to that. We would
15 object to the rest of it. It looks like
16 testimony.

17 MR. THOMAS: First of all, the first
18 three pages have been gone through. The fourth
19 page deals with sound which I have been
20 discussing with the witness for an extensive
21 period of time. And the fifth page deals with
22 sound. I'm happy to go through -- if I need to
23 go through them, I can go through them. But that
24 type of testimony and testimony about the sound
25 has been extensively offered by this witness

1 already.

2 MR. KLINE: Yeah, I know. But he's
3 not an expert. And we have opinions as to
4 projected sound and reflected sound and things to
5 which he's not competent to testify.

6 MR. THOMAS: To his experience in the
7 alley. And I will stipulate to the fact that the
8 witness is not an expert. In fact, I think the
9 witness testified himself that he is not an
10 expert. So I don't think there's any confusion
11 on that point.

12 MR. KLINE: And then we have links.
13 And then we have -- oh, and I guess then we go to
14 11. The last page, though, I'd certainly object
15 to.

16 CHAIRPERSON ANDERSON: What's the last
17 page? Let's go through the --

18 MR. KLINE: Yeah, it's a little hard
19 to tell what page is which. As I understand it,
20 the first page is made up of four photographs,
21 correct?

22 CHAIRPERSON ANDERSON: All right.

23 MR. THOMAS: Correct.

24 CHAIRPERSON ANDERSON: All right.

25 MR. KLINE: I don't have any objection

1 to that. I don't have any objection to the
2 second page. I think he authenticated that. He
3 didn't really authenticate the third one. It
4 was, like, yeah, this is kind of like stuff that
5 I've seen. But I don't even know that it's the
6 alley. He doesn't know where this picture was
7 taken.

8 MR. SHAIKH: I'm happy to authenticate
9 it. I can actually identify the alley. I was
10 actually with the person who took the pictures
11 when they took some of these pictures.

12 (Simultaneous speaking.)

13 CHAIRPERSON ANDERSON: I'm sorry. I'm
14 sorry. Who is speaking? Who said that they can
15 -- who said they were --

16 MR. SHAIKH: Sorry. That was me, the
17 witness. I mean, I know where all these places
18 are.

19 CHAIRPERSON ANDERSON: Well, why don't
20 you have him go through all the pages, Mr.
21 Thomas, because I still don't -- I don't have the
22 document in front of me to see how many pages
23 this document is. So let's go through all the
24 pages and then we'll decide. So let's start at
25 page 1.

1 MR. THOMAS: Okay. Page 1 which we've
2 talked about already, Mr. Shaikh.

3 CHAIRPERSON ANDERSON: All right.

4 MR. THOMAS: But do you recognize
5 these photos?

6 MR. SHAIKH: I do.

7 MR. THOMAS: Are they true and
8 accurate depictions of Blagden Alley?

9 MR. SHAIKH: Yes.

10 MR. THOMAS: As you've experienced
11 them as a resident of the alley?

12 MR. SHAIKH: Yes.

13 MR. THOMAS: Do you see this page that
14 is on the screen?

15 MR. SHAIKH: Yes.

16 MR. THOMAS: Do you recognize these
17 photographs?

18 MR. SHAIKH: Yes.

19 MR. THOMAS: Are they true and
20 accurate depictions of Blagden Alley as you've
21 experienced them as a resident?

22 MR. SHAIKH: Yes.

23 MR. KLINE: Objection as to what he's
24 experienced. We're talking about these photos.
25 Can he identified these photos --

1 (Simultaneous speaking.)

2 MR. KLINE: -- not what he's
3 experienced.

4 MR. THOMAS: He just -- he literally
5 just said, I recognize these photos. These are
6 the photos of the alley.

7 MR. KLINE: That's not what you asked
8 him.

9 MR. THOMAS: That is exactly what I
10 asked him.

11 CHAIRPERSON ANDERSON: All right,
12 gentlemen. All right.

13 MR. KLINE: Mr. Chair, what was asked
14 is, is this the type of thing that you've
15 experienced or words to that effect. I didn't
16 hear, yes, I was there. This particular photo is
17 an accurate depiction of what I observed at this
18 location at this time which is what we need to
19 authenticate a photograph.

20 MR. THOMAS: That's exactly what was
21 testified, but I'll say it again. Is this an
22 accurate depiction of what you have observed in
23 the alley?

24 MR. SHAIKH: Yes. I mean, if you
25 want, I can go through and tell you which

1 buildings and probably where people were
2 standing. I know this alley backward and
3 forward. I just think it's an efficient use of
4 time.

5 MR. THOMAS: Right, and --

6 (Simultaneous speaking.)

7 CHAIRPERSON ANDERSON: Hold on. Hold
8 on. Mr. --

9 MR. SHAIKH: Shaikh.

10 CHAIRPERSON ANDERSON: -- Shaikh,
11 you're the witness, sir. You only speak when a
12 question is shared to you, sir, please. All
13 right. This is page 2. Where's page 3? Can the
14 witness identify page 3? What is page 3?

15 MR. SHAIKH: So page 3 looks like it's
16 pictures of trash. The one on the left is taken
17 by the parking lot. I can recognize the asphalt
18 and the boundary stone that's there and some of
19 the other identifying markers.

20 Middle picture is trash that's outside
21 of the building. The white brick building that's
22 across from where Eighteenth Street Lounge is.
23 The top left one is taken on that same wall.

24 The one on the bottom right is in
25 front of what I think might be Patrick's office.

1 But it's right there at the corner. That's the
2 yellow traffic barrier that's in the middle of
3 the alley. I can go through each one. I mean, I
4 --

5 CHAIRPERSON ANDERSON: All right.
6 That's page 3. Page 4.

7 MR. THOMAS: Can you identify these
8 photos?

9 MR. SHAIKH: Yes. Page 4, it's in
10 front of the Jon Thompson pictures, somebody
11 urinating on the light post. That's right across
12 from where me and a lot of the neighbors live.
13 The picture to the right is -- I believe that's
14 the streeterly in front of Tiger Fork. And you're
15 look down. You can see all the residences in the
16 background of that picture.

17 CHAIRPERSON ANDERSON: All right.
18 Page 5.

19 MR. THOMAS: Page 5, you see the
20 picture on the right?

21 MR. SHAIKH: Yeah, page 5, it's
22 similar to the picture on number 1. It's a
23 picture of the alley facing right. So on the map
24 -- sorry, trying to get my -- east from the west
25 side of the alley, looking down kind of the main

1 corridor of the alley. There in the distance,
2 you see Tiger Fork, La Colombe. It's Blagden
3 Alley. On the right side is the love mural. On
4 the left side is the old Sabol (phonetic)
5 building.

6 MR. THOMAS: And as far as the text
7 and the picture on the left-hand side, is that
8 consistent with your experience of how noise and
9 sound in the alley works?

10 MR. SHAIKH: As a layman, yes.

11 CHAIRPERSON ANDERSON: Page 6.

12 MR. THOMAS: Page 6, we can skip. Oh,
13 wait. Page 6? Yes, page 6. I can play both
14 these videos for you if you'd like.

15 MR. SHAIKH: Yeah, I would need to see
16 the videos. I don't know what the links mean.

17 MR. THOMAS: Right.

18 MR. SHAIKH: I've probably seen them
19 before, these videos.

20 MR. THOMAS: I remember we had a sound
21 issue the last time.

22 MR. SHAIKH: I mean, I can't hear any
23 of the sound, but I recognize where that video
24 was taken. Again, facing eastward into the alley
25 in the middle of the alley, that's Tiger Fork --

1 (Simultaneous speaking.)

2 MR. THOMAS: Have you seen that video
3 before?

4 MR. SHAIKH: Yes, I have. And you can
5 hear people talking. There's an Uber driver
6 about to pull up who is backing down one of the
7 dead ends of the alley, got lost, and is coming
8 back down. You can see them coming right now.
9 And so it's probably people -- I can't tell
10 exactly what they're doing. But I think this is,
11 like, some of the Never Looked Better who
12 accessed the alley from the back.

13 MR. THOMAS: I'll agree to -- in the
14 interest of time -- excise the final page and use
15 the other ones.

16 CHAIRPERSON ANDERSON: All right. So
17 Exhibit 10 is page 1, 2, 3, 4, 5?

18 MR. THOMAS: Correct.

19 CHAIRPERSON ANDERSON: It's admitted
20 into evidence.

21 (Whereupon, the above-referenced to
22 document was received into evidence as
23 Protestant Exhibit No. 10.)

24 CHAIRPERSON ANDERSON: All right.

25 MR. THOMAS: Thank you.

1 MR. KLINE: I don't have any objection
2 to the photos. I do object to the editorial
3 content and ask that it be stricken.

4 CHAIRPERSON ANDERSON: All right.
5 They're in evidence just for the photos because
6 that's what the witness described what's in the
7 photos. All right.

8 MR. THOMAS: I'm going to stop sharing
9 my screen now. Okay. I want to quickly talk
10 about crime. You just saw photos of public
11 urination. Is that something -- a common type of
12 crime you've noticed in the alley recently?

13 MR. SHAIKH: Yes. There's actually
14 been a huge rash of break-ins that we've been
15 having in the alley. Me and my immediate
16 neighbors, we all had our cars broken into on the
17 same night.

18 MR. THOMAS: Okay. Are you aware of
19 any other -- oh, you said you and your neighbors?

20 MR. SHAIKH: Yes, I mean, my immediate
21 neighbor. So I have 1235. They're also part of
22 the Group of 5 Protestants or Group of 6
23 Protestants. I can't remember if there were five
24 or six now.

25 MR. THOMAS: Are you aware of other

1 neighbors besides your immediate neighbors that
2 have --

3 MR. SHAIKH: Yes, I mean, their
4 building -- like, kind of neighborhood listservs
5 and otherwise the community talking to each
6 other. Just talking to people, there's been a
7 huge spike in break-ins. We're having a real
8 problem in the alley with crime.

9 MR. THOMAS: Okay. Now I want to just
10 ask you generally. You have testified you used
11 to patronize Eighteenth Street Lounge. I want to
12 know what is your opinion of Eighteenth Street
13 Lounge coming to the Blagden Alley neighborhood?

14 MR. SHAIKH: So when I first heard
15 about Eighteenth Street Lounge coming in, I was
16 actually excited. I thought it'd be a great
17 addition kind of generally speaking. It's
18 actually been this process of trying to work with
19 them or not being able to work with them that has
20 been more concerning than anything.

21 You know, we moved in -- like I said
22 earlier, we moved into this neighborhood. We
23 knew there were bars. We knew there were
24 restaurants. We're not afraid of them. But
25 there was a new concept, so we listened to what

1 it was.

2 We asked to kind of give input. We
3 gave input at ANC meetings. We offered ourselves
4 to discuss our concerns over noise and trash.
5 And every time we tried, we just kept running
6 into walls or misled or broken telephone where we
7 had our ANC not communicating things clearly
8 who's our representative.

9 It's been a very frustrating process.
10 It's just, like, somebody who's got two young
11 kids, a full-time job. The number of -- you only
12 can give so much to this, right? Like, it's been
13 really frustrating.

14 And I think what I'm frustrating with
15 is I have a sense that -- not just a sense. I
16 hear one thing one day and the next thing
17 something changes from the Applicant. So I can
18 never get a story of what they're coming in to
19 do.

20 And I think that has led to a
21 situation where I don't have a lot of confidence
22 they're going to be good neighbors. So taking
23 that away, adding it on to the compounded
24 problems we've had with Never Looked Better who
25 are not good neighbors, we just have a -- I care

1 about my community. I don't want it to be
2 destroyed.

3 I don't want it to be ripped apart.
4 And I want neighbors who are good. So I want
5 businesses to come in. I don't want that place
6 sitting empty. But I want it to come in and fit
7 the character of the alley. Like, it's a
8 historic neighborhood. I want it to be similar.

9 MR. THOMAS: What are the concerns
10 that you tried to express to -- sorry, I almost
11 said Never Looked Better -- to Eighteenth Street
12 Lounge?

13 MR. SHAIKH: Yeah, so, you know, I
14 tried to follow process. I'm a good World Bank
15 bureaucrat and I like my process. So, you know,
16 the ANC said they were representing us.

17 So I sent an email to all the ANC
18 Commissioners listing out my concerns which I
19 assumed would be incorporated in to the
20 conversations with Eighteenth Street Lounge. You
21 know, I also spoke at ANC meetings multiple
22 times. I brought up specifically trash, noise,
23 parking, the sidewalk on 9th Street.

24 It's super narrow when I walk by with
25 my -- you can barely get by with a stroller.

1 It's almost impossible during the day to get by
2 with a stroller. It's that narrow without having
3 to go into the street. You know, I brought up
4 just, I mean, you know, concerns about the hours,
5 concerns about a summer garden and the noise
6 carrying out of it. I resolve these issues in
7 public forum with my name out there into the
8 public and got attacked for it which was great.

9 MR. THOMAS: So I want to get to that
10 in a second. But did you ever reach out or offer
11 to speak directly with Mr. Nouri about what was
12 going on?

13 MR. SHAIKH: Yes.

14 MR. THOMAS: And did he ever respond
15 to your invitation to have a conversation as a
16 concerned neighbor that lived on the alley?

17 MR. SHAIKH: No.

18 MR. THOMAS: How many times did you
19 ask Mr. Nouri to have a conversation?

20 MR. SHAIKH: So I'm trying to be
21 careful of the settlement line or not settlement
22 line. I know at ANC meetings which were public
23 hearings, not part of any other negotiations, I
24 offered my name and I sent in my email address
25 and I stated on the record I'd be happy to speak

1 to them anytime.

2 MR. THOMAS: Okay. And in terms of --
3 what response did you get?

4 MR. SHAIKH: I never heard anything
5 from Jordan or Farid. I did get tweeted at after
6 the first time by the Eighteenth Street Lounge
7 resident DJ who called me a racist for opposing
8 Black and Brown businesses the week that I was
9 organizing a conference on racial justice and
10 international development. So I appreciate that
11 one. That made me chuckle. But it made my wife
12 awfully concerned because it felt like we were
13 getting attacked.

14 MR. THOMAS: Right. So you tried to
15 reach out to Eighteenth Street Lounge to discuss
16 issues of noise, traffic, parking, crime. And
17 the result was you were attacked by an affiliate
18 of Eighteenth Street Lounge. Is that correct?

19 MR. SHAIKH: Yeah, by a resident DJ,
20 whoever he was. I mean, he spoke on their behalf
21 at the ANC meeting. He was -- I mean, he then
22 personally started attacking which, I mean, I try
23 to rise above.

24 But it's -- you know, it just --
25 that's part of the reason for doing it. And we

1 brought that concern up to the owners because,
2 you know, we were, like, look, how can we have a
3 productive dialogue as a community when we're
4 being attacked? And I know they've said the same
5 thing. But I don't think it's quite, you know --
6 it's just -- this is just not -- it's not
7 productive at all, bluntly.

8 MR. THOMAS: Do you think that if
9 you'd had a conversation with Mr. Nouri, you
10 would've been able to raise some of this issues?

11 MR. SHAIKH: Sure. But I mean, I did
12 raise the issues multiple -- on different venues
13 that we can't go into. The issues, I mean, I
14 brought up have been consistent. I care about
15 security. I care about noise. I care about
16 trash, right?

17 I care about the character of the
18 neighborhood. I care about the safety. I want
19 my kids to be able to play in the alley. I want
20 to be able to walk down 9th Street and not have
21 to be accosted by a line going around drunk
22 people.

23 I want to make sure that the alley is
24 quiet. I want hours. I do not think a summer
25 garden makes sense in the alley. I've been

1 really concrete and specific as possible. I
2 always try to be concrete and specific.

3 MR. THOMAS: That's all I have right
4 now. Thank you.

5 CHAIRPERSON ANDERSON: Mr. Kline?

6 MR. KLINE: Yes, good afternoon. So
7 I want to go through that litany of issues you
8 just raised. You said -- you were concerned
9 about security, correct?

10 MR. SHAIKH: Yes, yes.

11 MR. KLINE: Concerned about noise?

12 MR. SHAIKH: Yes.

13 MR. KLINE: Concerned about safety in
14 the alley?

15 MR. SHAIKH: Yes.

16 MR. KLINE: Quiet in the alley?

17 MR. SHAIKH: I don't think I said
18 quiet. But if I -- noise and quiet are kind of
19 two sides of the same coin.

20 MR. KLINE: Okay. Anything else? Did
21 I miss anything of your litany?

22 (Simultaneous speaking.)

23 MR. KLINE: Trash?

24 MR. SHAIKH: Yeah. I mean, I can pull
25 up my notes and tell you everything I said

1 because --

2 (Simultaneous speaking.)

3 MR. KLINE: Oh, no. I want to know
4 what you just said. So I was trying to take
5 notes on it --

6 MR. SHAIKH: Trash, noise, safety,
7 security, safe passage, summer garden hours,
8 noise off the roof deck, the historic character
9 of the alley.

10 MR. KLINE: Okay. All right. So
11 let's take the last one, historic nature.
12 They're not doing anything in there that violates
13 the historic nature of the alley, are they?
14 Compliance as far as you know with all HP
15 requirements and other historic requirements,
16 correct?

17 MR. SHAIKH: No, that's not correct.
18 My experience was they started constructing in
19 the alley before they had permits or before they
20 had gone to HPB renewal. That's why there was a
21 stop work order on the building. So I don't know
22 that for sure --

23 MR. KLINE: You don't know that?

24 MR. SHAIKH: -- by any stretch of the
25 imagination.

1 MR. KLINE: But your contention is
2 they're somehow not in compliance with historic
3 preservation requirements?

4 MR. SHAIKH: I'm not saying with
5 historic preservation requirements. I said with
6 the historic character of the alley. So if you
7 actually look back at the historic character of
8 the alley and why this area was designated as a
9 protected area, why are there two blocks only in
10 the entire city designated as alley living,
11 right?

12 They were protected because of alley
13 living. They were not protected because they
14 were service alleys that have dump trucks going
15 through it. They were protected on the National
16 Register of Historic Places as alley living.

17 (Simultaneous speaking.)

18 MR. KLINE: All right. I'm going to
19 cut you off because I think you're well beyond
20 the question that I've asked you and I want to
21 get to your other concerns. In terms of
22 security, you're aware, are you not, as a result
23 of issues raised concerning security that the
24 Applicant prepared, produced, and provided a
25 security plan, correct? It's a yes or no

1 question.

2 MR. SHAIKH: No.

3 MR. KLINE: You're not aware of that?

4 MR. SHAIKH: No. When I -- at the ANC
5 meeting --

6 (Simultaneous speaking.)

7 MR. KLINE: It's a yes or no question.
8 You're not aware of that?

9 MR. THOMAS: Can you let the witness
10 answer the question?

11 MR. SHAIKH: I'm getting cut off. I
12 thought this was an administrative hearing.

13 CHAIRPERSON ANDERSON: I'm sorry. All
14 right. You're the witness, sir. You need to
15 answer a question. If there's an objection, your
16 attorney raises the objection. Your job, sir, is
17 to answer the question when there's an objection
18 raised.

19 As an attorney, you know when to be
20 quiet. And so your job in this forum, sir, is
21 not to question the questioner. It's just to
22 speak when you are allowed to speak.

23 All right. So let's start. Mr. Kline
24 had a question, I think. I believe Mr. Kline is
25 asking you, yes or no. You choose not to answer

1 the question, yes or no.

2 But if you need explanations, your
3 attorney on redirect, and I'll give him an
4 opportunity to give explanations, sir. So if the
5 questions are phrased by counsel as a yes or no,
6 sir, please answer yes or no. If you need
7 further explanation, I will give your attorney an
8 opportunity on redirect so you can provide
9 whatever explanation. Okay?

10 MR. SHAIKH: Okay.

11 CHAIRPERSON ANDERSON: All right. Mr.
12 Kline, what's the question?

13 MR. KLINE: So the question is, were
14 you aware that the Applicant prepared and
15 provided a security plan?

16 MR. SHAIKH: At any time or what time?
17 I mean, were you aware is a very -- I'm trying to
18 understand the question. I don't understand the
19 question.

