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

2 1:39 p.m.

3 CHAIRPERSON ANDERSON: All right. The
4 next case in our calendar is Case No. 20-PRO-
5 00059, Safeway, License No. 097704.

6 Ms. Andrews, can you please elevate
7 the rights of Mr. Moore, Ms. Brown --
8 Commissioner Tiffany Brown and the other parties
9 who are here for this protest hearing?

10 MS. ANDREWS: Sure. Stand by.

11 Ms. Brown, your rights have been
12 elevated.

13 Mr. Ley, your rights have been
14 elevated.

15 Mr. Rosato, your rights have been
16 elevated.

17 Ms. Burke, your rights have been
18 elevated.

19 Mr. Moore, your rights have been
20 elevated. I do see Mr. Moore online, but I am
21 unable to make him a panelist.

22 CHAIRPERSON ANDERSON: Why is that so;
23 do you know?

24 MS. ANDREWS: It may be the device that
25 he's using. Stand by. I'm going to get a phone

1 number for him.

2 CHAIRPERSON ANDERSON: Okay. Thank
3 you.

4 MS. ANDREWS: Mr. Moore, do you mind
5 putting your phone number in the chat so that we
6 can call you?

7 (Pause.)

8 CHAIRPERSON ANDERSON: Ms. Andrews, I
9 don't see Christopher Condon, the ABRA
10 investigator. I don't see that person online.

11 MS. ANDREWS: He's here. Stand by.

12 CHAIRPERSON ANDERSON: Okay.

13 MS. ANDREWS: Okay. Mr. Moore, I am
14 going to unmute your line. Could you please
15 announce yourself?

16 MR. MOORE: Jerry Moore on behalf of
17 Safeway.

18 CHAIRPERSON ANDERSON: Hold on. Mr.
19 Moore, are you --

20 MR. MOORE: I'm here.

21 CHAIRPERSON ANDERSON: Okay. I guess
22 I was trying to find out if you are -- I don't
23 see you in -- I don't see you in my screen.

24 So, are you participating through
25 video or are you on the telephone?

1 MR. MOORE: I am participating in the
2 video. I see you.

3 (Laughter.)

4 (Whereupon, the above-entitled matter
5 went off the record at 1:43 p.m. and resumed at
6 2:09 p.m.)

7 CHAIRPERSON ANDERSON: All right.
8 Okay. We're back on the record. We're
9 officially on the record.

10 I would like each party to identify
11 them for the record. I'll start with --

12 MR. MOORE: Can you see me now, sir?

13 CHAIRPERSON ANDERSON: I'm sorry?

14 MR. MOORE: Can you see me now? You
15 just came up on my screen.

16 CHAIRPERSON ANDERSON: I can't see you,
17 sir. Maybe if you -- maybe you can see us.
18 Maybe as this goes by, I -- your name is nowhere
19 in the screen. So, I can't see you.

20 I don't even see your name on the
21 screen to say, in fact, you are participating.
22 So, that's part of the problem.

23 Normally I can -- normally I can see
24 a person's name and I recognize the fact that
25 they don't have -- they might not have a

1 computer, but I don't even see your name.

2 So, part of the problem is that I
3 don't -- I can't tell if you are really here.
4 So, if, for some reason, you lose connection, I
5 can't tell because I don't see your name and
6 that's the problem that I'm afraid of.

7 I'm afraid of if you have some type of
8 technological issue as this hearing goes by, I
9 can't even -- I won't know.

10 I would be assuming that you're here
11 always participating; but because I don't see
12 your name, I can't tell that you're here and
13 that's one of the problems I'm having.

14 So, it's not just that I can't see
15 your picture; your name does not show up on my
16 screen.

17 So, I can do this hearing, but if,
18 say, for example, you -- if, say, for example, if
19 you lose connection, I won't know and I'd go -- I
20 just want to make sure to protect the Agency
21 because I don't want to start the hearing and
22 then later on there is some issue because the
23 Safeway -- I'm sorry, the licensee's attorney was
24 unable to effectively represent them because he
25 was not online when I'm making all these

1 decisions.

2 And that's the only thing that I'm
3 concerned about because I can't see that you are
4 participating.

5 So, maybe if you -- are you able to
6 call in? I mean, you can stay the same where you
7 are, but are you able to call in also and then
8 have that line on mute so at least I will know
9 that you're always connected? Because I can't
10 tell -- the problem I'm having, I cannot tell
11 that you are connected to us.

12 MR. MOORE: Okay. I'll do whatever you
13 reasonably ask, sir.

14 CHAIRPERSON ANDERSON: So, if you're
15 able to -- Ms. Andrews, is there a call-in
16 number?

17 Because if he calls in and puts that
18 line on mute, is that going to be an
19 interference? I just want to make sure that I
20 know that he's always there.

21 MS. ANDREWS: If he calls in in
22 addition to being signed on like he already is,
23 there will be a feedback.

24 CHAIRPERSON ANDERSON: All right.

25 MS. ANDREWS: I can tell if he has

1 technical issues because I can see who's online
2 and who's not.

3 CHAIRPERSON ANDERSON: All right. So,
4 if, for some reason, that he has some type of
5 technical issues, please let me know so I'll stop
6 the hearing. Okay?

7 I apologize that you have to now do
8 more work in the sense that you have to intensely
9 -- and I know that you do that, but I know this
10 is something extra.