20 MR. KLINE: Are you aware that there's
21 a security plan in existence that was provided?

22 MR. THOMAS: Provided to who?

23 Objection.

24 CHAIRPERSON ANDERSON: Mr. Thomas, let
25 the witness answer the question, yes or no. If

1 he's not aware, he can say he's not aware.

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: Gentlemen, this
4 is a simple question. Are you aware, yes or no?
5 Please, sir.

6 MR. SHAIKH: Am I aware that there's
7 -- there is something that I saw on a PIF that
8 was called a security agreement.

9 MR. KLINE: Okay. So you have seen
10 that?

11 MR. SHAIKH: I have seen it, yes.

12 MR. KLINE: Okay. And you're aware
13 that it was prepared by the Applicant, or you
14 don't have any knowledge?

15 MR. SHAIKH: I don't have any
16 knowledge.

17 MR. KLINE: Okay. All right. With
18 respect to hours, you said that you had concerns
19 about the hours of the summer garden area,
20 correct?

21 MR. SHAIKH: Yes.

22 MR. KLINE: Doesn't your concern
23 relate to noise?

24 MR. SHAIKH: Yes.

25 MR. KLINE: Okay. And you've also

1 said that you had concerns about noise in the
2 summer garden area, correct?

3 MR. SHAIKH: Yes.

4 MR. KLINE: Were you here for the
5 testimony of the sound engineer?

6 MR. SHAIKH: Yes.

7 MR. KLINE: Martin Beam, yes?

8 MR. SHAIKH: Yes.

9 MR. KLINE: And do you have any reason
10 to doubt the conclusions that he reached with
11 respect to the sound mitigation procedures which
12 were employed at the premises?

13 MR. SHAIKH: Yes.

14 CHAIRPERSON ANDERSON: I think Mr.
15 Kline is having some --

16 MR. THOMAS: Technical difficulties.

17 CHAIRPERSON ANDERSON: Yes.

18 MR. KLINE: I'm sorry. Can you hear
19 me?

20 CHAIRPERSON ANDERSON: We can now,
21 sir, yes.

22 MR. KLINE: I'm sorry.

23 CHAIRPERSON ANDERSON: He answered the
24 question yes. He said he had some concerns with
25 the testimony of Mr. -- of the sound engineer.

1 What's the next question?

2 MR. KLINE: Okay. So how is it that
3 you doubt the conclusions that were reached by
4 Mr. Martin Beam?

5 MR. SHAIKH: What I'm worried about is
6 noise from the alley. There is no roof covering
7 that was shown there. So I don't know how noise
8 is going to get knocked down, at least from what
9 understood as he was talking.

10 There was also no -- you know, as I
11 was listening to it, there is just -- I mean, I
12 actually questioned whether he's actually been to
13 the alley. I don't think he said he ever had. I
14 think it was a theoretical exercise.

15 So, you know, the way the sound
16 carries back here, if you can hear two people
17 speaking on the ground in our residences and in
18 our bedrooms, I don't understand how anybody can
19 conclude that music that was amplified combined
20 with people standing -- a bunch of people
21 standing on a roof would be quieter. Just it
22 doesn't pass the smell test to me. Yeah, I also
23 -- I also question whether those plans by a sound
24 engineer are actually going to get carried out
25 because I haven't had the ability to see a

1 consistent message coming from the Applicant. It
2 constantly changes.

3 The first time I saw those detailed
4 plans was here. They made a presentation at the
5 ANC meeting and it changed in the interim. So
6 I'm constantly getting a changing story from the
7 Applicant, and I don't know how to respond to
8 that. So I don't have confidence in what he
9 said.

10 MR. KLINE: All right. In terms of
11 trash, you've heard Mr. Nouri's pledge to explore
12 the use of a trash compactor. And you testified
13 about it, correct?

14 MR. SHAIKH: Yes.

15 MR. KLINE: Did you also hear the
16 testimony from the ANC Commissioner Mike
17 Silverstein, Dupont area, and Patrick Powell
18 about Mr. Nouri's leadership and efforts to bring
19 a trash compactor to that area?

20 MR. SHAIKH: Yes.

21 MR. KLINE: And do you doubt their
22 testimony?

23 MR. SHAIKH: No.

24 MR. KLINE: With respect to safety of
25 the alley, wasn't Mr. Nouri's concession not to

1 use the alley as an entrance to or an exit from
2 the establishment major for you in terms of
3 disruption of the alley?

4 MR. SHAIKH: There's no settlement
5 agreement or anything in writing that actually
6 puts that down. That's my concern is I don't
7 have that in writing anywhere. It's an ephemeral
8 I'm not going to use this today. It doesn't mean
9 I can't use it tomorrow. So that doesn't -- that
10 doesn't satisfy anything. Plus as I said
11 earlier, I'm worried about walking down 9th
12 Street.

13 MR. KLINE: Okay. So the question
14 was, was that important to you? You managed to
15 duck it. That's still the question.

16 MR. THOMAS: Objection.

17 MR. KLINE: Does it matter to you
18 whether he's agreed to use 9th Street as his
19 principle entrance to and exit from the
20 establishment? Is that your testimony?

21 MR. THOMAS: I object and move to
22 strike. The first two-thirds of that question is
23 just argumentative and counsel testifying.

24 CHAIRPERSON ANDERSON: I'm going to
25 overrule. I don't hear that. I heard -- I'm

1 going to overrule the objection.

2 MR. THOMAS: I mean, come on. Are you
3 kidding me?

4 CHAIRPERSON ANDERSON: All right.

5 MR. THOMAS: I mean, like, can we at
6 least maintain some level of decorum here?

7 CHAIRPERSON ANDERSON: I don't believe
8 there's an issue. And I think this is --
9 although I enjoy the fact when we have these
10 hearings that we have attorneys, but I think this
11 is one of the downfalls of having three
12 attorneys, the witness and the two attorneys.
13 And that makes things a little bit more
14 difficult. But let's start over. I'm going to
15 overrule the objection. Answer the question if
16 you can answer the question, sir.

17 MR. SHAIKH: Can you repeat the
18 question, please?

19 MR. KLINE: Yes. The question is:
20 doesn't the use of 9th Street as the entrance to
21 and the exit from the establishment address many
22 of your concerns with respect to what goes on the
23 in the alley?

24 MR. SHAIKH: No.

25 MR. KLINE: No? So you don't care

1 whether the Applicant commits and agrees to only
2 use 9th Street as an exit and an entrance to the
3 establishment?

4 MR. SHAIKH: I do care about that, but
5 that was not what you asked me.

6 MR. KLINE: Okay. So it matters to
7 you if that happens?

8 MR. SHAIKH: If what happens?

9 MR. KLINE: If he's required to do
10 that, if he agrees only use 9th Street?

11 MR. SHAIKH: Yes, that would be
12 helpful for the alley.

13 MR. KLINE: It is helpful. It
14 addresses many of the concerns you raised,
15 doesn't it?

16 MR. SHAIKH: No.

17 MR. KLINE: It doesn't address safety
18 in the alley in terms of people not coming into
19 the establishment and out of the establishment
20 from the alley?

21 MR. SHAIKH: Like, I'm trying to --
22 I'm sorry. I'm literally struggling to answer
23 your question because you're asking if it
24 addressed many of the concerns. I have several
25 concerns. So I'm trying to understand what you

1 think -- I don't get the question. I'm not
2 understanding --

3 MR. KLINE: Doesn't people not coming
4 in from the alley and coming out to the alley
5 address issues with respect to noise? I'm not
6 saying all issues. But doesn't it address issues
7 with respect to noise?

8 MR. SHAIKH: Some issues, yes.

9 MR. KLINE: Okay. And doesn't it also
10 mitigate with respect to safety in the alley?

11 MR. SHAIKH: I don't know.

12 MR. KLINE: You don't know? Fair
13 enough. All right. Are you aware that there's a
14 rideshare in front of 1230 9th Street.

15 (Simultaneous speaking.)

16 MR. KLINE: I beg your pardon?

17 MR. SHAIKH: The Zipcars that are
18 parked there or that there's an address so people
19 can get dropped off there?

20 MR. KLINE: A designated rideshare.

21 MR. SHAIKH: A designated rideshare
22 for Blagden Alley is on M Street.

23 MR. KLINE: Okay. So you're not aware
24 is your answer?

25 MR. SHAIKH: No.

1 MR. KLINE: So the trash trucks and
2 the service trucks that were shown in the
3 pictures, that's mostly daytime, correct?

4 MR. SHAIKH: Yes.

5 MR. KLINE: Okay. And you've
6 testified that's become more of a problem
7 recently, correct?

8 MR. SHAIKH: Yes.

9 MR. KLINE: To your observation?

10 MR. SHAIKH: Yes.

11 MR. KLINE: Have you been working
12 remotely during COVID?

13 MR. SHAIKH: Yes.

14 MR. KLINE: So it may not be any
15 different than it was before. It's just that
16 you're more in the position to observe it,
17 correct?

18 MR. SHAIKH: No.

19 MR. KLINE: Blagden Alley isn't one
20 alley. It's actually several alleys, isn't it?

21 MR. SHAIKH: It's a network of alleys.

22 MR. KLINE: Okay. And when we
23 constantly talk about Blagden Alley, you
24 referenced Blagden Alley, in my estimation, an
25 alley is front to back, one space. This is a

1 network of alleys, several alleys involved,
2 correct?

3 MR. SHAIKH: I mean, that's your
4 characterization of it. I just -- it's all
5 called Blagden Alley.

6 MR. KLINE: So you think it's all one
7 alley?

8 MR. SHAIKH: Yeah, its designated
9 historic zone is one alley, so yeah.

10 MR. KLINE: And you were previously a
11 customer of Eighteenth Street Lounge, correct?

12 MR. SHAIKH: Yes.

13 MR. KLINE: Now you identified a
14 picture of people peeing in the alley. Is that
15 something that you and your friends did when you
16 went to Eighteenth Street Lounge?

17 MR. SHAIKH: Not in the alley.

18 MR. KLINE: Okay. I would hope in the
19 restroom.

20 CHAIRPERSON ANDERSON: Is there a
21 question?

22 MR. KLINE: I mean, I asked him -- I
23 think it's asked and answered. It's fine. Now
24 you testified that some of the operators there
25 are, quote, better neighbors, close quote, who

1 own the alley and take pride in it, correct?

2 MR. SHAIKH: Yes.

3 MR. KLINE: So there are good
4 operators and sometimes not so good operators,
5 correct?

6 MR. SHAIKH: Yes.

7 MR. KLINE: And it's helpful to have
8 people who are good operators and who cooperate
9 with the community, correct?

10 MR. SHAIKH: Yes.

11 MR. KLINE: Were you here for Mike
12 Silverstein's testimony?

13 MR. SHAIKH: Yes.

14 MR. KLINE: Do you have any reason to
15 doubt the efficacy or the truthfulness of what he
16 testified to concerning Mr. Nouri's operation
17 over on 18th Street?

18 MR. THOMAS: I'm going to object to
19 this question insomuch as --

20 CHAIRPERSON ANDERSON: What's the
21 nature of your objection, sir?

22 MR. THOMAS: -- insomuch as the
23 Chairman has already instructed us not to ask
24 questions of witnesses commenting on the
25 testimony of other witnesses which is precisely

1 what this question is asking, asking him to
2 comment on the veracity of some other witness and
3 their testimony.

4 CHAIRPERSON ANDERSON: I'm going to
5 overrule the objection. Answer the question,
6 sir, if you can.

7 MR. SHAIKH: Yes, yes.

8 MR. KLINE: You have reason to
9 question the veracity of Mr. Silverstein?

10 MR. SHAIKH: Yes.

11 MR. KLINE: And what's that based
12 upon?

13 MR. SHAIKH: He was talking about
14 issues that were there. I don't know what time
15 frame a lot of those were. And none of the
16 residents actually spoke up. I found it
17 interesting that there were no residents who
18 actually lived back there and were directly
19 impacted by this spoke up.

20 MR. KLINE: So you think that makes
21 him a liar?

22 MR. SHAIKH: No.

23 MR. KLINE: Patrick Powell, were you
24 here for his testimony?

25 MR. SHAIKH: Who?

1 MR. KLINE: Patrick Powell, the
2 Director of the Golden Triangle Business
3 Improvement District?

4 MR. SHAIKH: No, I did not hear his
5 testimony.

6 MR. KLINE: You didn't hear his
7 testimony? Now you talked about and I think you
8 characterized kind of vaguely the crowd at Never
9 Looked Better and you have some issues with the
10 crowd that's there, correct?

11 MR. SHAIKH: Yes.

12 MR. KLINE: That wasn't the type of
13 crowd that you saw when you visited Eighteenth
14 Street Lounge was it, on 18th Street?

15 MR. SHAIKH: I mean, I don't know if
16 there's underage people getting into Eighteenth
17 Street Lounge or not. I don't -- I don't -- I
18 just don't know. I mean, this is a new concept.
19 But that's my concern with Never Looked Better is
20 you have young college kids or below, younger
21 than 21 entering in the -- you know, high school
22 kids going into Never Looked Better.

23 MR. KLINE: Let's try it again. The
24 crowd that you see at Never Looked Better is not
25 the crowd that you saw when you visited

1 Eighteenth Street Lounge, was it?

2 MR. SHAIKH: The crowd at Eighteenth
3 Street Lounge was diverse. So yeah, there could
4 be some of the same people, yes.

5 MR. KLINE: So are you one of the
6 people that you're concerned about in terms of
7 visiting this establishment in your neighborhood?

8 MR. SHAIKH: Yeah, I mean, from 16
9 years ago, probably.

10 MR. KLINE: Okay. So it was okay for
11 you to go over to Sixteenth Street Lounge in
12 another neighborhood in Dupont Circle and okay
13 for you to visit the establishment there. But
14 that's not something that you want to have in
15 your neighborhood. Is that your position?

16 MR. SHAIKH: I'm going to clarify what
17 I'm saying just for simplicity. Eighteenth
18 Street Lounge was a business district in
19 downtown. There was nobody who --

20 MR. KLINE: That's not my question to
21 you. I'm not asking you to characterize where
22 Eighteenth Street Lounge was located, whether --

23 (Simultaneous speaking.)

24 CHAIRPERSON ANDERSON: Mr. Thomas,
25 hold on a minute, please, Mr. Thomas. Mr.

1 Thomas.

2 MR. THOMAS: I'm sorry. This is
3 insane.

4 CHAIRPERSON ANDERSON: Mr. Thomas.

5 MR. THOMAS: He cuts him off left and
6 right. He needs to let the witness testify.

7 MR. KLINE: He needs to answer the
8 question --

9 MR. THOMAS: You just didn't like the
10 answer.

11 MR. KLINE: It was nonresponsive to
12 the question that was asked.

13 MR. THOMAS: It was responsive. And
14 if you let him talk, you'd find out that it was
15 responsive. But you got to let him talk.

16 CHAIRPERSON ANDERSON: Gentlemen, all
17 right. Do you need to ask your question again,
18 Mr. Kline?

19 MR. KLINE: Yes.

20 CHAIRPERSON ANDERSON: Please ask your
21 question.

22 MR. KLINE: So the question to you is
23 you're okay with Eighteenth Street Lounge over on
24 18th Street in the Dupont Circle area. And it
25 was a fine place for you to visit. But you just

1 don't want it in your neighborhood. Is that your
2 position?

3 MR. SHAIKH: No.

4 MR. KLINE: That's not your --

5 MR. SHAIKH: I can repeat myself. No.

6 CHAIRPERSON ANDERSON: Is there
7 another question?

8 MR. KLINE: No, I don't think so.
9 Just beg the Board's indulgence. In terms of the
10 trash trucks, didn't the trash trucks also
11 service residents in the alley?

12 MR. SHAIKH: Yes.

13 MR. KLINE: Some of those trucks are
14 for you and your neighbors, correct?

15 MR. SHAIKH: Not for me or my
16 immediate neighbors. Our trash goes out on 10th
17 Street.

18 MR. KLINE: Okay. But some of the
19 other residents of the alley have their trash
20 picked up in the alley, correct?

21 MR. SHAIKH: Yes.

22 MR. KLINE: And some of those trash
23 trucks are the ones that sometimes block the
24 alley when you're trying to get out, correct?

25 MR. SHAIKH: Yes.

1 MR. KLINE: Your counsel categorized
2 this establishment as having 270 drunk patrons.
3 Is that what you experienced when you visited
4 Eighteenth Street Lounge on 18th Street was all
5 the patrons in there being drunk?

6 MR. SHAIKH: Is that what I
7 experienced? If I'm answering a yes or no, the
8 answer is no because there were more people. And
9 yes, many of them were drunk. Not all of them
10 but many of them were. Absolutely.

11 MR. KLINE: I have no further
12 questions.

13 CHAIRPERSON ANDERSON: Any questions
14 by any Board members?

15 MEMBER GRANDIS: Mr. Chairman?

16 CHAIRPERSON ANDERSON: Yes, Mr.
17 Grandis.

18 MEMBER GRANDIS: Hello. I want to
19 thank you for bringing your testimony today. But
20 I must say that I'm not quite clear what you want
21 the Board to do. It's my understanding that you
22 lived near Blagden Ally for how many years?

23 MR. SHAIKH: Like, seven total, eight
24 total.

25 MEMBER GRANDIS: Before you bought.

1 MR. SHAIKH: Before I bought, it was
2 about four years.

3 MEMBER GRANDIS: How close were you to
4 Blagden Alley at that time?

5 MR. SHAIKH: Three blocks away.

6 MEMBER GRANDIS: Did you ever go to
7 any restaurants or bars that were within Blagden
8 Alley during those four years?

9 MR. SHAIKH: No, not that I remember.

10 MEMBER GRANDIS: Okay. So before you
11 purchased your home that fronts on Blagden Alley,
12 did you ever go there after 11:00 o'clock, 12:00
13 o'clock at night to see what type of activities
14 are going on?

15 MR. SHAIKH: Before I purchased my
16 home? Sorry, just making sure. Yes, I did.

17 MEMBER GRANDIS: And what is different
18 now than then?

19 MR. SHAIKH: There's a lot more -- now
20 there are more people out there. There are more
21 -- there's just more people out there in the
22 alley at night making noise.

23 MEMBER GRANDIS: Going to the pictures
24 that were presented to this hearing regarding
25 garbage and waste on the ground, could you pick

1 out any of that waste or material that would've
2 come from an ABC license establishment?

3 MR. SHAIKH: It's hard to know. I
4 mean --

5 MEMBER GRANDIS: So you're suggesting
6 that we take the picture of syringes as possibly
7 coming from an ABC establishment?

8 MR. SHAIKH: No, I don't think I'm
9 suggesting that.

10 MEMBER GRANDIS: Well, so I don't
11 really understand how the pictures go to your
12 concerns regarding ABC establishments?

13 MR. SHAIKH: So can I answer that?

14 MEMBER GRANDIS: Yes.

15 MR. SHAIKH: Yeah. So I think what my
16 concern is -- and I'm happy to be more specific,
17 I mean, like, about what I hope from the Board
18 too. But my concern is this. As a community, we
19 have a neighborhood.

20 We have problems in the neighborhood
21 right now that we've trying to address with our
22 ANC, with our 311, with DDOT. We want to fix
23 those problems before adding new elements into
24 that, bluntly. Like, we want to make sure we
25 don't have underage kids drinking in the alley

1 before we open yet another bar in the alley,
2 right?

3 Like, we don't want to have -- we want
4 to make sure our alley is cleaned up before we
5 bring in more trash, more delivery trucks, and
6 more things like that into the alley. That's
7 what I want as a community. It's not no to
8 Eighteenth Street Lounge. They're off the books.

9 What I want is somebody who I'm going
10 to be able to work with, who when I ask them a
11 question, they respond or they talk to me. Like,
12 when I have a problem with Calico, I go talk to
13 Greg. It's fixed. You know, like, it's a super
14 easy conversation. There's no problem.