11 So, if there is a technical issue on
12 behalf of Mr. Moore, our IT specialist will let
13 us know.

14 All right. So, we're back on the --
15 All right. Someone -- I need everyone to mute
16 their telephones because I'm hearing feedback.
17 So, someone's line is unmuted.

18 All right. So, what I'll ask each
19 person to do, please do not mute your -- please
20 keep your phone unmuted -- only unmute your phone
21 when you're speaking. If you're not speaking,
22 please do not open your line.

23 All right. Let's start officially.
24 So, we're on the record. So, I'll have the
25 parties introduce themselves for the record.

1 I'll start with the licensee's
2 attorney and what I would like to do, Mr. Moore,
3 can you tell us who the witnesses are?

4 And once you have identified the
5 witnesses, I would like to -- your witnesses to
6 state their name for the record and also spell
7 their name.

8 After the licensee has identified
9 himself for the record, then I will go to the
10 ANC, have the ANC identify themselves for the
11 record, and also have the ANC identify who the
12 witnesses are.

13 So, Mr. Moore, can you please spell
14 and state your name for the record, please.

15 MR. MOORE: I'm Jerry A. Moore, the
16 third. J-E-R-R-Y, middle initial A, M-O-O-R-E,
17 the third. I'm at venerable.com and I am the
18 attorney for Safeway.

19 I have three witnesses with me online.
20 One is Timothy Ley, L-E-Y, the other is Robert
21 Rosato and the third is LaShawna Burke.

22 CHAIRPERSON ANDERSON: All right. So,
23 can we have Mr. Ley -- and I don't see Mr. Ley.
24 So, can we have Mr. Ley identify himself on the
25 record and spell his name, please.

1 MR. LEY: Sure. First name is Tim,
2 last name is L-E-Y, liquor sales manager for the
3 Mid-Atlantic Division of
4 Safeway/Acme/Albertson's.

5 CHAIRPERSON ANDERSON: All right. Who
6 is the other -- I forget the names. I'm sorry.

7 MR. ROSATO: Yes, sir. Good afternoon.
8 I'm Robert Rosato, R-O-B-E-R-T, last name R-O-S-
9 A-T-O.

10 CHAIRPERSON ANDERSON: And what's your
11 role, sir, at Safeway?

12 MR. ROSATO: I work in the operations
13 department.

14 CHAIRPERSON ANDERSON: And who's the
15 third person?

16 MS. BURKE: Hi. I'm LaShawna Burke
17 spelled L-A, capital S-H-A-W-N-A, B-U-R-K-E, and
18 I am a first assistant store director for the
19 Safeway store in question, 1445.

20 CHAIRPERSON ANDERSON: Let's go with
21 the ANC, Ms. Brown.

22 MS. BROWN: Hello. Tiffany L. Brown,
23 ANC Commissioner for 7B02, chair of ANC 7B.
24 There are no witnesses. The other commissioner
25 was not able to make it.

1 My name is spelled T-I-F-F-A-N-Y,
2 middle initial L, Brown, B-R-O-W-N.

3 CHAIRPERSON ANDERSON: All right.
4 Thank you. All right. This is how we will
5 operate today.

6 I will make an opening statement.
7 I'll ask whether or not there are any preliminary
8 issues or motions.

9 Then the applicant will make an
10 opening statement. Then the protestant will make
11 an opening statement.

12 The Board will call its witness, which
13 is our investigator, and the investigator will go
14 through his report.

15 Once the investigator has gone through
16 his report, the Board will ask questions of the
17 investigator.

18 Once the Board is done asking
19 questions of the investigator, the applicant will
20 be able to question the investigator, and then
21 the protestant will be able to question the
22 investigator.

23 Once the Board has -- once the Board
24 has presented its case, then the applicant will
25 present its case in chief.

1 Once the applicant has presented its
2 case in chief, then the protestant will have an
3 opportunity to present its case in chief, will
4 have rebuttal witnesses, if there are any, then
5 we'll have closing. The applicant closes and the
6 protestant will have an opportunity to close.

7 So, basically what will happen -- what
8 we'll do now, I'll give each -- oh, by the way,
9 although in this particular case it doesn't
10 matter, you have one hour to present your case.

11 And so, each side will have one hour
12 to present its case and be mindful that cross
13 examination of the other side will also count
14 against your hour.

15 So, I will just remind each party that
16 you should be mindful asking a lot of questions.
17 Because if you ask a lot of questions during
18 cross examination, that's also taking away from
19 your case for your presentation.

20 So, what we'll do is that I'll give
21 each side -- so, are there any preliminary
22 motions that either side wants to bring to our
23 attention?

24 Mr. Moore?

25 MR. MOORE: No, sir.

1 CHAIRPERSON ANDERSON: Ms. Brown?

2 All right. So, I will give each side
3 a maximum of five minutes to present an opening
4 statement and we'll start with the licensee.

5 MR. MOORE: All right. Thank you.

6 Chair Donovan, members of the Board,
7 Safeway received notice from ABRA in early
8 December of last year where we were notified that
9 the -- there was a protest to the renewal of
10 Safeway's license based on Safeway's alleged
11 violation of an existing settlement agreement.

12 That settlement agreement --

13 CHAIRPERSON ANDERSON: Oh, I'm sorry.
14 Hold on. Hold on. Hold on a minute, Mr. Moore.
15 I'm sorry. I apologize. I apologize. I need to
16 make a statement.

17 I'm Donovan Anderson, chairman of the
18 Board -- of the ABC Board. This is a Safeway
19 that actually is in my neighborhood. I do live
20 in the neighborhood a couple of blocks from
21 Safeway.