15 If La Colombe is an issue, I just go
16 talk to the manager and it's fixed. If one of
17 the apartment buildings has a problem, it's
18 fixed. So the reason for the pictures and that,
19 at least from my perspective of why I would think
20 they're relevant is it's really simple.

21 The alley is under an extreme load
22 right now. There's, what, I don't know, how many
23 establishments. ABC, non-ABC, it doesn't matter.
24 The alley is overloaded. And we're talking about
25 bringing in several hundred people additionally

1 who may be coming in and out with their trash and
2 all that stuff. So as a resident, I'm concerned
3 about that.

4 MEMBER GRANDIS: You are then aware
5 because it seems like you've gotten yourself
6 knowledgeable about some of these ABC issues that
7 there are procedures that residents and ANCs can
8 come to ABRA to try to deal with in a more global
9 way than dealing with this particular
10 application. I think I just heard you say that
11 if the Applicant would do certain things, you
12 would not be opposed to the Board granting a
13 license. Is that what I just I think I heard you
14 say?

15 MR. SHAIKH: I think it's a little
16 probably more nuanced than that if I'm being just
17 honest. Like, so, you know, blanket, if you
18 grant the license which I suspect you will do
19 because they're an Applicant, I'm not naive.
20 What I really want to make sure is -- I'm being
21 really specific -- the summer hour garden.

22 I don't think there should be a summer
23 hour garden endorsement. I don't think we should
24 have a roof deck with the noise and other issues
25 it's going to create into the alley. I'd

1 restrict that.

2 As a neighborhood, the Causa thing was
3 something where our ANC dropped the ball,
4 bluntly. And so as residents, we're going to
5 suffer for that which is really frustrating. We
6 don't think -- I don't think there should be
7 summer gardens or many summer gardens in the
8 alley, especially not ones with any entertainment
9 endorsements or things like that.

10 So -- and I also think the hours of
11 operation should be restricted to fit with the
12 businesses that are there. I'm really trying not
13 to be unreasonable. I'm sorry if it got a little
14 contentious with counsel.

15 But, like, honestly, I welcome more
16 businesses in the alley. I think it makes sense.
17 It's why I moved here. I said that at my
18 opening. It's really why I moved here.

19 MEMBER GRANDIS: Okay. Are you aware
20 that this Board does not have -- cannot issue a
21 summer garden or a roof deck prior to BZA having
22 a hearing? So I think that we only can offer
23 licenses and endorsements on things that we
24 legally have an ability to do. So there may be
25 other avenues that the community needs to look

1 at. You said that you used to frequent
2 Eighteenth Street Longue when it was on 18th
3 Street.

4 MR. SHAIKH: Mr. Grandis, can I just
5 address that just real quick. I think that's --
6 just as a resident -- and I'm a lawyer. I'm
7 smart. I'm going to not be humble. I'm smart.
8 I can usually figure these things out.

9 This is opaque. This is very hard as
10 a citizen to figure out how and where to say
11 things. And the numbers of hours it required has
12 been overwhelming.

13 So I don't necessarily know where to
14 go. I'm literally asking for help from the city.
15 This is an avenue -- my understanding is very
16 simply there's an endorsement for a summer garden
17 that's being asked for.

18 There's entertainment. There's hours
19 of operation that's getting set that is all
20 within your jurisdiction and your control. And I
21 think there are things that should be limited in
22 there.

23 There's things that should be in
24 writing and whatever you guys approve that are
25 squarely within your power. Maybe BZA. I don't

1 want to get into another hearing. I'm tired of
2 this. Like, I'm getting worn down as a resident.
3 So sorry, I just wanted to address that. It's
4 very frustrating as a resident.

5 MEMBER GRANDIS: And I think all of us
6 on the Board can appreciate some of the
7 frustrations of dealing with any government --

8 MR. SHAIKH: Exactly.

9 MEMBER GRANDIS: -- and the layers.
10 So I hear you, and I think the Board hears you.
11 I was just saying that we're not the only avenue.
12 Okay? Now you used to frequent Eighteenth Street
13 Lounge?

14 MR. SHAIKH: Yes.

15 MEMBER GRANDIS: Did you ever concern
16 yourself with the residents that are within the
17 same proximity to the Eighteenth Street Lounge on
18 18th Street as they are in the proximity of the
19 new location?

20 MR. SHAIKH: So I think there's a
21 couple things there just to address. One, I
22 don't drink. So I was actually usually the one
23 ushering my friends and telling them to shut up,
24 and driving oftentimes. My friends love me, I
25 was a great designated driver. So I was actually

1 really conscientious of that.

2 I used to -- when I lived in New York,
3 I lived above a bar. So I am hyper-aware of
4 noise from patrons leaving. So actually, like,
5 I'm not your average person on that. I'm
6 actually super diligent about that because of
7 that.

8 And then I also think, you know,
9 there's residents, like, 100 feet, much closer
10 than -- you know, this is a mixed use residential
11 alley. This isn't downtown. 18th Street was
12 downtown. It's very different. I mean, it just
13 is.

14 MEMBER GRANDIS: Are you aware of the
15 zoning along 9th Street which would be where the
16 townhouses is situated. And my understanding,
17 the Applicant is using the 9th Street --

18 (Simultaneous speaking.)

19 MR. SHAIKH: It's MU-4.

20 MEMBER GRANDIS: Along 9th Street?

21 MR. SHAIKH: Yes.

22 MEMBER GRANDIS: Okay. And does that
23 allow as a matter of right establishments that
24 have ABC licenses, in other words, restaurants,
25 bars, things of that nature?

1 MR. SHAIKH: I mean, it's not my area
2 of law, so I don't know if it was a matter of
3 right or not. But there are a bunch of other ABC
4 establishments. So I would assume you could get
5 a license. I mean --

6 MEMBER GRANDIS: But to be clear with
7 you because I want to make sure it's clear to
8 you, they don't matter of right to get the
9 license. But they have a matter of right as that
10 type of business to be in that zoning. You
11 follow me?

12 MR. SHAIKH: Yeah, and I'm not opposed
13 to, you know, an ABC issued license coming in.
14 There are ABC issued licenses when I moved in the
15 neighborhood. I know that's the case.

16 MEMBER GRANDIS: And my last question,
17 when you hired your architects, and it sounds
18 awesome to hear that you use local D.C. firms to
19 help build out your home, did you get advice from
20 them about what type of windows and window
21 treatments that you may need?

22 MR. SHAIKH: So we -- I mean, so, we
23 actually changed all of the windows on the back
24 of our house from what the original ones were.
25 So everything is double-paned. It's more for

1 energy efficiency and noise, because when we
2 moved there, there wasn't a lot of noise.

3 Like, we lived in the house before
4 finishing the renovation. So we were sleeping in
5 the bedrooms that faced the alley. There was no
6 noise. Now there's noise.

7 MEMBER GRANDIS: Okay, okay. But the
8 noise is not coming from this establishment since
9 they --

10 (Simultaneous speaking.)

11 MR. SHAIKH: No. It's not in
12 business.

13 MEMBER GRANDIS: I just want to make
14 sure the record is clear on that. I want to
15 thank you for your time. Thank you, Mr.
16 Chairman.

17 CHAIRPERSON ANDERSON: All right.
18 Thank you. Any other questions by any other
19 Board members?

20 (No response.)

21 CHAIRPERSON ANDERSON: Mr. Kline, any
22 recross based on the questions that were asked by
23 the Board?

24 MR. KLINE: No, sir. Thank you.

25 CHAIRPERSON ANDERSON: Mr. Thomas, any

1 redirect?

2 MR. THOMAS: None at this time.

3 CHAIRPERSON ANDERSON: All right.

4 Thank you. All right. We're going to take a
5 ten-minute break. We have three more witnesses
6 to go by -- three more witnesses. And I'm just
7 asking be mindful of the time and how much time
8 we're going to spend on each witness.

9 So it's 4:24. We'll come back at
10 4:35. So we'll take a ten-minute break. So no
11 one log off. Just you can just put your camera
12 and microphone on mute. Everyone please mute
13 your phones so we do not hear what's going on in
14 the background. So we're off the record for ten
15 minutes.

16 (Whereupon, the above-entitled matter
17 went off the record at 4:24 p.m. and resumed at
18 4:36 p.m.)

19 CHAIRPERSON ANDERSON: We're back on
20 the record. Mr. Thomas, do you have another
21 witness?

22 MR. THOMAS: I do. I'd like to call
23 Sherene Joseph.

24 CHAIRPERSON ANDERSON: Ms. Joseph, can
25 you raise your right hand, please?

1 MS. JOSEPH: Sure.

2 CHAIRPERSON ANDERSON: Do you swear or
3 affirm to tell the truth and nothing but the
4 truth?

5 MS. JOSEPH: I do.

6 CHAIRPERSON ANDERSON: All right.
7 Thank you. Your witness, sir.

8 MR. THOMAS: Good afternoon,
9 Commissioner Joseph, correct?

10 MS. JOSEPH: Yes, that's correct.

11 MR. THOMAS: Can you just quickly
12 state your name and spell your name for the
13 record?

14 MS. JOSEPH: Absolutely. My first
15 name is Sherene. That's S-H-E-R-E-N-E. My last
16 name is Joseph, J-O-S-E-P-H.

17 MR. THOMAS: And you're an ANC
18 Commissioner, correct?

19 MS. JOSEPH: Yes.

20 MR. THOMAS: What's your role with the
21 ANC?

22 MS. JOSEPH: So I'm a Commissioner
23 with ANC 2F. Specifically, I represent 2F05 and
24 I'm also the Chair of the ANC.

25 MR. THOMAS: Okay. And you're the

1 designated representative for the ANC in this
2 protest hearing, correct?

3 MS. JOSEPH: I'm one of two designated
4 representatives. Commissioner Guggenmos is the
5 other designated representative.

6 MR. THOMAS: All right. And
7 Commissioner Guggenmos read a letter previously.
8 And I just want to confirm, do you adopt every
9 single thing that was said in that letter as
10 accurate and truthful?

11 MS. JOSEPH: So I adopt the facts that
12 were presented as were laid out, essentially the
13 timeline that began with the Applicant presenting
14 to the APC Committee last August. Yeah, so I
15 adopt the timeline. I think there were other
16 elements in there, characteristics that were
17 identified that I don't totally agree with it.

18 MR. THOMAS: Okay. So when he said
19 that it was drafted by you, that's not actually
20 correct, is it?

21 MS. JOSEPH: Oh, no. That is correct.
22 That is correct. You both did draft it, and we
23 knew that there were points in which we were
24 deferring. But we wanted to kind of move forward
25 and make sure we had something on the record.

1 MR. THOMAS: Okay. So there's some
2 things that he put in there that you don't agree
3 with, and there's some things that you may have
4 put in there that he doesn't agree with?

5 MS. JOSEPH: Correct.

6 MR. THOMAS: Okay. I want to ask you
7 just so the record is clear, what is the ANC's
8 official position on the licensure of Eighteenth
9 Street Lounge?

10 MS. JOSEPH: So our official position
11 based off of the vote that we took at our meeting
12 on January 5th which was our January 2022 public
13 meeting was around a letter that contained
14 specific requirements that we did want the
15 Applicant to follow in order for us to support
16 this application.

17 MR. THOMAS: Okay. And to your
18 knowledge, has the Applicant agreed to follow
19 those requests?

20 MS. JOSEPH: No.

21 MR. THOMAS: Okay. And so what you
22 would be asking the ABC Board to do is to
23 implement those limitations on any license. Is
24 that correct?

25 MS. JOSEPH: That is correct. And

1 also to take our -- to take our request with, you
2 know, a good deal of weight in this particular
3 matter.

4 MR. THOMAS: Okay. How familiar are
5 you with Blagden Alley?

6 MS. JOSEPH: I am very familiar. I've
7 been living in ANC 2F since 2015. So I've been a
8 frequent visitor of Blagden Alley.

9 MR. THOMAS: Okay. And are you
10 familiar with some of the other ABC licenses that
11 have been issued to establishments that are on
12 Blagden Alley or abut --

13 MS. JOSEPH: Yes.

14 MR. THOMAS: -- Blagden Alley?

15 MS. JOSEPH: Yes, I am.

16 MR. THOMAS: And have you been
17 involved in some of the settlements for those?

18 MS. JOSEPH: I have not been.

19 MR. THOMAS: Okay. But are you
20 familiar with those settlements?

21 MS. JOSEPH: Yes, I am.

22 MR. THOMAS: So the first thing I want
23 to ask you about, and I noticed this in at least
24 one of the settlements and I'm blanking on which
25 one. But you guys sometimes impose a

1 probatory period on an Applicant that settles
2 with the ANC. Is that correct?

3 MS. JOSEPH: That is correct.

4 MR. KLINE: Objection. Objection as
5 to relevance. What they agreed to in a
6 negotiated settlement has no relevance as to the
7 issues that the Board is to decide in this
8 hearing.

9 CHAIRPERSON ANDERSON: I'm going to
10 sustain the objection. Let's move on. Do you
11 have another question, Mr. Thomas?

12 MR. THOMAS: I do. I'm somewhat
13 disappointed that I wasn't able to respond to the
14 objection. But I'll move on. There are other
15 establishments that have opened up and then come
16 back before the ANC after they've established
17 good character, correct?

18 MS. JOSEPH: Yes.

19 MR. THOMAS: And what is the purpose
20 of that arrangement with those establishments?

21 MS. JOSEPH: Yeah, the purpose is
22 essentially to, you know, engage in good faith
23 communication with the Applicant, ensure that the
24 -- that they're working closely with the ANC so
25 that, you know -- that generally living in our

1 ANC doesn't become intolerable. And so that
2 probationary period allows us to really see the
3 operation in action. You know, a lot of what
4 we're talking about is theoretical until the
5 establishment actually opens. And so we like to
6 have that in place to allow a little bit more
7 concrete evidence of how they're operating. And
8 then they will come back to us once that
9 probationary period is over.

10 MR. THOMAS: So part of it is to show
11 that they're going to be a good actor within the
12 community. Is that correct?

13 MS. JOSEPH: Yes.

14 MR. THOMAS: Okay. And other ABC
15 establishments in Blagden Alley have gone through
16 that probationary period that you were talking
17 about and proving they were a good actor?

18 MR. KLINE: Objection. It's
19 irrelevant.

20 MR. THOMAS: Mr. Kline has put his
21 character of his client at issue on numerous
22 occasions. I'm just trying to point out that
23 other Applicants have been given a test period to
24 prove their character instead of just have their
25 attorney come out here and spout hyperbole about

1 how much of a good actor they are.

2 MR. KLINE: We had two witnesses to
3 that effect. So I'll let that go.

4 (Simultaneous speaking.)

5 MR. KLINE: The point is --

6 CHAIRPERSON ANDERSON: Hold on one
7 second. Mr. Thomas, please do not personalize
8 this. Okay? All right. I'm going to overrule
9 the objection. So go ahead and answer the
10 question.

11 MS. JOSEPH: Do you mind repeating the
12 question?

13 MR. THOMAS: Sure. So other
14 establishments have agreed to show their good
15 character and come back before the ANC to get
16 their full license and prove that they're a good
17 actor in the community?

18 MS. JOSEPH: To my knowledge, yes.

19 MR. THOMAS: Okay. Are you familiar
20 with the ABC licenses of the Columbia Room and
21 Lost & Found?

22 MS. JOSEPH: Yes, I am.

23 MR. THOMAS: And those are
24 establishments that are directly in the vicinity
25 of Eighteenth Street Lounge's proposed location,

1 correct?

2 MS. JOSEPH: Yes.

3 MR. THOMAS: And they have more
4 limited -- their licenses are more limited in
5 scope. Is that right?

6 MS. JOSEPH: Well, their settlement
7 agreements --

8 MR. THOMAS: Correct.

9 MS. JOSEPH: -- limited their scope.

10 MR. THOMAS: Correct. So they have
11 less hours and limitations on their endorsements,
12 right?

13 MS. JOSEPH: Correct.

14 MR. THOMAS: And those settlement
15 agreements were a byproduct of dialogue with the
16 ANC?)

17 MR. KLINE: Objection as to relevance.
18 They're settlement agreements. They speak for
19 themselves.

20 CHAIRPERSON ANDERSON: I'll sustain
21 the objection. Let's move on.

22 MR. THOMAS: So the ANC has protested
23 -- well, let me strike that. What do you
24 understand as being issues that exist in Blagden
25 Alley at the moment?

1 MS. JOSEPH: Yeah, so currently some
2 of the issues are around noise complaints, about
3 some of the establishments that are currently in
4 Blagden Alley. Trash has been an issue that's
5 been brought forward to the ANC, has been a
6 concern for residents. There's been security
7 issues with increased crime.

8 Another big issue has been just
9 congestion from delivery trucks and, you know,
10 folks not being able to leave their designated
11 parking spots due to either Uber, delivery
12 trucks, or other things like that. I think a lot
13 of this has been talked about as existing and
14 ongoing issues. But they have been brought
15 before the ANC.

16 MR. THOMAS: And is the ANC's position
17 that the addition of a nightclub is going to
18 exacerbate these problems?

19 MS. JOSEPH: There is a possibility of
20 it. However, the ANC has also engaged ESL in
21 conversations around ways to mitigate what could
22 be potential problems.

23 MR. THOMAS: Right. So there could be
24 potential problems, and you're looking for ways
25 to alleviate those problems by placing

1 limitations on the license, correct?

2 MS. JOSEPH: Yes.

3 MR. THOMAS: Okay. And it's those
4 potential problems that caused the ANC to protest
5 this particular license?

6 MS. JOSEPH: Yes.

7 MR. THOMAS: And the grounds for
8 protest are the effect on peace, order, and
9 quiet. Is that right?

10 MS. JOSEPH: Yes.

11 MR. THOMAS: So there was concerns
12 that the Applicant would be noisy?

13 MS. JOSEPH: Yes.

14 MR. THOMAS: Concerns with crime in
15 the area? Potential crime in the area I should
16 say.

17 MS. JOSEPH: Well, can I expand on
18 that a little bit or no?

19 MR. THOMAS: Of course. I don't mind
20 you answering the question.

21 MS. JOSEPH: So it wasn't so much that
22 we saw that there was a -- like, the venue or the
23 Applicant would be the cause for a crime. We
24 just thought that there was the possibility of
25 additional instances where crime would be more

1 prevalent.

2 MR. THOMAS: Okay. But that was the
3 basis for the protest, part of it?

4 MS. JOSEPH: That was part of it and
5 then -- yes, that was part of it.

6 MR. THOMAS: Okay. And then traffic
7 issues as well?

8 MS. JOSEPH: Mm-hmm.

9 MR. THOMAS: I want to take about the
10 outreach issues that have sort of been raised.
11 So first off, you're the Chair of the ANC 2F,
12 right?

13 MS. JOSEPH: I'm the current Chair,
14 yes.

15 MR. THOMAS: Okay. How many times did
16 you speak to Mr. Nouri?

17 MS. JOSEPH: Zero times.

18 MR. THOMAS: Okay. And I understand
19 he attended meetings. Is that correct?

20 MS. JOSEPH: That's correct.

21 MR. THOMAS: Do you recall how many
22 ANC meetings he attended?

23 MS. JOSEPH: If my recollection is
24 correct, I believe he attended two APC meetings
25 and two ANC meetings on behalf of this

1 application. I can't speak to how many other ANC
2 meetings he attended.

3 MR. THOMAS: Fair enough. For the
4 purposes of clarity, anytime I ask a question,
5 it's going to be solely limited to the purposes
6 of this particular application --

7 MS. JOSEPH: Fair enough.

8 MR. THOMAS: -- of this particular
9 location. And if I'm not -- and if I'm talking
10 about something else, I will let you know. I
11 promise.

12 MS. JOSEPH: Perfect.

13 MR. THOMAS: So who did he deal with
14 mainly at the ANC?

15 MS. JOSEPH: Who did Mr. Nouri deal
16 with mainly?

17 MR. THOMAS: Correct. Do you know
18 what Commissioners he spoke with?

19 MS. JOSEPH: Commissioner Guggenmos
20 was the primary contact and then on occasion
21 Commissioner Romanowski who heads up our APC
22 Committee.

23 MR. THOMAS: Okay. And at the
24 meetings that Mr. Nouri attended, did residence
25 and your constituents reach out or express a

1 desire to speak with Mr. Nouri about concerns for
2 his establishment?

3 MS. JOSEPH: Yes, they did.

4 MR. THOMAS: Are you aware of any
5 instances in which Mr. Nouri reached out to these
6 residents who expressed concern and expressed a
7 desire to have a dialogue with him?

8 MS. JOSEPH: To my knowledge, there
9 was no outreach.

10 MR. THOMAS: Okay. Is it your
11 understanding that that kind of was part of the
12 problem with the entire process is that there was
13 a lack of outreach?

14 MS. JOSEPH: Yes.

15 MR. THOMAS: Would you expect a good
16 actor in the community to reach out to the
17 residents when they express issues?

18 MS. JOSEPH: Definitely. I mean, we
19 had residents, you know, providing their personal
20 contact information, you know, really being
21 willing to engage. But there wasn't reciprocity
22 on behalf of the Applicant.

23 MR. THOMAS: Okay. And in terms of
24 other ABC licensed establishments in the alley, I
25 don't know if you heard Mr. Shaikh commenting

1 before about being able to speak to the owner
2 Calico or the manager at La Colombe. Has it been
3 your experience that those establishments in
4 Blagden Alley have dialogue with the residents?

5 MS. JOSEPH: Absolutely.

6 MR. THOMAS: And have engaged them on
7 their concerns?

8 MS. JOSEPH: Yes, absolutely. My
9 understanding is that there's actually a very
10 close working relationship between the residents
11 and the businesses that operate in Blagden Alley
12 to the point where often rather than going
13 through the ANC, residents will go just directly
14 to businesses to, you know, discuss their
15 concerns.

16 MR. THOMAS: Okay. And that concerns
17 ANC resources, right?

18 MS. JOSEPH: Mm-hmm, definitely.

19 MR. THOMAS: It would presumably
20 conserve ABRA resources if they didn't have to
21 make complaints to ABRA too, correct?

22 MS. JOSEPH: Correct.

23 MR. THOMAS: In fact, your co-
24 Commissioner, Mr. Guggenmos, referenced a
25 template. The ANC's template has a dispute

1 resolution sort of provision in it, right, where
2 they will reach out to the ANC instead of
3 involving ABRA. Is that right?

4 MS. JOSEPH: Yes, that's correct.

5 MR. KLINE: Objection as to relevance.

6 MR. THOMAS: Mr. Kline has talked
7 about his Applicant's purported outreach to the
8 community. And I'm just establishing that the
9 ANC views outreach to the community as important,
10 so important, in fact, that it's in their
11 template settlement agreement and is --

12 MR. KLINE: Mr. Thomas need not
13 testify. He can certainly make that point
14 without reference to --

15 (Simultaneous speaking.)

16 MR. THOMAS: -- in response to your
17 objection.

18 CHAIRPERSON ANDERSON: I'm going to
19 overrule the objection. Let's move on.

20 MR. THOMAS: You can answer the
21 question, Commissioner Joseph.

22 MS. JOSEPH: Do you mind repeating the
23 question?

24 MR. THOMAS: Sure, absolutely. So the
25 presence of this dispute resolution term in your

1 template settlement agreement is designed so that
2 the license -- I guess the licensee at that point
3 will engage with the community as opposed to
4 involving ABRA, correct?

5 MS. JOSEPH: That's correct.

6 MR. THOMAS: It's to resolve problems
7 before they start, right?

8 MS. JOSEPH: Correct.

9 MR. THOMAS: So the expectation from
10 the ANC is that the ABC licensee is going to be
11 involved directly with the community at all
12 times?

13 MS. JOSEPH: Correct.

14 MR. THOMAS: Okay. So we've heard a
15 lot about noise, and I want to ask you about
16 noise. So were issues and concerns about -- let
17 me take a step back for a second. What meeting
18 did you vote to protest this application? Do you
19 recall when that was?

20 MS. JOSEPH: I believe it was October
21 2021.

22 MR. THOMAS: Okay. So prior to
23 October 2021 you had at least one meeting in
24 which residents and neighbors expressed concerns
25 about, amongst other things, noise from

1 Eighteenth Street Lounge, correct?

2 MS. JOSEPH: Correct.

3 MR. THOMAS: Okay. And in response to
4 that, did you ever receive a sound study?

5 MS. JOSEPH: I did not.

6 MR. THOMAS: Okay. So prior to the
7 protest, no sound study was received?

8 MS. JOSEPH: Correct.

9 MR. THOMAS: When did you receive a
10 sound study?

11 MS. JOSEPH: The first time --

12 MR. KLINE: Objection as to relevance.
13 Like, where is this going? I mean, we're here to
14 talk about whether this premises is appropriate
15 given the case put on by the Applicant, the steps
16 that he's agreed to take to mitigate. All these
17 questions about process and when they met and who
18 did what, I question the relevance of it.

19 MR. THOMAS: Again, Mr. Kline has
20 injected on numerous occasions the fact that his
21 client has been engaged in outreach to the
22 community, outreach to the ANC, outreach to the
23 neighbors. And he seems to only object when the
24 neighbors and the ANC start testifying that no
25 such outreach actually occurred.

1 MR. KLINE: I don't remember putting
2 that on. The testimony that we put on has been
3 his reputation and his history of 25 years of
4 working with the community and his efforts to do
5 here. I don't remember a lot of testimony about
6 outreach and meetings and this and that.

7 MR. THOMAS: I seem to remember 20
8 minutes of you cross-examining Mr. Guggenmos
9 about the outreach to the community. And so I
10 feel this is entirely relevant.

11 CHAIRPERSON ANDERSON: All right. I'm
12 going to overrule the objection. But time is of
13 the essence. And I think it's -- let's just move
14 on. Okay?

15 MR. THOMAS: Thank you. When did you
16 first receive the Miller Beam sound study?

17 MS. JOSEPH: In the Applicant's PIF
18 for the hearing.

19 MR. THOMAS: Okay. So after the ANC
20 had twice voted to protest the Applicant's
21 license?

22 MS. JOSEPH: Yes.

23 MR. THOMAS: But noise had been made
24 -- it had been made clear previously that noise
25 was a concern of the ANC?

1 MS. JOSEPH: Yes.

2 MR. THOMAS: Has the -- did the ANC
3 make clear that traffic was a concern of the ANC
4 as well?

5 MS. JOSEPH: Yes.

6 MR. THOMAS: Did the Applicant provide
7 you with a traffic study?

8 MS. JOSEPH: I don't believe so, no.
9 Not one that I saw.

10 MR. THOMAS: Okay. In terms of other
11 -- what other documentation has been provided to
12 you by the Applicant besides this sound study in
13 -- well, actually, what -- let me strike that.
14 What documents have been provided to you by the
15 Applicant, period? Prior to receiving the PIF I
16 should say.

17 MS. JOSEPH: The only documents that
18 I have seen are from the original presentation
19 that was made to the APC in August of 2021.

20 MR. THOMAS: Okay. And what did that
21 consist of?

22 MS. JOSEPH: It contained some
23 architectural drawings. You know, I think they
24 had, like, a general floor plan. I can't recall
25 totally, but I definitely remember the

1 architectural drawings.

2 MR. THOMAS: Okay. Were there any
3 contracts provided?

4 MS. JOSEPH: Not that I recall.

5 MR. THOMAS: Okay. There's discussion
6 of meal service. Any information about food
7 service?

8 MS. JOSEPH: I remember them
9 mentioning the food would be a part of their
10 concept. But they hadn't finalized what that
11 would look like.

12 MR. THOMAS: Okay. So no menu?

13 MS. JOSEPH: No.

14 MR. THOMAS: No trash -- was a trash
15 plan provided?

16 MS. JOSEPH: Not at that time, no.

17 MR. THOMAS: What about crowd
18 management and line management? Was any
19 information provided about that?

20 MS. JOSEPH: Not that I recall, no.

21 MR. THOMAS: Okay. Dogtopia is
22 another business in your ANC, correct?

23 MS. JOSEPH: Correct.

24 MR. THOMAS: One that you would
25 theoretically represent?

1 MS. JOSEPH: Yes.

2 MR. THOMAS: And Dogtopia is -- to
3 your knowledge, it's located directly next door
4 to the proposed location to this Applicant?

5 MS. JOSEPH: Yes.

6 MR. THOMAS: Are you aware of any
7 concerns Dogtopia has about the Applicant?

8 MS. JOSEPH: I can't say that I do.

9 MR. THOMAS: Okay. Was any plans for
10 line management provided by ESL in relation to
11 its neighboring businesses?

12 MS. JOSEPH: No.

13 MR. THOMAS: Okay. I think that's all
14 I have at this time.

15 CHAIRPERSON ANDERSON: Mr. Kline?

16 MR. KLINE: Yes. Thank you. Good
17 afternoon, Ms. Joseph.

18 MS. JOSEPH: Hello.

19 MR. KLINE: So you only recently
20 became the Chair of the ANC, correct?

21 MS. JOSEPH: Correct.

22 MR. KLINE: In fact, you were elected,
23 gee, maybe a month ago today?

24 MS. JOSEPH: January 5th.

25 MR. KLINE: Oh, I thought it was

1 January 2nd. Okay, January 5th. So less than a
2 month, correct?

3 MS. JOSEPH: Yes.

4 MR. KLINE: And you didn't take the
5 lead on the discussions with Mr. Nouri concerning
6 this application, did you?

7 MS. JOSEPH: I did not.

8 MR. KLINE: Okay. Mr. Guggenmos as
9 the then chair was the one who took the lead,
10 correct?

11 MS. JOSEPH: Yes.

12 MR. KLINE: Right. So you don't
13 necessarily know all that was conveyed or all
14 that was discussed between Mr. Nouri and Mr.
15 Guggenmos, did you? Because you weren't the
16 chair and you weren't necessarily a party to it,
17 correct?

18 MS. JOSEPH: So no, I wasn't involved
19 in those conversations, no.

20 MR. KLINE: Okay. So in terms of what
21 was discussed and what plans there might be, you
22 may or may not be fully aware. Is that a fair
23 statement?

24 MS. JOSEPH: No, I was asking
25 Commissioner Guggenmos, you know, because he and

1 I were engaging the community on these issues,
2 you know, repeatedly for whatever plans were
3 available and he did not have them.

4 MR. KLINE: Okay. Now you're aware,
5 are you not, that ESL did agree to certain
6 things, several things which were responsive to
7 the concerns raised by residents, correct?

8 MS. JOSEPH: Correct.

9 MR. KLINE: Okay. And this included
10 volunteering not to use the back door as a
11 primary -- as an entrance or an exit, correct?

12 MS. JOSEPH: Mm-hmm, yes.

13 MR. KLINE: The placement of cameras?

14 MS. JOSEPH: Yes.

15 MR. KLINE: Have a trained security
16 staff?

17 MS. JOSEPH: Yes.

18 MR. KLINE: Preparing a security plan?

19 MS. JOSEPH: Yes.

20 MR. KLINE: And taking the lead on --
21 in the neighborhood on trash compactor and trash
22 issues?

23 MS. JOSEPH: Yes.

24 MR. KLINE: Okay. So it's not as if
25 they stonewalled you. They made meaningful

1 concessions and agreements to address the issues
2 that were raised, correct?

3 MS. JOSEPH: Some of the issues, yes.

4 MR. KLINE: Okay. That's fair. So it
5 was kind of a give and take. And obviously, it
6 didn't result in an agreement because there's no
7 settlement agreement, correct?

8 MS. JOSEPH: Correct.

9 MR. KLINE: But they agreed to make
10 those --

11 MR. THOMAS: Excuse me. I don't mean
12 to interrupt. I just got kicked out. I'm
13 speaking from Tracy Buck's laptop. I'm logging
14 back in right now. But I just wanted to make the
15 Committee aware that my computer crashed. So I'm
16 here, just speaking from Ms. Buck's computer at
17 the moment.

18 CHAIRPERSON ANDERSON: Okay, Mr.
19 Thomas. Thank you.

20 MR. KLINE: Okay. But the things that
21 they agreed to do, they said they would do
22 regardless of whether there was any agreement
23 reached, correct?

24 MS. JOSEPH: To my understanding, yes.

25 MR. KLINE: Okay. All right. Now

1 wasn't there a time -- didn't there come a time
2 where the community -- there was reach out to
3 residents in the community to meet with the
4 Applicant and several dates were offered where
5 that can happen?

6 MS. JOSEPH: That, I don't recall.

7 MR. KLINE: You're not aware of that?

8 MS. JOSEPH: No.

9 MR. KLINE: Okay. If Mr. Guggenmos
10 says that's what happened, is that something you
11 would dispute?

12 MS. JOSEPH: Yeah. I mean, from my
13 understanding, we as the ANC reached out to
14 residents because they wanted me to hear their
15 concerns. But if Mr. Guggenmos says that, then
16 yes, I do believe him.

17 MR. KLINE: Okay. And wasn't there a
18 meeting in December where Lieutenant Miller was
19 there?

20 MS. JOSEPH: Yes.

21 MR. KLINE: And one of the Protestants
22 said, there's no reason to talk to all of us,
23 that we can speak through a representative. Do
24 you recall that at all?

25 MS. JOSEPH: That wasn't the way that

1 I perceived what was being conveyed. What I
2 perceived was that, you know, because of
3 scheduling issues and because they were in
4 communication with each other, they were eager to
5 get the ball rolling on these conversations. So
6 they wanted to make sure that at least a
7 representative of the group was there and that
8 they were going to coordinate amongst themselves
9 from a follow-up standpoint.

10 MR. KLINE: They had a lot of
11 scheduling issues, didn't they?

12 MS. JOSEPH: Yes. Well, there were --
13 yeah, there were quite a few people who were
14 eager to get involved with the process. And so,
15 you know, there were a lot of concerns and a lot
16 of residents who shared those concerns. So they
17 wanted to make sure that they felt heard.

18 MR. KLINE: They were eager, but they
19 didn't necessarily have the time. Is that fair?

20 MS. JOSEPH: Well, I don't think
21 everyone has the time to sit in meetings or
22 hearings that are eight hours long in part too.
23 So I do think that some people's circumstances
24 demands that they be elsewhere.

25 MR. KLINE: Fair enough. All right.

1 I have no further questions of the witness.

2 Thank you, Ms. Joseph.

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

5 MR. THOMAS: Well, excuse me.

6 CHAIRPERSON ANDERSON: Mr. Buck -- I'm
7 sorry. Mr. Thomas, you need to put someone's
8 microphone on mute but both of you are -- it
9 appears that both parties are --

10 MR. THOMAS: I need to be elevated.

11 CHAIRPERSON ANDERSON: All right. Ms.
12 Fashbaugh, can you please elevate Mr. Thomas'
13 rights?

14 MS. FASHBAUGH: This has been
15 accomplished.

16 MR. THOMAS: I'm back. Thank you. I
17 apologize for the technical issues.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you. All right. Ms. -- any questions by
20 any Board members?

21 MEMBER CROCKETT: Yes, Chairman.

22 CHAIRPERSON ANDERSON: Go ahead, Ms.
23 Crockett. Go ahead.

24 MEMBER CROCKETT: Good afternoon, Ms.
25 Joseph.

1 MS. JOSEPH: Good afternoon.

2 MEMBER CROCKETT: Both yourself and
3 the previous witness have identified -- have
4 stated that you have a good working relationship
5 with the current establishments that are there
6 that you're often able to just go directly to
7 them and thereby bypassing the ANC and civic
8 associations. Is that an accurate portrayal of
9 your comments?

10 MS. JOSEPH: Yes, I guess I'll clarify
11 that I'm not a resident of Blagden Alley. So
12 it's not that I'm the one necessarily going to
13 these establishments. But my understanding is,
14 yes, the residents and the neighbors have been
15 able to go to those establishments directly.

16 MEMBER CROCKETT: But there's also
17 been testimony and pictures showing trash,
18 litter, issues about noise. So if they're able
19 to resolve these directly with the current
20 tenants and establishments, why then are these
21 issues persisting in your opinion?

22 MS. JOSEPH: Yeah, that's a great
23 question. So I think it kind of comes to the
24 interplay between the fact that residents are,
25 you know, hoping to be able to uphold their

1 quality of life but also, you know, these
2 businesses wanting to be viable. And so in some
3 instances, the conversations are ongoing.

4 We may need to -- where the ANC gets
5 involved is when perhaps an issue is actually a
6 DDOT issue. So then we need to kind of loop in
7 the correct representatives so that we can get a
8 little more clarity. So when I say that, you
9 know, the door is open on behalf of the
10 businesses to receive the comments, it's not
11 necessarily that they're immediately getting
12 resolved.

13 It's at least that there is a dialogue
14 that's being engaged in, in good faith from both
15 parties and all parties involved to come to a
16 solution. Not everything has been solved. But
17 we've always been striving towards that.

18 MEMBER CROCKETT: Thank you. I have
19 no further questions.

20 CHAIRPERSON ANDERSON: Ms. Joseph,
21 when did you become a member? When did you join
22 this ANC?

23 MS. JOSEPH: In 2021, January.

24 CHAIRPERSON ANDERSON: In January
25 2021. Okay. All right. Now who is the ANC

1 Commissioner for Blagden Alley?

2 MS. JOSEPH: There currently is not an
3 ANC Commissioner because the Commissioner
4 resigned actually on January 28th.

5 CHAIRPERSON ANDERSON: Of what year?

6 MS. JOSEPH: Of this year, 2022.

7 CHAIRPERSON ANDERSON: Okay. So there
8 was a Commissioner until January 28?

9 MS. JOSEPH: Yes, there was, yeah.

10 CHAIRPERSON ANDERSON: Okay. Thank
11 you. All right. Any other questions by any
12 other Board members?

13 (No response.)

14 CHAIRPERSON ANDERSON: All right. Mr.
15 Kline, any recross based on the questions that
16 were asked of the Board?

17 MR. KLINE: No. Thank you, Mr. Chair.

18 CHAIRPERSON ANDERSON: Mr. Thomas, any
19 redirect?

20 MR. THOMAS: Just a quick question
21 actually. Commissioner Joseph, you mentioned
22 that the Blagden Alley Commissioner recently
23 resigned, correct?

24 MS. JOSEPH: Yes, he did.

25 MR. THOMAS: Do you know what his

1 prior position was on this Applicant?

2 MS. JOSEPH: He was staunchly in favor
3 of protesting the application and only permitting
4 it to be, you know, licensed upon the
5 stipulations that we were setting forth.

6 MR. THOMAS: Okay. Those are all my
7 questions. Thank you.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you, Ms. Joseph, for your testimony. All
10 right. Mr. Thomas, do you have another witness?

11 MR. THOMAS: I do. I believe this is
12 my last one. I'm going to call Ms. Jelena
13 Budjevac to the stand.

14 CHAIRPERSON ANDERSON: Ms. Budjevac,
15 can you raise your right hand, please? Do you
16 swear or affirm to tell the truth and nothing but
17 the truth? You're on mute, ma'am.

18 MS. BUDJEVAC: Sorry about that. Yes,
19 I do.

20 CHAIRPERSON ANDERSON: All right.
21 Thank you. Your witness, Mr. Thomas.

22 MR. THOMAS: Good afternoon. Can you
23 state your name for the record, please.

24 MS. BUDJEVAC: Yes, my name is Jelena
25 Budjevac, and it's spelled J-E-L-E-N-A, surname

1 B-U-D-J-E-V-A-C.

2 MR. THOMAS: Okay. I apologize. I
3 think I've been mispronouncing your name.

4 MS. BUDJEVAC: You won't be the first.

5 MR. THOMAS: What is it again? I just
6 want to make sure I say it right.

7 MS. BUDJEVAC: It's Budjevac.

8 MR. THOMAS: Budjevac.

9 MS. BUDJEVAC: You know, Ms. Jelena is
10 just fine.

11 MR. THOMAS: Okay. That works too.
12 So let me start off with a very basic question.
13 Where exactly do you live?

14 MS. BUDJEVAC: So my postal address is
15 1215 10th Street. But my unit actually the way
16 our building is, it's two units per floor. One
17 unit faces 10th Street and the other unit faces
18 Blagden Alley. And I'm in the unit that face
19 Blagden Alley.