22 I also am familiar with Commissioner
23 Tiffany Brown. I was an ANC member of ANC 7B06
24 between 2014 and 2018. So, I am familiar with
25 Ms. Brown and I am also familiar with the

1 Safeway.

2 However, I do not believe that my
3 familiarity with Commissioner Brown and either
4 with my familiarity with the store will impact
5 the decisions that I will make today regarding
6 the hearing.

7 So, I just wanted the record to
8 reflect that I am familiar with the Safeway
9 because it is a Safeway that's in my neighborhood
10 that's a couple blocks from my home, and I am
11 familiar with Ms. Brown as the ANC
12 representative.

13 And I've known her and shared and
14 served on the ANC with her, and I believe there
15 are some other board members who might have
16 something to say.

17 MEMBER SHORT: Yes, Mr. Chair. This is
18 Mr. James Short. I also live in the neighborhood
19 of the Safeway here today and I am familiar with
20 Ms. Tiffany Brown.

21 I do live in that ANC and that would
22 have no bearing upon any decisions I will make or
23 any biases that may come up because I live in the
24 neighborhood.

25 There will be no problem with me

1 giving a fair hearing today.

2 CHAIRPERSON ANDERSON: Go ahead. Thank
3 you, Mr. Short.

4 MEMBER GRANDIS: Mr. Chairman?

5 CHAIRPERSON ANDERSON: Yes, Mr.
6 Grandis?

7 MEMBER GRANDIS: May I also make a
8 statement for the record? I was on the Dupont
9 Circle ANC from 1986 to 1992 and during that
10 period the Safeway on 17th Street, N.W., renewal
11 applications or renewal licenses came before us.

12 And I was designated by the ANC to be
13 one of the people -- one of the ANC commissioners
14 to negotiate with Mr. Moore to work out a -- back
15 then it was called a "voluntary agreement."

16 I've never been a consultant to
17 Safeway, but I just thought, for the record, I
18 should let the record know that I've had a
19 situation, when I was an ANC commissioner, to
20 negotiate with Safeway. Thank you.

21 CHAIRPERSON ANDERSON: Thank you, Mr.
22 Grandis. Thank you, Mr. Short.

23 D.C. is a small state -- and I'm
24 saying that it's a small state -- and over the
25 years we are going to know each other.

1 And if one was to recuse him or
2 herself from every activity, then -- I'm an
3 attorney, Mr. Grandis is an attorney, and we
4 probably would never be able to do any work.

5 But we believe that by putting on the
6 record our affiliation, that there should be no
7 dispute about when we -- that the decision that
8 we make today, our affiliation with either the
9 establishment or with the participant will not
10 impact the decision that we make today. All
11 right. Thank you.

12 I'm sorry, Mr. Moore. Go ahead.

13 MR. MOORE: All right. The protest
14 alleged a violation of an existing settlement
15 agreement.

16 That settlement agreement was
17 incorporated into a Board Order dated April the
18 16th, 2003.

19 We had a roll call hearing before Ms.
20 Fletcher on December the 21st of last year and
21 the parties agreed that Safeway would send a
22 letter to Commissioner Brown that says basically
23 three things.

24 First, we would -- Safeway agrees to
25 step up its existing efforts to curtail loitering

1 and any panhandling that may occur on the site.

2 Second, we would affirm the presence
3 of human and electronic surveillance on the beer
4 and wine aisles at the store.

5 And third, we would enhance Safeway's
6 commitment to place beer and wine separately in
7 translucent bags. We sent the letter to Ms.
8 Brown, but we got no response from her or the
9 ANC.

10 Mediation then took place with Ms.
11 Fletcher on January the 6th. At that mediation
12 Safeway reaffirmed its commitment --

13 CHAIRPERSON ANDERSON: Mr. Moore, and
14 you're an attorney and I'm sorry to cut you, but,
15 as attorneys, we know that we can't discuss what
16 happens in mediation.

17 Now, if you want to give me -- because
18 that's confidential. So, I mean, I'm -- so, I
19 don't want to hear what happened at mediation
20 because, as you know, that's confidential.

21 So, I don't mean to cut your opening,
22 but -- so, I -- but I just want to make sure that
23 we -- that you don't bring to the Board
24 discussions that were held in mediation.

25 MR. MOORE: Very well.

1 There have been efforts on the part of
2 Commissioner Brown and Safeway to resolve the
3 three issues that are the subject of the protest.

4 Unfortunately the ANC has decided to
5 go forward with the protest. We're not quite
6 sure why, but they have. So, here we are today.

7 Now, Safeway is the largest full-
8 service grocery store in the District of Columbia
9 and it has been for quite some time.

10 It serves the community in all eight
11 of its wards. To gain and maintain its success,
12 it has to create and maintain a peaceful, orderly
13 and quiet presence in the community.

14 It has to welcome its customers in a
15 family-style environment and loitering,
16 panhandling and criminal activity are anathema to
17 that purpose.

18 Safeway has standard procedures to
19 provide an expanded product line and new,
20 improved services for the Hillcrest area
21 residents, including more food items, a service
22 deli, soup bar, salad bar and service bakery.

23 The DC Zoning Commission found in 1993
24 that this new facility would be a key element of
25 the revitalization and stability of "east of the

1 river area," in general, and the Skyland area in
2 particular.

3 This new shopping development would
4 also better meet the needs of the adjoining
5 residential areas such as the typical uses that
6 are permitted in the underlining zoning district.

7 To realize those plans, Safeway bought
8 the old Sears and Roebuck site at 2845 Alabama
9 Avenue and we deconstructed the Safeway -- the
10 Sears building and we developed instead a
11 development we call the Good Hope Marketplace,
12 which opened in 1993.

13 Beer and wine were added to the
14 store's menu in 2003. The store has been
15 operating without serious incident since. It
16 will continue to operate in the same mode if its
17 ABC license is renewed.

18 Today, I'll present three witnesses to
19 evidence and confirm that the ability and
20 intention of Safeway to be an excellent neighbor
21 to serve the Hillcrest community and beyond is
22 clearly evident.

23 With that, I will go to Ms. Brown and
24 then we will call Safeway's witnesses. Thank
25 you.

1 CHAIRPERSON ANDERSON: All right. Ms.
2 Brown, do you have an opening statement you wish
3 to make?

4 MS. BROWN: Just a brief opening
5 statement. Thank you.

6 So, ANC 7B did work with Safeway and
7 at our last public meeting we decided that we
8 would continue on with the protest.

9 We do acknowledge the letter that was
10 sent and the commitment that was made by Safeway
11 to cure some of the issues and we appreciate
12 that; but, as a community, the Commission voted
13 and said we would continue on with the protest.
14 So, this is why we are still here.

15 CHAIRPERSON ANDERSON: All right. Let
16 me ask a question to streamline the process.

17 Is the ANC protesting the renewal of
18 the license or -- so, is the agreement that the
19 license can be renewed, but that the ANC has some
20 concerns and asking for stipulations in the
21 license?

22 Is that what -- is that where the ANC
23 is?

24 MS. BROWN: I would say that's where
25 the ANC is. We are okay with the renewal of the

1 license, but the loitering continues to be a
2 problem.

3 And although lately -- well, it's more
4 now, but, you know, with the cold weather there
5 has not been as much loitering.

6 We just don't want it to be a
7 situation where we're not holding Safeway
8 accountable.

9 CHAIRPERSON ANDERSON: All right. So,
10 what I've heard, Mr. Moore, as far as the ANC,
11 the ANC is not contesting the renewal of the
12 license. So, I believe that we have an agreement
13 that the license can be renewed.

14 So, this hearing, then, should focus
15 on the concerns that the ANC has and whether or
16 not once the license is renewed, whether or not
17 this board will impose additional conditions on
18 the license.

19 Are both parties -- is that a fair
20 understanding of where everyone is?

21 Mr. Moore?

22 MR. MOORE: I have no objection with
23 that.

24 CHAIRPERSON ANDERSON: Ms. Brown?

25 MR. MOORE: I might add to that, Mr.

1 Chairman.

2 CHAIRPERSON ANDERSON: Yes, Mr. Moore.

3 MR. MOORE: There are a number of
4 conditions that were imposed by the Board in
5 response to these very same ANC concerns in May
6 of 2002 and the -- Safeway's response to those
7 concerns were considered by the Board and they
8 were adjudicated in its order dated April of
9 2003.

10 I don't know what -- I guess it's for
11 us to figure out here, but I don't know what more
12 we could do to address the loitering, the human
13 and electronic surveillance, beyond what's in
14 that order.

15 CHAIRPERSON ANDERSON: Well, you are
16 correct, Mr. Moore. When the license renewed,
17 there are board orders, there are settlement
18 agreements, and board -- previous settlement
19 agreements and previous board orders. Those
20 settlement agreements and board orders will
21 continue with the license renewal.

22 This board, however, based on the
23 evidence that's presented today, the Board can --
24 will then make a determination if additional
25 conditions need to be imposed on the license.

1 So, based on the evidence as presented
2 today, we can decide that we're not going to
3 impose any additional conditions or we will say
4 that we're going to impose additional conditions.
5 So, that's what I'm saying.

6 So, there's an agreement that the
7 license will be renewed and this hearing then
8 will address the -- whatever the issues.

9 I believe that Safeway is aware of the
10 issues as was just stated. The ANC -- so, that's
11 what I want this hearing to focus on, what -- I
12 mean, what it is that Safeway -- based on the
13 issues that were brought to their attention from
14 the ANC, how is it that they have addressed it?
15 How do they plan to address it? Do they believe
16 that it has been addressed and that there's
17 nothing else they could do?

18 And the ANC, in presenting its case,
19 they need to present evidence about what it is
20 that they want the Board to do.

21 So, I'm just trying to streamline it
22 since I'm not hearing that the ANC is saying that
23 we do not want the Board to renew their license.

24 If that was the case, then we would do
25 a full -- we would do a full hearing and make

1 those type of decisions, but I'm not hearing
2 that.

3 So, since I'm not hearing that, we can
4 stipulate that -- we can stipulate that the
5 license will be renewed as of this hearing then
6 will be whether or not the Board needs to impose
7 further conditions on the license or the Board
8 might say that there are no additional conditions
9 that needs to be added to the license as far as a
10 renewal.

11 Is that clear to everyone?

12 MR. MOORE: Okay.

13 CHAIRPERSON ANDERSON: Yes, sir.

14 MR. MOORE: Let me cut to the chase for
15 my understanding of where you are. Let's look at
16 the three issues that the ANC has raised.

17 One is loitering; the other is human
18 and electronic surveillance in the beer and wine
19 aisle; and third is placing alcoholic beverages
20 in translucent bags by themselves.