20 MR. THOMAS: Okay. So your unit
21 directly abuts Blagden Alley?

22 MS. BUDJEVAC: There's a -- there's a
23 business in front to the side. But I guess air
24 space-wise, yes.

25 MR. THOMAS: Okay. And you're on the

1 same side -- you heard Mr. Shaikh testify
2 earlier, correct?

3 MS. BUDJEVAC: I did.

4 MR. THOMAS: And you're on -- are you
5 familiar with him?

6 MS. BUDJEVAC: Yes, I am.

7 MR. THOMAS: Okay.

8 MS. BUDJEVAC: He's my neighbor.

9 MR. THOMAS: All the neighbors know
10 each other in that area, correct?

11 MS. BUDJEVAC: Yeah, mostly, either by
12 sight or closer. Some, you know, are friends.
13 We hang out, go to each other's houses. Some you
14 just see on streets, but yeah.

15 MR. THOMAS: Okay. And let me show
16 you what we have previously market for
17 identification as Exhibit 11. If I could have
18 the rights to the screen share.

19 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
20 can you please allow Mr. Thomas to share his
21 screen, please.

22 MS. FASHBAUGH: This has been
23 accomplished.

24 CHAIRPERSON ANDERSON: Thank you.

25 (Whereupon, the above-referred to

1 document was marked as Protestant
2 Exhibit No. 11 for identification.)

3 MR. THOMAS: Okay. Can you see my
4 screen?

5 MS. BUDJEVAC: I -- I can.

6 MR. THOMAS: You can?

7 MS. BUDJEVAC: I can.

8 MR. THOMAS: Good. So I'm showing you
9 what has previously been marked as Exhibit 11.
10 Can you explain to me what this is?

11 MS. BUDJEVAC: Sure. It is a zoning
12 map of Blagden Alley that's been put into black
13 and white. And then you can see on the key to
14 the right, it's been marked with residence,
15 businesses, alcohol license businesses, and then
16 some of the specific ones to show what's
17 residential and what's not.

18 MR. THOMAS: Okay. And who created
19 this map?

20 MS. BUDJEVAC: I did.

21 MR. THOMAS: Okay. And is it a true
22 and accurate representation of Blagden Alley and
23 the surrounding areas?

24 MS. BUDJEVAC: To my knowledge, yes.

25 MR. THOMAS: Okay. And then if you

1 scroll down, there's a second, I guess, more
2 zoomed in map?

3 MS. BUDJEVAC: Yes.

4 MR. THOMAS: Do you see that?

5 MS. BUDJEVAC: Yes.

6 MR. THOMAS: Did you create this map
7 as well?

8 MS. BUDJEVAC: I did. It's a smaller
9 version of the previous one you shared.

10 MR. THOMAS: Okay. And is it a true
11 and accurate representation of Blagden Alley and
12 the surrounding areas?

13 MS. BUDJEVAC: Yes.

14 MR. THOMAS: And is the information on
15 it in terms of the legend, where did you obtain
16 that information from? Did you obtain it from
17 public records?

18 MS. BUDJEVAC: A mix. So some people,
19 I just know, right? I've been to their homes.
20 And then like you said, public records, you can
21 Google search. And then some of the businesses
22 I've personally been to because I live here.

23 MR. THOMAS: Okay. I would move this
24 Exhibit 11 into evidence.

25 CHAIRPERSON ANDERSON: Mr. Kline?

1 MR. KLINE: I object to the editorial
2 comment on the second page.

3 CHAIRPERSON ANDERSON: What editorial
4 comment?

5 MR. KLINE: Also Chad Spangler
6 informed me of the meeting.

7 MR. THOMAS: I can stipulate to that
8 being -- to that editorial comment not being
9 entered into the record.

10 CHAIRPERSON ANDERSON: All right.
11 Because this has nothing to do with this case.
12 That's Causa.

13 MR. THOMAS: Agreed.

14 CHAIRPERSON ANDERSON: Right.

15 MR. THOMAS: Agreed.

16 MR. KLINE: Then I would object to --
17 I think I would object in one of voir dire on
18 about three questions.

19 CHAIRPERSON ANDERSON: A voir dire on
20 what, Mr. Kline?

21 MR. KLINE: I have about three
22 questions concerning this map which represents --
23 which has been represented as a true and accurate
24 representation of the neighborhood.

25 MR. THOMAS: Why don't you wait until

1 -- why don't you cross-examine this witness on
2 this map. And then, Mr. Thomas, why don't you --
3 once we're done cross-examination, why don't you
4 then make a motion at that juncture whether or
5 not you want to make this a part of the evidence
6 and I'll make a ruling at that time. Okay?

7 MR. THOMAS: Okay.

8 CHAIRPERSON ANDERSON: All right.

9 MR. KLINE: Thank you.

10 MR. THOMAS: So can you describe to me
11 where precisely your house is on this map?

12 MS. BUDJEVAC: So it's been a while
13 since I've created this. But I believe I'm Lot
14 125.

15 MR. THOMAS: 125?

16 MS. BUDJEVAC: I know. It's tiny and

17 --

18 MR. THOMAS: Right where the cursor
19 is?

20 MS. BUDJEVAC: I don't see your
21 cursor. Sorry.

22 MR. THOMAS: Right here? Can you see
23 the highlighted portion, or is that not showing?

24 MS. BUDJEVAC: Yeah, except --

25 CHAIRPERSON ANDERSON: I'm not seeing

1 the cursor, so I don't know where your -- I don't
2 know where your cursor is, Mr. Thomas.

3 MR. THOMAS: I'm looking for --

4 MS. BUDJEVAC: Yeah, I see where
5 you're moving around.

6 MR. THOMAS: You see right here?

7 MS. BUDJEVAC: Yeah, so if you move --
8 yeah, where your cursor is now and a little bit
9 to the right, yeah.

10 MR. THOMAS: Okay. So, like, right
11 around here is where your house is?

12 MS. BUDJEVAC: That's my apartment.
13 That's correct.

14 MR. THOMAS: Excuse me. Yeah, you're
15 apartment. So essentially on the other side of
16 Blagden Alley from where Eighteenth Street Lounge
17 is proposed to be, correct?

18 MS. BUDJEVAC: That's correct.

19 MR. THOMAS: And that -- just so we're
20 clear, that is right here, right?

21 MS. BUDJEVAC: Yes, it's where the red
22 with the turquoise-y colored X and the little
23 sound speaker is.

24 MR. THOMAS: Okay. And in terms of
25 the alley, these are all sort of -- if I'm going

1 to show you, these are all one lane streets,
2 correct?

3 MS. BUDJEVAC: Am I following your
4 cursor?

5 MR. THOMAS: Correct. Like, right
6 here at the beginning going from M Street into
7 the alley, that's a one way.

8 MS. BUDJEVAC: Oh, yes. All of the
9 entrances to the network of alleys are one lane.
10 And they're actually quite narrow.

11 MR. THOMAS: Okay. So if a truck or
12 a car were to stop or double park in there, it
13 would obstruct traffic?

14 MS. BUDJEVAC: So you can't double
15 park. You can only stop. And yes, you're
16 correct. It obstructs traffic.

17 MR. THOMAS: And trucks going through
18 there obstruct the flow of traffic?

19 MS. BUDJEVAC: Correct.

20 MR. THOMAS: Does this create traffic
21 issues in the alley?

22 MS. BUDJEVAC: Yes, it does.

23 MR. THOMAS: How long have you lived
24 adjacent to Blagden Alley?

25 MS. BUDJEVAC: I move into Blagden

1 Alley in 2014.

2 MR. THOMAS: Okay.

3 MS. BUDJEVAC: In May, May 1st, 2014.

4 MR. THOMAS: So approaching eight
5 years?

6 MS. BUDJEVAC: Yeah, yeah.

7 MR. THOMAS: Has the alley changed
8 significantly since you moved there?

9 MS. BUDJEVAC: It has. So when I
10 moved in --

11 MR. THOMAS: In what way?

12 MS. BUDJEVAC: In what way? There's
13 different types of businesses that have entered.
14 When I moved in, Lost & Found had just opened and
15 La Colombe was there. And that was it as far as
16 consumption businesses to my knowledge.

17 There was a boxing gym. There were a
18 lot of artist studios. So when we talk about
19 neighborhood-y, Craig Nelson and I, he lives in
20 the building in front to the right of my building
21 in the alley. He would be out there doing his
22 mosaic work.

23 Bill Burrell (phonetic) was down to
24 the -- closer to where Amir lives. You had a
25 graphic print shop that was in there. You had

1 the boxing gym. That was really cool. You'd see
2 people jumping rope or, like, throwing punches
3 and exercising.

4 And so since then, we've had about, I
5 would say, six -- six new businesses come in,
6 Calico and Tiger Fork. You had Espita, All-
7 Purpose on the 9th Street side. Columbia Room,
8 that used to be a fitness studio called Fuel.

9 What else am I missing? Oh, Dabney,
10 Dabney Cellar. So all of those are new. And so
11 it was exciting and it became more vibrant. But
12 definitely an increase in congestion.

13 And then most recently, I don't want
14 to beat a dead horse, Never Looked Better moved
15 in this past summer. And the streeterly went up
16 in the spring with the Reopen DC. And those have
17 been just really problematic with --

18 MR. THOMAS: Why are they problematic?

19 MS. BUDJEVAC: They're problematic
20 because the -- so you have delivery trucks that
21 come in, and they just park the trucks. And
22 people often -- sometimes the drivers leave to go
23 in to talk to the restaurants and they're just
24 left unattended. So people can't get out of
25 their homes. Other traffic cannot pass.

1 Last night was lunar for the Chinese
2 New Year, and that was a disaster. I've never
3 seen anything like that because you have people
4 coming in for DoorDash, for food pickup. You
5 have patrons trying to come in, regular traffic.

6 People do actually drive through the
7 alleys to cut through sometimes. And so what you
8 had is vehicles that were left as owners when
9 inside the business, other cars trying to come
10 in, then realizing that they can't pass. But
11 then other vehicles had already come in behind
12 them, so they couldn't back up.

13 So people just started honking. I
14 spoke to a woman who, you know, I was just
15 walking by to go to Lost & Found for a drink.
16 And she rolled down her window and she was -- she
17 was just yelling, this is sick. This is sick.
18 What is this? There should be signs. We can't
19 pass through. Now we're stuck.

20 And so that's -- that's not irregular.
21 I live on a building that exits on 10th Street,
22 but I work on 9th Street, Reformation Fitness.
23 And so my commute to work back and forth is
24 through the alley. And I would say that's a
25 daily problem.

1 MR. THOMAS: With traffic backup and
2 build up?

3 MS. BUDJEVAC: Traffic backup and
4 build up in vehicles. I've definitely called in
5 transportation companies because they'll have
6 their -- like, if you have a problem or how's my
7 driving on the back. When I can't find the
8 driver to call the company and say, you guys just
9 have to let your driver know they can't just
10 leave the vehicles unattended.

11 They can't park here. You know,
12 people live here. And most of the time, people
13 say they don't know that people live here. But,
14 I mean, three sides of the alley are people
15 reside here.

16 MR. THOMAS: And I was going to say it
17 appears from your map that the majority of the
18 ABC licensed establishments actually fall on the
19 9th Street side of the alley.

20 MS. BUDJEVAC: That's correct.

21 MR. THOMAS: Does that create even
22 more congesting in the alley packing everything
23 so densely concentrated?

24 MS. BUDJEVAC: Yes. These problems --
25 when I moved in here in 2014, we didn't have this

1 problem. There was not the traffic congestion.
2 There wasn't the trash piles. The bins that are
3 in Blagden Alley, they are almost never closed.
4 They're overfilled. There's also trash next door
5 like recycling to the bins.

6 MR. THOMAS: Before we get to trash,
7 let me ask you another question about traffic.
8 So all of these ABC licensed establishments, they
9 have rear doors that go out into the alley,
10 correct? Or most of them do?

11 MS. BUDJEVAC: I believe so. But they
12 also have 9th Street doors.

13 MR. THOMAS: Are the rear doors used
14 for loading and unloading supplies, drinks, food
15 service supplies, things like that?

16 MS. BUDJEVAC: Yes. I can see people
17 stop the truck and they'll carry dollies with
18 contents into -- into the businesses.

19 MR. THOMAS: So the traffic issue --
20 would it be fair to say that a lot of the traffic
21 issues that exist in Blagden Alley are not
22 necessarily caused by patrons going in and out of
23 the doors but by delivery people stopping and
24 unloading and loading into these businesses
25 through the backdoor?

1 MS. BUDJEVAC: It's both, right?
2 During the day, it's definitely deliveries
3 through the back doors.

4 MR. THOMAS: Are you aware of a
5 rideshare drop that exists in the area?

6 MS. BUDJEVAC: I've -- I've heard of
7 that. I will say just because a rideshare drop
8 exists doesn't mean it precludes traffic by
9 patrons because we see it. I mean, I live here
10 and I walk through the alley and I see people
11 getting dropped off and picked up.

12 MR. THOMAS: And so it's not -- it
13 doesn't -- it's not a panacea for the traffic
14 issues that come through, correct?

15 MS. BUDJEVAC: Wow, it's a great idea.
16 But you can't force people to use a rideshare.

17 MR. THOMAS: Okay. Talking about the
18 trash now, so the trash, you were mentioning --
19 what were you saying about the trash before when
20 I cut you off?

21 MS. BUDJEVAC: So there's dumpsters
22 and there's a series -- a couple series of trash
23 bins. And it's by a huge conglomeration because
24 that's where my commute is. I come out through
25 the alley, past La Colombe and Tiger Fork, go

1 towards where Never Look Better is, make a right,
2 and then go into Reformation Fitness.

3 And so you have this collection of
4 trash bins that are just usually overflowing.
5 And then the recycling is next door, like,
6 sandwiched in between the trash bins. You can
7 have extra bags on trash of trash, like, piled on
8 top.

9 It's gotten worse the last six months.
10 I've lived in D.C. since 1991. I know it's a
11 city. I know we have rats. But in our condo
12 building as sitting on the Board, we have, like,
13 zero tolerance for anyone overstuffing our bins
14 because it attracts rodents which then go next
15 door to our neighbors who have like an English
16 basement. It's unpleasant. Nobody needs that,
17 right?

18 MR. THOMAS: Is it your opinion that
19 adding another business with several hundred
20 person occupancy is going to alleviate this
21 problem?

22 MS. BUDJEVAC: No. I think it's just
23 going to make it worse.

24 MR. THOMAS: So you mentioned that you
25 work right on the other side of the alley, right?

1 MS. BUDJEVAC: I do.

2 MR. THOMAS: So how frequently do you
3 traverse the alley from the 10th Street side to
4 the 9th Street side?

5 MS. BUDJEVAC: So for work, it's every
6 Tuesday, Thursday, and Saturday. And then
7 personally, like Amir said, especially since the
8 pandemic, my life is, like, a five block radius.
9 So whether I'm running through Giant or depending
10 on snow, like, the alley is my -- that is my
11 daily life, whether I go grab a coffee at La
12 Colombe. But it's a minimum of three times.

13 MR. THOMAS: So it's your community?

14 MS. BUDJEVAC: Yeah, it's where I
15 live. It's my neighborhood.

16 MR. THOMAS: And I wrote it down. I
17 think you mentioned kind of offhand that you were
18 walking the other day to Lost & Found which is
19 another ABC licensed establishment right off of
20 Blagden Alley. Is that right?

21 MS. BUDJEVAC: That's correct.

22 MR. THOMAS: You patronize the
23 businesses here?

24 MS. BUDJEVAC: Yeah, it's one of the
25 reasons I moved here.

1 MR. THOMAS: Are the -- what type of
2 crowd do these ABC licensed establishments
3 attract?

4 MS. BUDJEVAC: So with the exception
5 of Never Looked Better, I would say it's a pretty
6 casual, mellow crowd. I think Amir actually
7 appraised it really well. It's not where you --
8 I mean, depending on your age, it's not where you
9 end your evening but it's certainly where you
10 start. It's, you know, cocktails, dinners. It's
11 bars and restaurants, so --

12 MR. THOMAS: So we talked about --
13 we've talked a lot about where people's hours
14 are. And I understand that people may be allowed
15 to do a certain thing. Doesn't mean they have to
16 do a certain thing.

17 So can you describe to me how these
18 bars and restaurants operate in the alley. Are
19 they open till they're -- are they doing last
20 call at midnight? Or does the alley really -- do
21 they kind of shut down earlier than that?

22 MS. BUDJEVAC: So I feel that the
23 alley winds down around 10:00 o'clock. There
24 might be some open until, you know, 11:00, 11:30,
25 maybe midnight on a Friday, Saturday. It

1 definitely starts winding down around 10:00
2 because, again, these are restaurants and bars.
3 They're not nightclubs that are open to 2:00,
4 3:00, 5:00 o'clock in the morning or whatever.

5 MR. THOMAS: So you heard -- there was
6 -- were you present at the hearing the other
7 week?

8 MS. BUDJEVAC: Our hearing, this
9 hearing?

10 MR. THOMAS: Yeah.

11 MS. BUDJEVAC: Like, the first part?
12 I was.

13 MR. THOMAS: Yeah.

14 MS. BUDJEVAC: I was.

15 MR. THOMAS: Did you hear your
16 neighbor? And I'm blanking on his name, but he
17 was a member of the military. And I believe he
18 testified that the alley tends to really close
19 down and wind down around 10:00 p.m. Would that
20 be accurate?

21 MS. BUDJEVAC: Yeah, I feel so. Well,
22 until Never Looked Better opened.

23 MR. THOMAS: Okay. And so why don't
24 you tell me what are the issues with Never Looked
25 Better?

1 MS. BUDJEVAC: So I'll be honest.
2 When I first heard Never Looked --

3 MR. KLINE: Objection to relevance.
4 Why are we talking about Never Looked Better?
5 We're here on Eighteenth Street Lounge.

6 CHAIRPERSON ANDERSON: Sustained.
7 We're talking about Eighteenth Street Longue. So
8 all our questions should be toward this
9 establishment. So let's move on.

10 MR. THOMAS: Okay. Do you -- you
11 mentioned that there were concerns about another
12 establishment in Blagden Alley. Do you have a
13 concern about Eighteenth Street Lounge coming
14 into the same building as a problem
15 establishment?

16 MS. BUDJEVAC: As the way it's been
17 presented to date, I do.

18 MR. THOMAS: Okay. And what are those
19 concerns?

20 MS. BUDJEVAC: So I'm not a lawyer.
21 I don't -- I'm also new to all this, the ABRA
22 regulations and ANC. But for all intents and
23 purposes -- and I've heard about the licensing.
24 To me, it sounds just like a
25 nightclub. There's a cover charge. There's

1 dancing. They're asking to be open until 2:00
2 o'clock and 3:00 o'clock in the morning.

3 The capacity is bigger than all of the
4 neighboring establishments. I'm hearing 268 if
5 DCRA signs off on that which is a lot larger than
6 everything else in the alley. And so whether
7 it's noise, whether it's trash, whether it's
8 security, whether it's traffic, I just don't see
9 how it's going to fit.

10 And I understand Mr. Kline's
11 objection. But we don't live in a vacuum. And
12 so I would love if -- as Eighteenth Street
13 Lounge, the way it's being described with
14 everything it's going to bring amidst an already
15 existing problem of, like, a residential alley
16 life that is just suffocating and can't manage
17 the capacity and the load that exists. And so
18 those are my concerns.

19 MR. THOMAS: Okay. Let me ask you
20 about Dogtopia quickly. You previously testified
21 that you were here for the first day of this
22 proceeding.