21 Let me try to address one issue that
22 --

23 CHAIRPERSON ANDERSON: You can do that,
24 Mr. Moore, when you present your case. I'm just
25 saying -- I just want to -- we need to have a

1 hearing to address those issues.

2 So, you can -- in your presentation of
3 your case, you can address it that way when it's
4 time to present your case, but all I'm just
5 saying to you, you do not have to present
6 evidence to state that the license is appropriate
7 for the area.

8 So, the Board then does -- we don't
9 have to elicit evidence on the appropriateness of
10 issuing a license to Safeway because the ANC is
11 not challenging the appropriateness of Safeway
12 having a license.

13 So, those issues you can address when
14 you present your case, but the only issue that
15 we're addressing right now just to streamline
16 this hearing is that both parties have agreed
17 that the license can be renewed and that the
18 purpose of this hearing is to state whether or
19 not the conditions that are on the license are
20 appropriate or whether or not the board should
21 impose additional conditions on the license.

22 Are we in agreement?

23 MR. MOORE: Yes, sir.

24 CHAIRPERSON ANDERSON: All right. So,
25 that's what we'll do once it's time for you to

1 present your case. So, All right.

2 So, let's start with -- so, let's
3 start with the -- let's do the hearing. So, what
4 I'll have -- the Board will call its first
5 witness and that is Mr. Christopher Condon.

6 And, Mr. Condon, can you spell and --
7 spell and state your name for the record, please.

8 MR. CONDON: Sure. My name is
9 Christopher Condon, C-H-R-I-S-T-O-P-H-E-R,
10 Condon, C-O-N-D-O-N, and I'm an investigator with
11 ABRA.

12 CHAIRPERSON ANDERSON: Thank you, Mr.
13 Condon.

14 I'm sorry, I just want to clarify,
15 where are you currently employed, sir?

16 MR. CONDON: I'm employed by the
17 Alcoholic Beverage Regulation Administration.

18 CHAIRPERSON ANDERSON: And how long
19 have you been employed by the Agency?

20 MR. CONDON: Just over a year.

21 CHAIRPERSON ANDERSON: And what are
22 your duties and responsibilities -- what are your
23 duties and responsibilities as an investigator
24 for the Agency?

25 MR. CONDON: I conduct inspections and

1 investigations of ABC establishments within the
2 District of Columbia.

3 CHAIRPERSON ANDERSON: And are you
4 familiar with Safeway?

5 MR. CONDON: I am, yes.

6 CHAIRPERSON ANDERSON: And how did
7 you become familiar with Safeway, sir?

8 MR. CONDON: I was assigned their
9 protest investigation last month in February
10 2021.

11 CHAIRPERSON ANDERSON: And did there
12 come a time that you produced a report in
13 preparation for this hearing today?

14 MR. CONDON: I did, yes.

15 CHAIRPERSON ANDERSON: Okay. Are you
16 able to share your -- a copy of this report? I'm
17 going to ask you to testify about this report.

18 Are you able to share a copy of this
19 report with the Board through sharing your
20 screen?

21 MR. CONDON: So, for some reason, on
22 WebEx the "share" option is blocked off.

23 CHAIRPERSON ANDERSON: I'm sorry, I
24 think Ms. Andrews needs to give you permission to
25 share your screen.

1 MR. CONDON: Okay.

2 CHAIRPERSON ANDERSON: So, Ms. Andrews,
3 are you able to give Mr. Condon the ability to
4 share his screen, please.

5 MS. ANDREWS: Sure. Stand by.

6 (Pause.)

7 MS. ANDREWS: Okay. Mr. Condon, you
8 can share your screen now.

9 MR. CONDON: Okay. Can you all see the
10 --

11 CHAIRPERSON ANDERSON: Yes, we can see
12 your screen.

13 So, can you tell us what it is that
14 we're looking at, sir?

15 MR. CONDON: So, this is the
16 introduction of my report. As you can see there,
17 I was assigned the protest investigation,
18 Safeway's Class Grocery B Retailer's Renewal
19 License.

20 CHAIRPERSON ANDERSON: All right. So,
21 can you tell us what information you were able to
22 find as a result?

23 MR. CONDON: Sure.

24 CHAIRPERSON ANDERSON: So, you can go
25 through your report for us on the record, please.

1 MR. CONDON: Sure. Absolutely.

2 So, on Thursday, February 11th, 2021,
3 at approximately 6:30 p.m., I telephonically
4 interviewed ANC 7B Commissioner Tiffany Brown
5 over the phone.

6 Ms. Brown advised us that the issue
7 she had with Safeway's renewal license is that
8 she had concerns with loitering and panhandling
9 out front of the establishment. She advised that
10 was her main concern.

11 In regards to that, she advised she
12 feels the establishment does not do a proper job
13 in terms of moving the individuals away or trying
14 to handle that.

15 Another concern Ms. Brown brought up
16 to me is she had concerns with people pulling up
17 to the establishment in cars and they would try
18 to basically have people leaving the grocery
19 store paying the individuals in the car to drive
20 them home.

21 And she advised that the establishment
22 doesn't do a proper job of removing that as well
23 and that all contributes to loitering and
24 panhandling in the front of the establishment.

25 Another issue Ms. Brown brought up to

1 me is she feels the alcohol aisles are not
2 properly monitored by human interaction.

3 She says that they're electronically
4 monitored, but she feels the frequency and
5 consistency of human monitoring of the alcohol
6 aisles is not sufficient to prevent theft.

7 Another issue she brought up is she
8 always sees individuals drinking soda and food in
9 the establishment and she had never seen anyone
10 drinking alcohol while they're in the
11 establishment shopping, but she has concerns with
12 individuals potentially in the future drinking
13 alcohol as they -- as she has seen individuals
14 drinking soda and nonalcoholic beverages within
15 the establishment.

16 On that same day, Thursday, February
17 11th, 2021, at approximately 5:45 p.m., I visited
18 Safeway located at 2845 Alabama Avenue, S.E.

19 Prior to entering the establishment,
20 I conducted -- I'm sorry, prior to entering I
21 noticed that there were no loitering and no
22 panhandling out front of the establishment.

23 I also noticed a large "No Loitering"
24 and "No Panhandling" sign in the front right as
25 you enter, which is a requirement of the

1 settlement agreement back in 2003.

2 Once I entered the establishment, I
3 conducted a regulatory inspection where I
4 discovered no ABRA violations as related to any
5 ABRA rules and regulations.

6 After I entered, I ultimately met with
7 store manager De'Quan Flowers, as well as ABC
8 manager Tanya Harrison.

9 Both of them gave me a walkthrough of
10 the alcohol aisle and they assured to me that
11 they have security personnel, which I saw in the
12 store, monitoring -- physically monitoring the
13 alcohol aisles, at a minimum, every 20 minutes.

14 They also assured to me that any
15 missing items -- or alcohol items within alcohol
16 packages are removed -- promptly removed from the
17 alcohol aisles, which is a requirement under
18 Board Order 2018-293.

19 I also happened to witness a sale of
20 an alcoholic beverage. I watched the cashier
21 package a six pack of beer in on Safeway clear
22 translucent bag by itself, which is also a
23 requirement of the settlement agreement.

24 I confirmed with De'Quan Flowers that
25 they do keep a log to any call out to the

1 Metropolitan Police Department as it relates to
2 loitering and panhandling that they may make to
3 MPD to handle the individual loitering and
4 panhandling out front of the establishment.

5 On the next day, Friday, February
6 12th, 2021, approximately 1:45 p.m., I
7 telephonically interviewed Safeway's general
8 counsel, Jerry A. Moore, III.

9 He advised the principal concerns that
10 the ANC had in regards to Safeway renewing their
11 liquor license was loitering and panhandling out
12 front of the establishment, Safeway not utilizing
13 translucent bags to sell alcohol in, and the
14 other issue being one constant or more frequent
15 human monitoring of the alcohol aisles.

16 Mr. Moore advised to me that they do
17 their best to prevent theft, they do their best
18 to prevent loitering and panhandling as those
19 three issues do no good for the establishment.

20 He advised that this Safeway in
21 particular has an issue with theft and that they
22 always have security personnel.

23 He also advised that they haven't had
24 a lot of success contacting the Metropolitan
25 Police Department as it relates to removing

1 loitering and panhandlers because a lot of times
2 those individuals tell the police that it's their
3 constitutional right to be there and a lot of
4 times the police won't really forcefully remove
5 the individuals from out front of the
6 establishment.

7 Safeway is located in a MU7 zone,
8 which is a mixed-use zone. It's intended to
9 permit a broad range of commercial, institutional
10 and multiple dwelling unit residential
11 developments at varying densities.

12 The mixed-use 7 zone is a mixed-use
13 zone that's intended to be applied consistent
14 with the density designation of the comprehensive
15 plan.

16 And in that chart, as you guys can see
17 -- I apologize. In that chart here you all can
18 see is the developmental standards of an MU7
19 zone.

20 In regards to nearby establishments,
21 there are no -- according to the geographic
22 information system, there is no operating ABC
23 establishments within 1200 feet of Safeway.

24 In regards to parking, parking is not
25 an issue at the Safeway. They have a designated

1 parking lot in front of the establishment and
2 there is enough parking to visit the
3 establishment.

4 In regards to bus stops and subways,
5 there are seven metro bus stops located within
6 600 feet of Safeway.

7 The bus stops are served by the 832,
8 B51, W2, W3, W4, W6, 3W8, 30S, 32 and 92 buses
9 and they service within 600 feet of Safeway.

10 The closest metro station is on Naylor
11 Road, which is 1.2 miles from the establishment
12 and is serviced by the green line.

13 There are two day care centers within
14 400 feet of the establishment. One being the
15 Allen Chapel Child Development Center, which is
16 located at 2498 Alabama Avenue, S.E., and the
17 second is the Youngs Memorial Church Day Care
18 located at 2490 Alabama Avenue, S.E.

19 There is a recreation center called
20 the Hillcrest Recreation Center, which is located
21 within 400 feet of the establishment and that is
22 located at 3100 Denver Street, S.E.

23 There is an elementary school named
24 Stanton Elementary School. It is located at 2701
25 Naylor Road, S.E., and that's within 400 feet of

1 the establishment as well. There are no
2 libraries operating within 400 feet of Safeway

3 In regards to the surrounding area,
4 the area immediately surrounding Safeway is
5 predominantly commercial shops. It's within a
6 commercial area.

7 There are no liquor license
8 establishments within that shopping center and
9 across the street there's a BP gas station as
10 well as a CVS a little bit on the right across
11 the street of the establishment as well.

12 As I mentioned earlier, the Stanton
13 Elementary School is on Naylor Road and you can
14 kind of see the building if you're standing out
15 front of the establishment.