23 MS. BUDJEVAC: Yes.

24 MR. THOMAS: Did you hear Mr. Nouri
25 testify that he had an agreement with Dogtopia to

1 allow his patrons to line up out in front of the
2 establishment?

3 MS. BUDJEVAC: I did.

4 MR. THOMAS: Have you spoken with
5 anyone at Dogtopia about whether that's an
6 accurate statement?

7 MS. BUDJEVAC: I did. I spoke with
8 Michael Bergeron, and I might now be pronouncing
9 his name correctly. He represented himself as
10 the general manager to Dogtopia. He shared with
11 me that -- number one, that his -- he calls them
12 pet parents, that they were actually concerned
13 about noise.

14 He shared with me that they didn't
15 have, like, a signed agreement or anything like
16 that, that originally he said absolutely no lines
17 in front of my business while it's open. He
18 stated that at 9:00 p.m. So if Eighteenth Street
19 Lounge is operating up until 9:00 p.m., no lines
20 are supposed to be in front of Dogtopia.

21 From 9:00 p.m., he said they could be
22 standing in front of the business, not blocking
23 the door. But also he didn't want anyone -- they
24 had to assure that nobody would -- any of the
25 patrons would be tapping on the glass because

1 this would set off security alarms and it would
2 disturb his sleep. He was just -- I just shared
3 that ABRA hearing YouTube with him and said, just
4 take a look. And he just seemed disconcerted and
5 sent a follow-up email.

6 MR. THOMAS: A follow-up email to who?

7 MS. BUDJEVAC: I believe it was to
8 Jordan Naber, he said he was going to reach out
9 to.

10 MR. THOMAS: Okay. So it's not
11 accurate that there's some sort of agreement
12 whereby ESL can line their patrons up in front of
13 Dogtopia?

14 MS. BUDJEVAC: That was not --
15 correct, that's how I understood it.

16 MR. THOMAS: Okay. So I want to
17 understand your involvement with this as well.
18 So you have been present at the -- have you been
19 present at the ANC meetings where this
20 application was discussed?

21 MS. BUDJEVAC: Yes, I have.

22 MR. THOMAS: Have you been present at
23 all of them?

24 MS. BUDJEVAC: I can't say I've been
25 present at every single one, but I believe I have

1 been for most of them because there's the -- are
2 you asking ANC or APC?

3 MR. THOMAS: Both.

4 MS. BUDJEVAC: Both? Yeah, I think I
5 might've missed one meeting.

6 MR. THOMAS: Okay. Have you ever
7 offered to speak with the Applicant about your
8 concerns?

9 MS. BUDJEVAC: I have. I offered on
10 the first ABC meeting in August when this was
11 first rolled out to the community and then again
12 in September at the follow-up APC meeting.

13 MR. THOMAS: Okay. And have you --
14 has anyone from ESL reached out to you at all?

15 MS. BUDJEVAC: No, there was -- there
16 was no response at the public forum --

17 MR. THOMAS: And what --

18 MS. BUDJEVAC: -- or afterwards.

19 MR. THOMAS: What was your goal in
20 reaching out to ESL to discuss what issues
21 existed?

22 MS. BUDJEVAC: So I think to have a
23 dialogue to understand better what the plan was
24 because what was presented in August seemed
25 really incomplete. I keep hearing about the

1 security plan. But from my recollection in
2 August, it was one paragraph. And I don't think
3 that's very adequate.

4 There were -- the concept was a little
5 bit fuzzy to me how it was going to be different
6 other than smaller in size than the original
7 Eighteenth Street Lounge. And so the hours of
8 being 2:00 and 3:00 o'clock with an open roof
9 deck with live entertainment as it was presented
10 in August were alarming. All of the other roof
11 decks in Blagden Alley don't have live
12 entertainment. They're not open until 2:00 and
13 3:00 o'clock in the morning. And so that -- that
14 was really concerning because it's just -- it
15 goes to quality of life of being able to just go
16 to sleep and wake up and go to work the next day.

17 MR. THOMAS: If -- to be candid and I
18 would like you to be candid with me. If ESL of
19 Eighteenth Street Lounge were to operate itself
20 like some of the other good operators -- and
21 putting aside Never Looked Better -- some of the
22 other good operators under the same terms and
23 conditions and with the same noise mitigation
24 steps, is that something that you would've been
25 able to work with?

1 MS. BUDJEVAC: Sure, yes.

2 MR. THOMAS: Was that ever offered to
3 you?

4 MS. BUDJEVAC: No.

5 MR. THOMAS: Was there ever a dialogue
6 about that?

7 MS. BUDJEVAC: No.

8 MR. THOMAS: A second. That is all I
9 have right now.

10 CHAIRPERSON ANDERSON: Mr. Kline?

11 MR. KLINE: Yes. Thank you. Good
12 afternoon, Ms. Budjevac?

13 MS. BUDJEVAC: It's good enough. I'll
14 take --

15 MR. KLINE: Good enough?

16 MS. BUDJEVAC: Yeah, I'll take it.

17 MR. KLINE: All right. All right. So
18 Exhibit 11, you prepared Exhibit 11, correct?

19 MS. BUDJEVAC: Yes, sir.

20 MR. KLINE: And you say it's a true
21 and accurate representation of the neighborhood?

22 MS. BUDJEVAC: To my knowledge.

23 MR. KLINE: To your knowledge? Were
24 you aware that there's a convention center across
25 9th Street that's not shown on this true and

1 accurate representation of the neighborhood?

2 MS. BUDJEVAC: So it's titled Blagden
3 Naylor, right? And Blagden Naylor is -- the
4 convention center is not part of Blagden Alley.

5 MR. KLINE: Okay. But yet you've
6 starred one, two, three, four licensees across
7 9th Street that are located on the ground floor
8 of the convention center, correct?

9 MS. BUDJEVAC: Correct.

10 MR. KLINE: So this, indeed, is not a
11 true and accurate representation of the
12 neighborhood in that it is missing one of the
13 most important components of the neighborhood,
14 isn't it?

15 MS. BUDJEVAC: No, it's accurate
16 because it's Blagden Naylor. Anything --

17 MR. KLINE: Okay.

18 MS. BUDJEVAC: -- extra is extra. But
19 it is an accurate representation of Blagden
20 Alley.

21 MR. KLINE: Okay. Even though you've
22 got four licensees that are across the street,
23 we're not supposed to count those. Is that your
24 position?

25 MS. BUDJEVAC: Yes.

1 MR. KLINE: Okay. And you also -- you
2 seem to demonstrate very thorough knowledge of
3 the establishments that are in the neighborhood
4 since you've been there. You said you moved in,
5 in 2014, correct?

6 MS. BUDJEVAC: Sorry. Could you
7 repeat that? I didn't hear the end. It broke up
8 a little bit.

9 MR. KLINE: You said you moved in, in
10 2014, correct?

11 MS. BUDJEVAC: That's correct.

12 MR. KLINE: And you seem to display an
13 encyclopedic knowledge of the establishments that
14 were there then as opposed to now, right? You're
15 familiar with all the ones that were there?

16 MS. BUDJEVAC: I never said that.
17 Encyclopedic knowledge? I don't know what
18 standard that would be.

19 MR. KLINE: Okay. But you testified
20 as to all the ones that were there when you moved
21 in, correct?

22 MS. BUDJEVAC: I testified -- no, I
23 testified to some of the ones that were there.

24 MR. KLINE: Oh, so that was only a
25 partial description of the ones that were there

1 when you moved in?

2 MS. BUDJEVAC: I don't believe I was
3 at every single business that existed in Naylor
4 Court -- sorry, Blagden Alley.

5 MR. KLINE: We're talking about ABC
6 licenses. I think their point was that there's
7 been tremendous growth and you were demonstrating
8 the contrast between what's there now and what
9 was there before, correct?

10 MS. BUDJEVAC: That's correct. There
11 has been growth.

12 MR. KLINE: All right. But that
13 wasn't accurate because Table was at 903 N Street
14 backing up to Blagden Alley, correct?

15 MS. BUDJEVAC: Incorrect. Table was
16 across the street on N Street.

17 MR. KLINE: It was across N Street
18 from where --

19 MS. BUDJEVAC: Yes.

20 MR. KLINE: -- from Blagden Alley?

21 MS. BUDJEVAC: Yes.

22 MR. KLINE: At 903 N Street?

23 MS. BUDJEVAC: Yes, to my
24 recollection, yes. It was not on the southern
25 side of N Street. It's on the northern side of N

1 Street. I had brunch there and dinner and what
2 have you.

3 MR. KLINE: All right. Now were you
4 here for Martin Beam's testimony, the acoustical
5 engineer?

6 MS. BUDJEVAC: No, I was not. I
7 wasn't -- I didn't hear all of it. I heard maybe
8 a little piece but not in its entirety.

9 MR. KLINE: Did you read his report?

10 MS. BUDJEVAC: No, I did not. Not all
11 of it. Not from beginning to end. I read some
12 of it.

13 MR. KLINE: You never bothered to
14 review his complete report?

15 MS. BUDJEVAC: I did bother to go
16 through what I could understand, yeah. But not -
17 - I can't --

18 MR. KLINE: So --

19 MS. BUDJEVAC: -- testify that I read
20 every single paragraph, no.

21 MR. KLINE: You don't have any basis
22 to refute the conclusions in his report, do you?

23 MS. BUDJEVAC: I'm sorry. I can't
24 hear you.

25 MR. KLINE: You do not have any basis

1 to refute the conclusions in his report, do you?

2 MS. BUDJEVAC: Since I didn't read it
3 in its entirety and I'm not a sound engineer or
4 expert, I do not.

5 MR. KLINE: Okay. The agreement that
6 the Applicant has made to use 9th Street as its
7 entrance and exit, that ameliorates many of the
8 issues you're concerned about, doesn't it?

9 MS. BUDJEVAC: No, not many. Some.

10 MR. KLINE: So it wouldn't matter to
11 you if the entrance and exit were in the alley?

12 MS. BUDJEVAC: Of course it would
13 matter. You asked many.

14 MR. KLINE: You testified that
15 everybody winds down around 10:00 o'clock. Is
16 that correct?

17 MS. BUDJEVAC: I said it starts to
18 wind down except for Never Looked Better was my
19 testimony.

20 MR. KLINE: Except for Never Looked
21 Better?

22 MS. BUDJEVAC: Correct.

23 MR. KLINE: So Columbia Room winds
24 down around 10:00 o'clock?

25 MS. BUDJEVAC: It starts to.

1 MR. KLINE: It starts to?

2 MS. BUDJEVAC: I believe its summer
3 garden might be until 11:00. I think I said
4 until 11:30 on weekends, maybe into midnight.

5 MR. KLINE: Okay. And then TG Cigars,
6 they also wind down at 10:00 o'clock?

7 MS. BUDJEVAC: I'm not aware of that.

8 MR. KLINE: And Maxwell, do they wind
9 down at 10:00 o'clock as well?

10 MS. BUDJEVAC: Maxwell is facing on
11 9th Street. It doesn't face the alley.

12 MR. KLINE: Well, this establishment
13 doesn't face the alley either, does it?

14 MS. BUDJEVAC: The back of it does.

15 MR. KLINE: The back of it.

16 MS. BUDJEVAC: And the rooftop does.

17 MR. KLINE: Got it. All right. I
18 don't have any further questions. Oh, wait. No,
19 I do have a question. Who is it you said you
20 talked to at Dogtopia?

21 MS. BUDJEVAC: His name is Michael and
22 I believe his -- I'm not 100 percent sure how to
23 pronounce his last name, Bergeron, B-E-R-G-E-R-O-
24 N. And he identified himself as the general
25 manager as opposed to the front desk employees.

1 MR. KLINE: And when did you speak
2 with him?

3 MS. BUDJEVAC: I spoke with him
4 yesterday.

5 MR. KLINE: All right. Those are all
6 the questions I have at this time.

7 CHAIRPERSON ANDERSON: Ms. Budjevac,
8 how far away from the location do you currently
9 live?

10 MS. BUDJEVAC: I think it's 200 feet,
11 200 feet. I haven't measured it. To be honest,
12 I haven't taken out a measurement.

13 CHAIRPERSON ANDERSON: But can you see
14 the location from where you --

15 MS. BUDJEVAC: From my balcony? Yeah,
16 from my balcony, you've got -- so the way my
17 apartment is, is that the bedroom and the living
18 room, there are balcony doors that go out onto my
19 balcony. And if I'm sitting on my balcony, I
20 have a good view of the alley.

21 CHAIRPERSON ANDERSON: And so that's
22 about 200 feet away?

23 MS. BUDJEVAC: Correct.

24 CHAIRPERSON ANDERSON: All right. Any
25 questions by any -- any other questions by any of

1 the Board members?

2 (No response.)

3 CHAIRPERSON ANDERSON: Mr. Kline, any
4 questions based on the questions that I asked?

5 MR. KLINE: No, Mr. Chair.

6 CHAIRPERSON ANDERSON: Mr. Thomas, any
7 redirect?

8 MR. THOMAS: Just I think, like, one
9 or two quick questions. And are you -- Mr. Kline
10 keeps referencing an agreement not to use the
11 back door. Are you aware of any formal written
12 agreement that has been reached either with the
13 ANC or with any of the Protestants in which the
14 Applicant has, in writing, agreed not to use the
15 back door?

16 MS. BUDJEVAC: No.

17 MR. THOMAS: Okay. That's all I have.

18 CHAIRPERSON ANDERSON: Mr. Thomas --

19 MR. THOMAS: Oh, actually, excuse me.

20 Yes, I have one more. I would like to move
21 Exhibit 11 into evidence.

22 CHAIRPERSON ANDERSON: Mr. Kline?

23 MR. KLINE: I would object given that
24 it's seriously lacking in accuracy, as has been
25 demonstrated by the cross-examination.

1 CHAIRPERSON ANDERSON: I'm going to
2 overrule the objection, and I'll admit it into
3 evidence for what it's worth. So I'm moving
4 Exhibit 11 into evidence.

5 (Whereupon, the above-referenced to
6 document was received into evidence as
7 Protestant Exhibit No. 11.)

8 CHAIRPERSON ANDERSON: So can you
9 please close your screen, Mr. Thomas. Did you
10 have any other witnesses, sir?

11 MR. THOMAS: I do not.

12 CHAIRPERSON ANDERSON: All right.
13 Hold on one minute, please.

14 MR. KLINE: Mr. Chair, we do have
15 rebuttal.

16 CHAIRPERSON ANDERSON: You do what?

17 MR. KLINE: We have rebuttal.

18 CHAIRPERSON ANDERSON: I was about to
19 -- well --

20 MR. THOMAS: Before we get to
21 rebuttal, I realized there's one exhibit that was
22 used I did not, I think, move into evidence. I
23 believe it is Exhibit 15, the Best Practices for
24 Nightlife Establishments.

25 (Whereupon, the above-referenced to

1 document was received into evidence as
2 Protestant Exhibit No. 15 for
3 identification.)

4 MR. THOMAS: So I'd like to move that
5 into evidence now as well before we get to the
6 rebuttal case.

7 CHAIRPERSON ANDERSON: Mr. Kline?

8 MR. KLINE: I don't have any
9 objection.

10 CHAIRPERSON ANDERSON: So moved.
11 Exhibit 15, so moved.

12 (Whereupon, the above-referenced to
13 document was received into evidence as
14 Protestant Exhibit No. 15.)

15 CHAIRPERSON ANDERSON: All right. So
16 you have rebuttal. Who's the rebuttal witness
17 that you have, Mr. Kline?

18 MR. KLINE: I have a couple, but they
19 will be brief, I promise.

20 CHAIRPERSON ANDERSON: A couple? Who
21 are they?

22 MR. KLINE: Ms. Naber and Mr.
23 Guggenmos and then a records person from ABRA.

24 MR. THOMAS: I object to certainly Ms.
25 Naber and Mr. Guggenmos who both testified today.

1 I mean, sorry, Ms. Naber testified last time.
2 But she already offered testimony, as did Mr. --
3 and Guggenmos testified today. I don't really
4 know what they would add, and I would ask for a
5 proffer as to what they would add.

6 MR. KLINE: Ms. -- I can proffer and
7 if it'll be accepted, that's fine.

8 CHAIRPERSON ANDERSON: Go ahead, Mr.
9 Kline.

10 MR. KLINE: Ms. Naber will testify
11 concerning an email exchange with Dogtopia
12 concerning the issues that were just testified
13 about. I'm happy to share my screen. And if
14 that would just be accepted, then I don't need to
15 put her on. All I need to do is to put her on to
16 identify it.

17 CHAIRPERSON ANDERSON: Mr. Thomas?

18 MR. THOMAS: And Mr. Guggenmos?

19 MR. KLINE: Mr. Guggenmos will testify
20 concerning Ms. Joseph's testimony about community
21 engagement and the meetings.

22 MR. THOMAS: He already testified
23 about community engagement and meetings. I don't
24 have a problem if Ms. Naber wants to -- if he
25 wants to offer Ms. Naber for that.

1 CHAIRPERSON ANDERSON: He said he had
2 an email. I mean, if he shows the email -- I
3 don't know, the email, do we need her direct
4 testimony if there's an email?

5 MR. THOMAS: I don't know what email
6 he's referring to. If he wants to share his
7 screen, I can see it and we can look through it
8 and we can go from there.

9 CHAIRPERSON ANDERSON: All right. Why
10 don't you -- are you able to share your screen,
11 Mr. Kline?

12 MR. KLINE: I need to be elevated, but
13 yes.

14 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
15 can you please allow Mr. Kline to share his
16 screen, please?

17 MS. FASHBAUGH: It has already been
18 accomplished.

19 MR. KLINE: Do you see it?

20 CHAIRPERSON ANDERSON: Not yet, sir.

21 MR. THOMAS: I do not.

22 CHAIRPERSON ANDERSON: Yes, now we can
23 -- now you're able to share your screen. So you
24 can access the document, Mr. Kline.

25 MR. KLINE: Okay. And do you see the

1 email?

2 CHAIRPERSON ANDERSON: Yes.

3 MR. KLINE: Okay. So it starts here.

4 MR. THOMAS: Okay, okay. I don't --
5 I would have brief questions for her about that,
6 I think.

7 CHAIRPERSON ANDERSON: All right. So
8 we'll call the witness. You can close the
9 screen. All right. Is the witness available?

10 MS. NABER: Yes, I am.

11 CHAIRPERSON ANDERSON: I think -- all
12 right. I'm sorry. This is Ms. -- where is she?
13 I'm sorry.

14 MS. NABER: Naber.

15 CHAIRPERSON ANDERSON: Ms. Naber, I
16 don't see you in my screen. That's why --

17 MS. NABER: Jordan Naber.

18 CHAIRPERSON ANDERSON: Oh, okay. I
19 don't see your picture, but I see your name. All
20 right.

21 MS. NABER: Oh, sorry. I can turn
22 that on.

23 CHAIRPERSON ANDERSON: All right. I
24 previously sworn you in. So you're still under
25 oath, Ms. Naber. So just can you spell and state

1 your name for the record, please?

2 MS. NABER: Yes, my name is Jordan
3 Naber. It's J-O-R-D-A-N. Last name, Naber, N-A-
4 B-E-R.

5 CHAIRPERSON ANDERSON: Go ahead, Mr.
6 Kline.

7 MR. KLINE: Ms. Naber, subsequent to
8 the last time you testified before the Board, did
9 you have occasion to reach out to Dogtopia?

10 MS. NABER: Yes, I did.

11 MR. KLINE: And how did you do that?

12 MS. NABER: You're asking about prior
13 to our previous hearing?

14 MR. KLINE: No, I'm asking you about
15 the -- well, let me just -- I'll just show you
16 the email. Let's put it this way. See it here?

17 CHAIRPERSON ANDERSON: I'm not sure if
18 that was -- are you able to share?

19 MR. KLINE: I think so. Okay. I'll
20 show you what we will mark as Applicant's 12.

21 (Whereupon, the above-referred to
22 document was marked as Applicant
23 Exhibit No. 12 for identification.)