16 The Allen Chapel Child Development
17 Center, as well as the Youngs Memorial Church Day
18 Care, are -- and the Hillcrest Recreation Center
19 are along the rear of the establishment -- not
20 directly in the rear of the establishment. A
21 couple blocks back. They're not in eyesight of
22 the establishment, but they are within that 400-
23 feet requirement.

24 In regards to the exterior of the
25 building, it's within a large commercial shopping

1 center, as I said. It's made up of a brick and
2 tan-colored cement.

3 It's clearly -- this is the largest
4 building within that commercial shopping center
5 and some other businesses within that shopping
6 center is a wing place as well as a shoe store.

7 In regards to the interior of the
8 building, once you enter the building it's
9 traditionally -- you know, it's a traditional
10 grocery store. Different aisles broken up by
11 food items.

12 And to the left when you walk in,
13 there's a customer service center, restrooms,
14 bakery section.

15 And all the way to the left near the
16 bakery section is -- it's basically like an aisle
17 and a half of beer and wine. And that's where
18 it's confined to, that aisle and a half.

19 It's a one-floor establishment as well
20 as it's very well lit and there are security
21 personnel I've noticed every time that I
22 monitored. At a minimum, two I've noticed.

23 As you can see here by this chart, the
24 hours of operation and alcohol sales are the
25 following: In regards to hours of operation,

1 they can operate from 5:00 a.m. to 12:00 in the
2 morning Sunday through Saturday seven days a
3 week.

4 In regards to the alcoholic beverage
5 sale hours are Sunday 10:00 a.m. to 10:00 p.m.
6 and then Monday through Saturday 9:00 a.m. to
7 10:00 p.m.

8 In regards to my visits to the
9 premises, I visited five times between February
10 16th and March 1st.

11 I did not notice any issues that
12 relates to peace, order and quiet of the
13 neighborhood.

14 As you can see here on my chart, you
15 see the dates and the times I visited. On
16 Tuesday, February 16th, 2021, between 10:15 and
17 10:30 I discovered no ABRA violations. There was
18 no loitering, there was no panhandling, and the
19 establishment was closing.

20 They close, as you saw, at 10:00. So,
21 they were closing. No customers could be let in.
22 I could not do an in-person visit, but I did not
23 notice any loitering, panhandling, any issues
24 like that in the establishment.

25 On Monday, February 22nd, 2021,

1 between 6:15 to 6:25 I monitored and there were
2 no ABRA violations, no loitering, no panhandling.

3 There were normal cars pulling up to
4 drop people off. There was no cars idling.
5 There was no missing items in any packages in the
6 alcohol aisles. There were two security present
7 as well.

8 On Tuesday, February 23rd, 2021,
9 between 9:45 and 10:00 p.m. there were no ABRA
10 violations, no loitering, no panhandling.

11 I did notice, as we did a walkthrough
12 -- I did a walkthrough with De'Quan Flowers on
13 this visit. I noticed three beer packs that were
14 missing one item each.

15 He removed them as we walked through
16 and there was no violations related to that as he
17 removed it when he became aware of the issue,
18 which is required of the Board Order, and there
19 were two security personnel present inside the
20 establishment.

21 On February 25th, which is a Thursday,
22 between 8:25 and 8:45, no ABRA violations. There
23 was no loitering, no panhandling, no missing
24 alcohol items in any alcohol packages within the
25 beer and wine section, and there was security

1 personnel present as well.

2 On Monday, March 1st, between 9:30
3 p.m. and 9:45 p.m., I did not notice any ABRA
4 violations. There was no loitering, no
5 panhandling, no missing alcohol items in any
6 packages, and there was security personnel
7 present within the establishment.

8 In regards to calls for service, on
9 Tuesday, February 16th, the Office of Unified
10 Communications provided me with calls for service
11 at the address of 2845 Alabama Avenue between
12 February 1, 2020, and February 16th, 2021.

13 There were a total of 280 calls for
14 service at that address between that time frame
15 and none of those calls resulted in any ABRA-
16 related violations.

17 In regards to noise complaints, there
18 had been no noise complaints filed with ABRA
19 between February 1st, 2020, and February 10th,
20 2021.

21 A review of ABRA records revealed that
22 Safeway has been issued a Board Order 2018-293 as
23 well as a settlement agreement No. 2003-36. Both
24 of those we'll get to and their exhibits.

25 A review of ABRA records revealed that

1 Safeway does not have a security plan. And in
2 regards to ABRA-investigated history, there are
3 no ABRA violations found in any ABRA records.

4 Mr. Chairman, do you want me to just
5 verbally go through each one of the exhibits or
6 do you want me to just go through the pictures?

7 CHAIRPERSON ANDERSON: Yeah, I need you
8 to -- yeah, please identify the exhibits and the
9 document, please.

10 MR. CONDON: Sure thing.

11 So, Exhibit 1, as you can see, there's
12 an ANC 7B protest letter.

13 Exhibit 2 is the zoning information
14 for Safeway.

15 Exhibit 3 is the geographic
16 information system that was provided to me in
17 regards to Safeway.

18 Exhibit 4 is a front parking lot for
19 Safeway.

20 Exhibit 5 is a parking lot facing
21 toward the BP gas station.

22 Exhibit 6 there is a parking lot
23 facing the left when looking at Safeway.

24 Exhibit 7 is a parking lot facing to
25 the right when you're facing Safeway.

1 Exhibit 8 is a rear of Safeway which
2 is off of Denver Street, S.E.

3 Exhibit 9 is a parking lot of Safeway
4 facing the BP gas station. So, facing forward.

5 Exhibit 10 is a picture of the front
6 of Stanton Elementary School on Naylor Road.

7 Exhibit 11 is a picture of the
8 shopping center that Safeway is in from the front
9 view as you're entering the shopping center.