24 MR. KLINE: Can you see it on the
25 screen?

1 MS. NABER: Yes.

2 MR. KLINE: All right. I'd ask you to
3 identify what this is.

4 MS. NABER: This is an email exchange
5 between Michael, myself, and Ed. Ed is the
6 person I first reached out to at Dogtopia. I
7 just walked across.

8 He identified himself as the -- I'll
9 look him up in my phone -- as the operations
10 manager. So he's not the general manager. But
11 he did identify himself as the operations
12 manager.

13 After our previous hearing, I reached
14 out to him again because I'd rather get something
15 in writing as it seemed everyone wanted me to do.
16 So I reached out to him and asked that he contact
17 -- or give me contact info for the GM which he
18 forwarded along my message. And then I spoke
19 with the GM who said that they don't mind us
20 lining up out in front of their business as long
21 as it's after 9:00 p.m.

22 MR. KLINE: And that's what's
23 contained in this email?

24 MS. NABER: Correct.

25 MR. KLINE: All right. And this was

1 an email sent to -- originally to Ed Weddle from
2 your regular email account?

3 MS. NABER: Yes, from my Eighteenth
4 Street Lounge email.

5 MR. KLINE: All right. And then you
6 also received a response from Michael Bergeron,
7 correct?

8 MS. NABER: Correct.

9 MR. KLINE: That's all the questions
10 I have, and I would move the exhibit.

11 CHAIRPERSON ANDERSON: Mr. Thomas?

12 MR. THOMAS: I don't have any
13 objection to the exhibit being moved into
14 evidence. I have a couple quick questions of the
15 witness, though.

16 MS. NABER: Sure.

17 CHAIRPERSON ANDERSON: Go ahead, sir.
18 (Whereupon, the above-referenced to
19 document was received into evidence as
20 Applicant Exhibit No. 12.)

21 MR. THOMAS: This exhibit was -- this
22 email exchange I should say was sent after the
23 last hearing, correct?

24 MS. NABER: That is correct.

25 MR. THOMAS: So these efforts all took

1 place after the representations about the
2 agreement with Dogtopia were made to this Board,
3 correct?

4 MS. NABER: No. I --

5 MR. THOMAS: The emails were sent
6 before?

7 MS. NABER: The email was not sent
8 before. But the efforts to contact them --

9 (Simultaneous speaking.)

10 MR. THOMAS: My question is --

11 CHAIRPERSON ANDERSON: Mr. Thomas,
12 hold on. Give her an opportunity to answer the
13 question.

14 MR. THOMAS: It's a yes or no
15 question. Mr. Kline was provided this, the same
16 luxury of not letting the witness walk all over
17 the record and forcing the witness --

18 CHAIRPERSON ANDERSON: Mr. Thomas, Mr.
19 Thomas. You're an attorney, sir. You need to
20 focus -- if you needed a yes or no answer, you
21 need to focus your question to give her -- so she
22 can only answer the question yes or no, sir. And
23 --

24 MR. THOMAS: Yes or no --

25 CHAIRPERSON ANDERSON: But however,

1 Mr. Thomas, if the witness also states that I
2 need to explain it, you need to give her an
3 opportunity to explain if she states so. Okay?

4 MR. THOMAS: I understand that. Thank
5 you.

6 CHAIRPERSON ANDERSON: All right.

7 MR. THOMAS: Yes or no, is this email
8 from after our last hearing on this application?

9 MS. NABER: Yes, but I would like to
10 explain.

11 MR. THOMAS: Explain what? That it
12 was --

13 MS. NABER: I feel it's
14 misrepresenting our efforts if you say this --

15 MR. THOMAS: I didn't ask you about
16 your effort. I asked you when the email was
17 sent. That was the only question I asked. The
18 only question I asked was when this email was
19 sent.

20 CHAIRPERSON ANDERSON: All right.

21 MR. THOMAS: That's all I asked.

22 CHAIRPERSON ANDERSON: All right. She
23 has answered the question. Is there another
24 question?

25 MR. THOMAS: No, that's it. That's

1 the only question. All of this was after the
2 last hearing.

3 CHAIRPERSON ANDERSON: All right. Any
4 questions by any of the Board members?

5 (No response.)

6 CHAIRPERSON ANDERSON: I'll ask you a
7 question, Ms. Naber. Why was this email sent?

8 MS. NABER: This email was sent after
9 the previous hearing since everyone was asking
10 about if we had any formal agreement. I stated
11 in the last hearing that we didn't have a formal
12 agreement, that I had just spoken with Ed, the
13 operations manager. So I sent this one as a
14 response to that to make sure that I was speaking
15 to the right person who could give me a more
16 formal answer.

17 CHAIRPERSON ANDERSON: Thank you. Any
18 questions by any of the Board members?

19 (No response.)

20 CHAIRPERSON ANDERSON: Mr. Thomas, any
21 recross based on the questions that I'd asked?

22 MR. THOMAS: No.

23 CHAIRPERSON ANDERSON: Mr. Kline, any
24 redirect based -- any redirect, Mr. Kline?

25 MR. KLINE: No, Mr. Chair. Thank you.

1 CHAIRPERSON ANDERSON: Thank you.
2 Thank you, Ms. Naber, for your testimony. Do you
3 have another rebuttal witness, sir?

4 MS. NABER: Thank you.

5 MR. KLINE: John Guggenmos.

6 MR. THOMAS: I object to the testimony
7 from Mr. Guggenmos. He's already testified
8 today. The matter that's been proffered is
9 something he already testified about. We've
10 already discussed eliminating duplicative
11 testimony, and there's already been seven, now
12 eight witnesses from the Applicant. I don't see
13 what this testimony adds at all.

14 CHAIRPERSON ANDERSON: And so Mr.
15 Kline, the purpose of this testimony is again why
16 are we calling Mr. Guggenmos?

17 MR. KLINE: There's been suggestion
18 throughout the testimony that the Applicant
19 failed to connect with the neighborhood, failed
20 to reach out, failed to meet, failed to provide
21 information. Mr. Guggenmos is Chair of the ANC
22 prior to Ms. Joseph taking over on January 5th.
23 He could shed some light on that.

24 MR. THOMAS: He already testified to
25 all of these outreach issues in his statement and

1 questions from both myself, Mr. Kline, and the
2 Board.

3 MR. KLINE: WE did not have Ms.
4 Joseph's testimony at that point.

5 MR. THOMAS: He read a letter that was
6 co-authored by Ms. Joseph.

7 CHAIRPERSON ANDERSON: I guess what
8 I'm curious, Mr. -- I'm not quite sure what is it
9 that he's -- I'm not quite sure what is it that
10 he's going to rebut. At least from my -- from
11 what I've heard, there were conversations. So I
12 mean, I've heard from what was presented at least
13 Mr. -- the licensee had four meetings with the
14 ANC -- two with the ANC, two with, I guess, the
15 license committee.

16 So that proves to -- at least proves
17 to me that there was conversation. If the folks
18 are saying that there were no individual
19 conversations with members, okay, that's a
20 different story. But if -- at least from what
21 was presented to me, it's clear that there's
22 conversation with the -- between the licensee and
23 the ANC.

24 At least as I've stated before,
25 there's an agreement that there was at least four

1 meetings. At least -- so that's clear to me. So
2 I don't necessarily think that this witness is
3 necessary to rebut because at least it's clear
4 from what I've heard over the two days of
5 testimony that there were at least four meetings
6 between the licensee and the community.

7 MR. KLINE: We'll forego it then.

8 CHAIRPERSON ANDERSON: All right.

9 Thanks.

10 MR. KLINE: And lastly, we have Lamont
11 Mahone who is ABRA records.

12 CHAIRPERSON ANDERSON: And what is it
13 that -- is he presenting?

14 MR. KLINE: He would present a record
15 search which reflects that there are 57 CT
16 licenses that have been approved that have
17 entertainment endorsement, dancing endorsement,
18 cover charge endorsement, and an outside seating
19 endorsement via the sidewalk caf,, a summer
20 garden, or both.

21 CHAIRPERSON ANDERSON: So he's just
22 verifying the ABRA's records?

23 MR. KLINE: That's all he's doing.
24 There was a suggesting by a Board member that
25 what was being requested here is very unusual,

1 that this isn't done. And this would demonstrate
2 that there are indeed 57 licensees that have been
3 approved in exactly this fashion.

4 CHAIRPERSON ANDERSON: Mr. Thomas?

5 MR. THOMAS: In the interest of time,
6 I'm willing to stipulate that ABRA's record are
7 well kept and accurate. I'm not sure why it's
8 necessary for ABRA's own recordkeeper to appear
9 before here and testify to that fact. And I'm
10 not aware of the testimony that Mr. Kline is
11 referring to and to the issue that Mr. Kline is
12 referring to.

13 MR. KLINE: If the Board can just take
14 administrative notice that there are 57 licenses
15 -- CT licenses that have been approved for
16 entertainment endorsement, cover charge, dancing
17 endorsement, and outside seating, then we can --

18 (Simultaneous speaking.)

19 MR. THOMAS: In the District of
20 Columbia, correct?

21 MR. KLINE: In the District of
22 Columbia, yes. The Board can't approve licenses
23 outside of the District of Columbia.

24 MR. THOMAS: No, no, no. But I meant
25 we're talking about in the District -- the 57

1 licenses are not in Blagden Alley. They're in
2 the District of Columbia.

3 MR. KLINE: Correct, yes.

4 MR. THOMAS: Okay. I just wanted to
5 understand what that was.

6 CHAIRPERSON ANDERSON: You're talking
7 about in the District of Columbia or within the
8 1,200 -- I mean, I'm confused.

9 MR. KLINE: No, we're talking about
10 there were questions by a Board member, and there
11 was a suggestion that having a tavern license and
12 having these other endorsements was very, very
13 unusual. There were questions from a Board
14 member last time we were here suggesting that's
15 just not done and this is unusual. And the only
16 purpose of administrative notice of this fact was
17 to show that there are 57 licenses that have the
18 same endorsements that are being asked for by
19 this Applicant.

20 CHAIRPERSON ANDERSON: Mr. Thomas, if
21 you agree to a stipulation, then we don't need to
22 --

23 MR. THOMAS: Yeah, I agree to
24 stipulate that ABRA's records are accurate and
25 that to the extent the representation made by

1 counsel is consistent with it. I don't have any
2 issue with that as long as the clarification it's
3 the entire District of Columbia and not Blagden
4 Alley.

5 MR. KLINE: Correct, yes, absolutely.

6 CHAIRPERSON ANDERSON: All right. Mr.
7 Mahone, thank you very much. I know you're
8 prepared to testify. Sorry that I'm not going to
9 give you that pleasure today, sir. But thank
10 you, Mr. Mahone, for your willingness to serve
11 today. All right. Thank you. Your testimony is
12 not necessary from you today. Thank you, sir.
13 All right. Thank you. All right. Do the
14 parties rest?

15 MR. KLINE: Yes, the Applicant rests.

16 MR. THOMAS: Yes, Protestant, BANCA
17 rests.

18 CHAIRPERSON ANDERSON: All right. Do
19 you need to break before you do the closing
20 statement? The Applicant is first, the
21 Protestant is first, or do you want to go
22 straight into your closing arguments?

23 MR. KLINE: I'm ready to go.

24 MR. THOMAS: I'm ready to go as well.

25 CHAIRPERSON ANDERSON: All right.

1 Okay. So what I would like both sides to tell
2 me, we're starting out with the Applicant, what
3 is it that the Applicant is seeking specifically
4 and what is it that the Protestant is seeking
5 specifically. So let's start with the Applicant.

6 MR. KLINE: Yes, thank you, Mr.
7 Chairman, thank you, members of the Board for not
8 only your time today but also your time two weeks
9 ago in giving this matter careful consideration.
10 The Applicant is requesting that the application
11 be approved as submitted with a couple of -- with
12 one modification and one condition. The
13 modification is that service would cease at 2:30
14 in the summer garden.

15 The condition is that the Applicant
16 will only use 9th Street as an exit and entrance
17 to the establishment. Mr. Nouri has been clear
18 that's his intention. There's been lots of
19 testimony about it.

20 There's been some fear it seems on the
21 part of the Protestants that that's not going to
22 happen. And we're perfectly agreeable to having
23 that be a condition of approval of the license if
24 the Board deems it appropriate. So that's what
25 we're asking for.

1 CHAIRPERSON ANDERSON: Hold on. I'M
2 sorry. Hold on, Mr. Kline. I just want to get
3 some clarification. I know what you're asking
4 for. But -- and I want to make sure that when I
5 review my notes, I'm clear because I need you to
6 -- what was on the application? And the reason
7 I'm saying because I could've sworn when your
8 witness testified -- when the licensee testified,
9 he stated that he was not seeking entertainment
10 endorsement for the rooftop.

11 MR. KLINE: Thank you, Mr. Chair. You
12 are correct on that point. Yes, thank you.

13 CHAIRPERSON ANDERSON: I just want to
14 make sure that when I'm reviewing my notes as to
15 make a determination, we're all on the same page.
16 That's why I'm stating -- I want to make sure
17 that I know exactly -- if that's not the position
18 -- if that's not your position in closing, I'm
19 fine. But I don't want to review my notes and
20 then I see something that's inconsistent.

21 MR. KLINE: I apologize, and I thank
22 you for that clarification. That was my
23 oversight. Yes, we agreed early on that the
24 Applicant is not seeking entertainment
25 endorsement for the summer garden outside area.

1 CHAIRPERSON ANDERSON: Okay. Go
2 ahead, sir.

3 MR. KLINE: All right. So that's what
4 we're seeking. In terms of this case, what we
5 believe we've demonstrated through the testimony
6 is what we have here is a reliably proven
7 operator who has shown a history of being
8 responsive to community concerns over a period of
9 25 years and has a good plan for this
10 establishment at this location. And then we'll
11 talk about the concerns that the neighbors have
12 raised and why they do not undercut the cases
13 made concerning this reliable, responsive
14 operator with a viable plan to operate this
15 business.

16 In terms of him being a reliable
17 operator, we had, in my experience and
18 observation, something that I have never seen
19 before which was we had testimony from an ANC
20 single member district Commissioner in the person
21 of Mike Silverstein who was a single member
22 district Commissioner for the area in which Mr.
23 Nouri previously operated Eighteenth Street
24 Lounge for 25 years. And Mr. Silverstein's
25 testimony was very clear as to Mr. Nouri's

1 cooperation, responsiveness, willingness to deal
2 with issues that arose on a regular basis. And
3 they deemed him reliable.

4 You also heard from Patrick Powell who
5 was the director of operations at the Golden
6 Triangle BID who has a lot of responsibility for
7 dealing with other there what is called Club
8 Central. And he testified that they lost one of
9 the good ones when Mr. Nouri closed Eighteenth
10 Street Lounge on 18th Street and was very clear
11 that Mr. Nouri was a responsible operator, was
12 always a leader in terms of issues that arose.
13 There was talk about his organizing -- attempting
14 to organize a trash compactor and talking
15 leadership on trash issues and also taking
16 leadership on a rideshare program that was
17 successfully instituted over in the Golden
18 Triangle BID.

19 So we also looked at his investigative
20 history. And although Mr. Thomas may think, oh,
21 my God, there's a lot on this page, we know, the
22 Board knows a 25-year history, there was one
23 violation that is shown there. Now we heard
24 testimony about residents being concerned about
25 underage drinking.

1 Mr. Nouri has never had even a sell to
2 a minor violation at his other location in 25
3 years. So we think it's very clear. Usually in
4 these cases, the Board is asked to give the
5 benefit of the doubt to a new operator because
6 who can say that what the neighbors are concerned
7 about, what the residents are concerned about is
8 going to come to pass. Is this fear or do we
9 have an operator who's going to be responsible?

10 And the Board has a demonstrated
11 history of giving new operators the benefit of
12 the doubt. In this case, I'm not asking you to
13 give the new operator the benefit of the doubt.
14 We have an established operator, one who's been
15 doing it for 25 years and has proven himself not
16 only responsible in terms of the operation of his
17 business but also a leader on issues that might
18 arise. And we think that's very, very important.

19 And it's puzzling -- and I'll get to
20 it in a little bit -- in terms of the community's
21 sense, at least some of the witnesses, that Mr.
22 Nouri is not one to engage, is not one to be
23 responsive because that is contrary to his 25-
24 year history. In terms of responsiveness, we
25 heard testimony concerning the fact that there

1 was at one point a noise problem, noise issue.
2 And you heard testimony that there are actually
3 residents in the way of Jefferson Row
4 Condominiums who were closer, much closer to the
5 back patio of Eighteenth Street Lounge on 18th
6 Street.

7 And I think what I heard from one
8 witness when I asked whether they believed Mr.
9 Silverstein or Mr. Powell, they said no because
10 no residents testified. Well, I don't know what
11 Mr. Silverstein is if not a resident. It seems
12 to me that he's a longtime respected resident of
13 that community, former ANC Chair and ANC
14 Commissioner. He is a resident.

15 But there was also testimony
16 concerning Abigail Nichols who I think is well
17 known to the Board. She was head of something
18 called the DC Nightlife Noise Coalition and had
19 issues with a number of establishments there.
20 But the testimony was when Ms. Nichols raised
21 issues with Mr. Nouri, he went and figured it
22 out. No protest was filed. You never heard
23 about this.

24 Mr. Nouri went in. He got his sound
25 people. And he said, how do we fix this? And

1 they went in and they adjusted the frequencies,
2 and that was the end of it. And that was 11 or
3 12 years ago.

4 And even then, there may have been
5 issues with other establishments in that
6 neighborhood. The DC Nightlife Noise Coalition,
7 they never had any issues with Mr. Nouri except
8 that one time. Now in terms of a good plan,
9 mentioned a good plan, Mr. Nouri has heard the
10 community. He's voluntarily taken several steps.

11 And indeed once he gets open or if he
12 gets open, I'm sure he will take more. And those
13 included his agreement which we've now stipulated
14 to be a condition of the license only to use the
15 front door for an entrance to and exit from the
16 establishment, his agreement to putting cameras -
17 - put in a security camera system, his agreement
18 to have trained security staff and do a security
19 plan even though as a CT license, he's not
20 required to, and also to take the lead on trash
21 compactor and trash issues. Now this was
22 affirmed not just by our witnesses but also by
23 Sherene Joseph who was called by the Protestants.

24 And she confirmed that, yes, Mr. Nouri
25 agreed to do all of these things. Now she said

1 they didn't solve all the problems.
2 Understandable. But he did agree to do them.
3 And I think that that shows -- and he didn't get
4 anything in return because we're here.

5 There's no settlement agreement. But
6 he said, yeah, I'll do this. These are concerns.
7 I take this seriously. And this is consistent
8 with the approach that he took when he ran
9 Eighteenth Street Lounge on 18th Street.

10 We had Marty Beam as a witness. And
11 when you talk about a plan, I know in these cases
12 concern is frequently with outside space. It is
13 always a difficult issue for the Board.
14 Communities are concerned about it.

15 Mr. Beam was hired and came up with a
16 plan as to how to mitigate the noise. And he was
17 asked, well, how often are you right? When are
18 you wrong? And Mr. Beam testified very clearly.
19 If the client, in this case, Mr. Nouri, follows
20 my recommendations, it always works.

21 And do you know why? Because it's
22 science. Mr. Beam is a licensed acoustical
23 engineer. So he knows what he's talking about.
24 And the steps that he's recommended, he has told
25 you as he's told you in other cases because he's

1 testified before you in the past, that if his
2 plan is implemented, that the noise issues will
3 not be a problem for the residents of the alley.

4 Now we've had several witnesses, lay
5 people who tried to dispute that and how does
6 that work. And I'm going to give you what I
7 think -- and maybe only the older of us will
8 remember, I'm going to give it a shot anyway -- a
9 very perfect example of how this works. Have any
10 of you been to a diner that has the jukebox --
11 the remote jukebox thing in the booth?

12 If you put in your quarter sitting at
13 your table, you only hear it at your table. And
14 that's the beauty of many small speakers is that
15 you can disperse the sound and make it so that
16 it's only heard at one table of the diner. It's
17 not heard at every table.

18 And the same thing could be done in a
19 space such as this one. Use a lot of small
20 speakers, and that is a way to effectively
21 control the noise. But I'll say this to you.
22 Even if it doesn't work and Mr. Beam has
23 indicated that his success rate is 100 percent as
24 long as the client follows his recommendations,
25 you shouldn't have any doubt that Mr. Nouri will

1 then take the next steps which might be required
2 if this is a problem.

3 And I don't ask you to take our word
4 for it. I ask you to look at the two witnesses
5 who testified about his operations in his
6 previous neighborhood who said, yeah, that's what
7 he did. That's who he is.

8 Now I've talked a lot about Mr. Nouri,
9 the Applicant. I want to turn to the concerns of
10 the neighborhood which I don't understand. It's
11 kind of a disconnect.

12 Mr. Shaikh said he wants people he can
13 work with. And I don't know what happened here.
14 But I don't know that I could put on any better
15 evidence of someone that you could work with than
16 the witnesses that we had who testified as to Mr.
17 Nouri's previous experience with the community.

18 Again, the also expressed -- he may
19 have been the one -- I think there were a couple
20 witnesses actually that expressed concern about
21 underage drinking. That's never been an issue in
22 this establishment, not one time. And the Board
23 knows how difficult that can be to police and how
24 prevalent it is in many establishments.

25 And there were several as I said

1 previously who just simply doubted the veracity
2 of Mr. Silverstein and Mr. Powell. For what
3 reason, I can't fathom. I guess because they
4 didn't present their position.

5 But Mr. Silverstein I know is well
6 known to this Board. And I don't think there's
7 any reason to doubt his veracity. Mr. Powell has
8 been before you a few times in his role as
9 Director of the Golden Triangle BID specifically
10 on bar crawls and some other issues.

11 I don't know of any reason to doubt
12 his veracity either, nor was any credible case
13 made that somehow there would be noise from the
14 summer garden area despite Mr. Beam's testimony.
15 It was just, like, yeah, I don't believe that. I
16 don't. I asked almost every witness, do you have
17 any basis to refute Mr. Beam's conclusions? And
18 not one of them could credibly say that they
19 could do so.

20 So our position is the overwhelming
21 weight of the evidence is that Mr. Nouri has
22 shown that he is a capable, responsible,
23 responsive operator and that this license should
24 be approved with a couple of changes that we've
25 talked about and acknowledged at the commencement

1 of closing and that there be no additional
2 conditions imposed. Thank you, Mr. Chairman.

3 CHAIRPERSON ANDERSON: All right.
4 Thank you, Mr. Kline. Before I go to you, Mr.
5 Thomas, does the ANC wish to make a closing,
6 because when we started the hearing, I had stated
7 that they could make an opening and closing. So
8 does the ANC wish to make a closing statement?

9 MR. GUGGENMOS: If you -- at the
10 moment, no. But if you would allow us to --
11 we'll just pass.

12 CHAIRPERSON ANDERSON: All right. Ms.
13 -- I'm sorry. Ms. Joseph, I know that you both -
14 - well, is there a consensus on the ANC that
15 there's no statement that's necessary?

16 MS. JOSEPH: Yes, there is consensus.

17 CHAIRPERSON ANDERSON: All right.
18 What about -- I'm sorry. Mr. Thomas, you work
19 for the Blagden Alley Naylor Court Association.
20 Is that correct?

21 MR. THOMAS: That's correct.

22 CHAIRPERSON ANDERSON: All right. Now
23 do we have anyone here from the -- and I know
24 that you represent everyone. But I just want to
25 for closing, what about the Picnic Benchers? Is

1 there anyone from the Picnic Benchers who wants
2 to make a closing?

3 (No response.)

4 CHAIRPERSON ANDERSON: All right. And
5 I know that Ms. Budjevac had testified. But she
6 was representing for the Group of 6. I'll still
7 give you an opportunity, Ms. Budjevac, if you
8 want to make a closing. Or you can defer to Mr.
9 Thomas.

10 MS. BUDJEVAC: I'm happy to defer to
11 Mr. Thomas.

12 CHAIRPERSON ANDERSON: All right,
13 fine. Thank you very much. I just want to make
14 sure that I address all the parties. I know that
15 at the beginning of the hearing they were all
16 there -- they were all here. I know that we
17 simplified by saying that they had do use one
18 representative.

19 But I did state that they could make
20 an opening and closing if they so desire. So
21 that's why I was just trying to make sure that I
22 did that at closing. All right. So Mr. Thomas,
23 what is it that you want the agency to do,
24 please?

25 MR. THOMAS: We are requesting that

1 the Board deny the application in its entirety.
2 It's not appropriate for the location.
3 Alternatively, we would ask that conditions on
4 licensure be imposed, including not only the
5 condition that Mr. Kline represented before but
6 also the fact that --

7 CHAIRPERSON ANDERSON: What are the --
8 I know that you're arguing in the alternative.
9 So what are the conditions that Mr. Kline had
10 stated if the Board was to be inclined to grant
11 the license?

12 MR. THOMAS: Mr. Kline had mentioned
13 the condition on only the use of 9th Street for
14 ingress and egress. We would also request that
15 as a condition of licensure that any sound
16 mitigation plan that they have put forth before
17 the Board be implemented as a condition of any
18 sort of licensure, both on the interior and
19 exterior of the property. We would further ask
20 for the endorsements -- the entertainment
21 endorsement to be limited in not allowing for
22 cover charge, valet, or dancing.

23 We would ask that the summer garden --
24 the summer garden I understand now doesn't
25 contain an entertainment endorsement. We would

1 ask that the hours of the summer garden be
2 tailored to -- bear with me one second -- 8:00
3 a.m. to 12:30 a.m. And that -- oh, excuse me.
4 And on the entertainment endorsement that noise
5 from the establishment should not be audible from
6 the sidewalk -- or on the sidewalk on 9th Street
7 or in the alley. Excuse me. I apologize. The
8 summer garden, we would want 12:00 p.m. to 10:00
9 p.m., not 12:00 a.m., 12:00 p.m. to 10:00 p.m.

10 CHAIRPERSON ANDERSON: Okay. That's
11 it?

12 MR. THOMAS: Subject to -- yes, yes,
13 that's it. I apologize. One more thing. The
14 actual hours should end at 1:00 a.m. on Sunday
15 and Thursday. Or excuse me, should end at 1:00
16 a.m. Friday and Saturday as well.

17 CHAIRPERSON ANDERSON: All right. So
18 you're saying seven days a week that they should
19 stop operating at 1:00 a.m.

20 MR. THOMAS: Correct.

21 CHAIRPERSON ANDERSON: Is that what
22 you're saying?

23 MR. THOMAS: Correct.

24 CHAIRPERSON ANDERSON: Okay. All
25 right. Do the parties wish to file proposed

1 findings of fact and conclusions of law or waive
2 that?

3 MR. THOMAS: We wish to file findings
4 of fact and conclusions of law.

5 MR. KLINE: Well, then we will.

6 CHAIRPERSON ANDERSON: I'm sorry.
7 What did you say, Mr. Kline?

8 MR. KLINE: I mean, if he's going to
9 file, then we will also reserve our right to
10 file.

11 CHAIRPERSON ANDERSON: All right. If
12 the parties choose to file proposed findings of
13 fact and conclusion of law, then 90 days from the
14 Board receiving proposed findings of fact and
15 conclusions of law. The transcripts will be
16 emailed to the parties in approximately three
17 weeks.

18 MR. THOMAS: Do I get to make a
19 closing statement?

20 CHAIRPERSON ANDERSON: Oh, I thought
21 that was your closing statement.

22 MR. THOMAS: No, no, no, no, no. I
23 was --

24 CHAIRPERSON ANDERSON: That's why I
25 said, is that it? And you said yes. So --

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MR. THOMAS: I thought you meant that was it on the alternative relief. I apologize.

CHAIRPERSON ANDERSON: No, no, no. I thought that was your closing statement.

MR. THOMAS: No, no, no, no.

CHAIRPERSON ANDERSON: That's fine. I'm sorry. Go ahead, sir. I apologize.

MR. THOMAS: No. Well, first of all, I'd like to thank the Board for taking the time and personally thank the Board for indulging me and my own issues the last go around and continuing this case to a second day. It's very much appreciated. And I appreciate you guys taking the time to consider the evidence and consider the issues that my clients are facing.

At the beginning of this case, I told the Board that this case was about a nightclub that by its very own terms was moving to a neighborhood to make a lot of noise. And the evidence, I believe, has demonstrated that that is true. But this case as you've heard today is also about a neighborhood and about a community, a community that is a residential community and one that also has many small businesses.

1 And that these two sides of the same
2 coin have struck an arrangement over the shared
3 use this historic District of Columbia alley.
4 The agreement involves businesses that cater to
5 tamer, less raucous crowds. And you heard
6 testimony about how the -- from both the
7 Protestant's and the Applicant's witnesses about
8 how the alley starts to wind down earlier, how
9 people come to the alley to start their night,
10 not to end their night.

11 This agreement between the local
12 businesses and the residents is also an
13 acknowledgment of quality of life issues that can
14 exist in the alley, particularly that of noise.
15 You heard that these types of arrangements have
16 created the ability for the residents to dialogue
17 with the members of the community -- excuse me,
18 with the members of the business community and
19 has allowed them to address quality of life
20 issues that affect these residents in their homes
21 and have maintained good working -- and allowed
22 for the maintenance of good working relationships
23 with the local businesses. This compromise as I
24 believe one of the Commissioners has noted is not
25 perfect.

1 It hasn't resolved every single issue.
2 But the parties have made it work thus far. The
3 Applicant, however, represents a threat to this
4 equilibrium that's been struck between the
5 residents and the local businesses

6 As the evidence has shown, ESL's
7 planned business is a nightclub with live music
8 and dancing into the early hours of the morning,
9 something that does not exist currently in the
10 alley and is, in fact, far different from the
11 establishments that exist there. The Applicant's
12 requested hours are later than those of every
13 other establishment in its direct vicinity. Its
14 requested entertainment endorsement is far more
15 expansive than the licensed establishments in its
16 direct vicinity.

17 Its summer garden hours are far more
18 expansive than any other establishment in its
19 direct vicinity. And unlike many of those other
20 establishments, the Applicant has not entered
21 settlement agreements with the ANC. This
22 distinction is perhaps the most pronounced when
23 you consider the precise location that the
24 Applicant is looking to open up in which is a
25 building with another ABC licensed establishment

1 directly below it that has caused problems to the
2 community already.

3 Nothing that the Applicant has
4 presented contradicts any of this at all. In
5 fact, it confirms it. The Applicant's own owner
6 represented looking to go back to its traditional
7 roots as a nightclub when it was located in what
8 Mr. Kline has himself termed Nightclub Central.

9 And it's for this reason that the
10 Applicant cannot establish its appropriateness
11 for this particular area. The Applicant through
12 Mr. Nouri offered testimony that it was a
13 nightclub, that they were focused on music and
14 dancing and worldwide acts that toured the world.
15 It offered testimony from an ANC member, Mr.
16 Silverstein, and who Mr. Kline made much of and
17 which he admitted that his former location was
18 Nightclub Central, not a residential alley such
19 as Blagden Alley.

20 And in fact, Mr. Silverstein directly
21 stated that he would not opine on the
22 appropriateness of the Applicant for this
23 particular area. He actually declined on
24 multiple occasions to do so. The Applicant also
25 offered a witness from the Golden Triangle BID to

1 speak about its business practices.

2 But what was absent was while it
3 provided a business leader, it didn't provide any
4 residents from the Jefferson Row Condominiums
5 that were behind it who could speak directly
6 about these particular noise issues that existed
7 and how they were appropriately addressed. This
8 is important frankly because you also heard from
9 my clients and the residents of Blagden Alley
10 that have directly testified about the lack of
11 outreach by ESL in this entire process, about
12 their requests over and over and over again to
13 sit down and discuss the issues, about how the
14 patronize the local businesses, and how they are
15 not opposed to ABC licensed establishments, but
16 that the Applicant wouldn't reach out and
17 wouldn't respond.

18 The lack of outreach can only lead to
19 one sort of conclusion, that going forward, the
20 Applicant has no intent to reach out to the
21 community in the future, no intent to deal with
22 the community on fair terms and to cooperate with
23 the community. So unlike a lot of the testimony
24 that was offered by Mr. Silverstein and the
25 gentleman from the Golden Triangle BID, the

1 Applicant's conduct thus far is directly
2 contradictory to it being a good actor and
3 someone who works within the community. The
4 inappropriateness of the Applicant is also
5 confirmed by this uncertainty and inconsistency
6 of its plans.

7 It's for this exact reason that
8 Chairman Anderson asks point blank, what exactly
9 is the type of license that the Applicant is
10 looking for, because it's changed from the start
11 of this hearing towards the end of it. The
12 Applicant hasn't presented fully permitted plans.
13 The Applicant did not present a sound study to
14 the ANC or to the residents until after the ANC
15 twice voted to protest.

16 It's a moving target. It always has
17 been. It always will be. And there's been no
18 showing by the Applicant that it will engage on
19 terms that are fair to the residents of Blagden
20 Alley.

21 In fact, as noted during our prior
22 dialogue, the Applicant hasn't even offered to
23 make its noise mitigation plans a condition of
24 its licensure which should show and be direct
25 evidence of how seriously it's taking its noise

1 obligations. If it really was concerned about
2 noise and really was working to mitigate those
3 issues, I would think that that would've been
4 point blank something that would've been offered
5 up as a condition of licensure. But it was
6 noticeably absent.

7 I also think that there are serious
8 credibility issues that the Applicant has
9 demonstrated throughout this entire process. At
10 first, the owner himself testified in front of
11 this Board that it had -- after hearing about the
12 line issues that I had an agreement with its next
13 door neighbor concerning line management that it
14 could implement. And it wasn't until his own
15 general manager stepped in to contradict him that
16 no such agreement actually existed. And you
17 heard testimony from the residents describing
18 something that is far shakier than any sort of
19 firm agreement for line management.

20 Likewise, the Applicant's past is not
21 so clean as Mr. Kline would suggest. Over 25 --
22 the Applicant has been operating for 25 years.
23 But within the past two, the Applicant has been
24 fined and by ABRA for misleading ABRA
25 investigators and hindering an investigation.

1 So I think it's far more relevant and
2 far more telling how the Applicant operates
3 conduct within the past couple of years rather
4 than conduct 10, 15 years ago. All of these
5 inconsistencies in Mr. Nouri's testimony and the
6 checkered past of the Applicant should give the
7 ABRA Board great pause. But I also think what
8 should give the Board pause is the ANC's position
9 as well which is supposed to be given a
10 substantial amount of weight in these
11 proceedings.

12 The ANC has discussed that it is
13 protesting. It has discussed that it has issues
14 with trash, with noise, with traffic, and that
15 none of these issues have been fully alleviated
16 at all. And while certain ANC Commissioners who
17 represent nightlife establishments may have
18 different opinions about what is appropriate and
19 what is not, the official position of the ANC and
20 not Mr. Guggenmos is that these issues have not
21 been alleviated and have resulted in the ANC
22 itself protesting this and requesting severe
23 limitations on any sort of licensure.

24 So in sort, it's not just BANCA. It's
25 not just the Group of 6 that are protesting this

1 license. But it's also their duly elected
2 representatives. It is for these reasons that
3 the Applicant has not met its appropriateness
4 standard for this region -- or for this
5 particular area.

6 And it is for this reason that the
7 Protestant, Blagden Alley Naylor Court
8 Association, would request that the license be
9 denied in its entirety or in the alternative,
10 subject to the limitations that we just
11 previously discussed. And thank you very much
12 for your time. And I hope you all have a
13 pleasant evening.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you, Mr. Thomas. And as -- all right. I
16 asked were the parties going to do a proposed
17 finding of conclusion of law, and you said yes.
18 So the transcript will be emailed to the parties
19 in approximately three weeks. And 30 days upon
20 receipt of the transcript, the proposed finding
21 of fact and conclusion of law that's due. All
22 right? All right.

23 I want to thank everyone for their
24 participation over the last two days, and --
25 yeah, for the last -- I'm sorry, for the last --

1 this two-day hearing in a sense. Who's --

2 MR. SHAIKH: Mr. Anderson, sorry.
3 This is Amir Shaikh on behalf of the Group of 6.
4 I want to just -- can I quickly give some
5 specific community concerns?

6 CHAIRPERSON ANDERSON: Hold on. Hold
7 on. Hold on. Hold on. Hold on. I'm sorry.
8 Hold on, sir. Hold on. Hold on one minute. I
9 did call -- I'm sorry. Hold on. Mr. -- I'm
10 sorry.

11 Mr. Shaikh, you were not designated as
12 a representative for the Group of 6. For the
13 Group of 6, it's Ms. Budjevac. She's the person
14 who was designated as the designated
15 representative of the Group 6.

16 So unfortunately, she determined that
17 she did not want to give a closing. So sir, you
18 guys have lost that opportunity. And so I cannot
19 allow that to occur, sir. Okay?

20 But that's one reason I'm going from
21 my notes, the notes where we started the hearing.
22 We have ANC 2C which is Mr. Guggenmos, the
23 Blagden Alley Naylor Court Association. It was
24 initially Robert Goldberg, but then Mr. Thomas
25 was representing as the designated

1 representative.

2 Then we had the Picnic Benchers and
3 that was Hector Pinto and Vincent Easley were the
4 designated representative. And for the Group of
5 6, it was Ms. Jelena Budjevac. And she deferred
6 to Mr. Thomas. So I'm sorry, sir. All right.
7 Okay. All right. So hold on one minute. All
8 right. All right.

9 So I'm going to close the record on
10 this case. As Chairperson of the Alcoholic
11 Beverage Control Board for the District of
12 Columbia and in accordance with D.C. Official
13 Code Section 2-574(b) of the Open Meetings Act, I
14 move that ABC Board wholly close the meeting for
15 the purpose of seeking legal advice from our
16 counsel on Case No. 21-PRO-00079, Eighteenth
17 Street Lounge pursuant to D.C. Office Code 2-
18 574(b)(4) of the Open Meetings Act and
19 deliberating upon Case No. 21-PRO-00079,
20 Eighteenth Street Lounge for the reasons cited in
21 D.C. Official Code Section 2-574(b)(13) of the
22 Open Meetings Act. Is there a second?

23 MEMBER HANSEN: I second. Jeni
24 Hansen.

25 CHAIRPERSON ANDERSON: Ms. Hansen has

1 second the motion. I will now take a roll call
2 vote on the motion before us. Mr. Cato?

3 MEMBER CATO: Bobby Cato, I agree.

4 CHAIRPERSON ANDERSON: Ms. Crockett?

5 MEMBER CROCKETT: Rafi Crockett, I
6 agree.

7 CHAIRPERSON ANDERSON: Ms. Hansen?

8 MEMBER HANSEN: Jeni Hansen, I agree.

9 CHAIRPERSON ANDERSON: Mr. Grandis?

10 MEMBER GRANDIS: Edward Grandis, I
11 agree.

12 CHAIRPERSON ANDERSON: And Mr.
13 Anderson, I agree. As it appears that the motion
14 has passed, I hereby give notice that the ABC
15 Board will recess these proceedings to hold a
16 closed meeting in ABC Board conference room
17 pursuant to Section 2-574(b) of the Open Meetings
18 Act. Again, I want to thank the parties for
19 their participation today, and we will take this
20 matter under advisement.

21 The Board will wait to receive the
22 proposed findings of fact and conclusion of law
23 before we make a final decision and issue a
24 written determination in this case. All right?
25 Thank you. Have a great day. I don't need my --

1 I need my Board members to remain. I don't need
2 you guys to leave until I tell you it's time to
3 leave.

4 (Whereupon, the above-entitled matter
5 went off the record at 6:43 p.m.)

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In the matter of: Eighteenth Street Lounge

Before: DC ABRA

Date: 02-02-22

Place: teleconference

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Court Reporter

NEAL R. GROSS

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