10 Exhibit 13 is a picture of the CVS,
11 which is across the street from Safeway.

12 Exhibit 14 is a picture of the Youngs
13 Memorial Church Day Care Center.

14 Exhibit 15 is a picture of the Allen
15 Chapel Child Development Center.

16 Exhibit 16 is a picture of the
17 football field in the rear as part of Stanton
18 Elementary School.

19 Exhibit 17 is a picture of the
20 Hillcrest Recreation Center.

21 Exhibit 18 is a photo facing down
22 Denver Street, S.E., which is the road that runs
23 parallel to Safeway in the rear of the
24 establishment as well as the entire shopping
25 center.

1 Exhibit 19 is a photo of other
2 businesses to the left of Safeway when looking at
3 Safeway.

4 Exhibit 20 is a photo of a "No
5 Loitering" as well as a "No Panhandling" sign in
6 front of Safeway.

7 Exhibit 21 is a photo of the front of
8 Safeway while walking in.

9 Exhibit 22 through Exhibit 24 are
10 interior photos of the alcohol aisles.

11 Exhibit 25 is an interior photo of a
12 stack of wine, which is in the alcohol aisle.

13 Exhibit 26 is an interior photo of the
14 alcohol aisle as well.

15 Exhibit 27 is an interior photo of the
16 half side of the alcohol aisle that contains
17 wine.

18 And then Exhibits 28 through 31 are
19 pictures from the ground up of the cameras on the
20 roof -- on the ceiling of the building over the
21 alcohol aisles.

22 Exhibit 32 is an interior photo of
23 alcohol -- within the alcohol aisle.

24 Exhibit 33 is a "calls for service"
25 list at the address of 2845 Alabama Avenue, S.E.

1 Exhibit 34 is a Safeway Board Order
2 No. 2018-293.

3 And Exhibit 35 is Safeway Settlement
4 Agreement No. 2003-36.

5 Mr. Anderson, would you like me to
6 identify the images as well or is that --

7 CHAIRPERSON ANDERSON: No, that's not
8 necessary.

9 MR. CONDON: Okay.

10 CHAIRPERSON ANDERSON: That's not
11 necessary.

12 MR. CONDON: Okay.

13 CHAIRPERSON ANDERSON: All right.
14 That's as far as the Board Order -- I'm sorry, as
15 far as your order?

16 MR. CONDON: That's correct, Mr.
17 Chairman.

18 CHAIRPERSON ANDERSON: Okay. You can
19 close the screen then, please.

20 All right. Mr. Condon, were all your
21 visits to Safeway unannounced or were they
22 scheduled?

23 MR. CONDON: All five of those were
24 unannounced.

25 CHAIRPERSON ANDERSON: All right. So,

1 also your visit to Safeway also -- I think the
2 first one was 2/11.

3 That was also unannounced; is that
4 correct?

5 MR. CONDON: On 2/11, that was
6 unannounced as well, yes, sir.

7 CHAIRPERSON ANDERSON: Okay. Let me
8 see. Hold on, please.

9 (Pause.)

10 CHAIRPERSON ANDERSON: Now, Exhibit 33
11 was the calls for service.

12 Were there any ABRA violations found
13 in Exhibit 33 -- in any of the calls for service
14 in Exhibit 33, did any of those result in any
15 ABRA violations?

16 MR. CONDON: No, they did not.

17 CHAIRPERSON ANDERSON: All right. I
18 don't have any other questions.

19 Board members, do any of the board
20 members have any questions of Mr. Condon?

21 (Pause.)

22 CHAIRPERSON ANDERSON: Okay. None.

23 Mr. Moore, do you have any questions
24 of Mr. Condon?

25 MR. MOORE: No.

1 CHAIRPERSON ANDERSON: No?

2 MR. MOORE: No, sir.

3 CHAIRPERSON ANDERSON: Ms. Brown, do
4 you have any questions of the investigator?

5 MS. BROWN: Just one -- maybe two.

6 So, when you went the very first time,
7 you said they were -- your visit was unannounced.

8 So, what was the temperature like on
9 February 11th when you went?

10 MR. CONDON: I'm unaware.

11 MS. BROWN: Did you have to wear a
12 coat?

13 MR. CONDON: I cannot recall.

14 MS. BROWN: Okay. So, I looked up the
15 temperature. It was 36 degrees. There's not
16 usually panhandling when it's cold outside. I
17 just wanted to make that note.

18 People don't typically hang out in
19 front of the Safeway when it's cold because
20 there's something else to do.

21 You mentioned something about two --
22 you saw two -- not violations, but you found two
23 instances where beer was -- there were two cans
24 of beer taken out of a six pack and then you
25 mentioned something else.

1 Can you tell me what that was again?
2 I'm looking through the report, but I can't --

3 MR. CONDON: In regards to what visit
4 are you referring to?

5 MS. BROWN: You said that on your last
6 visit that you identified a six pack of beer that
7 had two cans taken out, but that the manager
8 quickly removed that.

9 MR. CONDON: No, I never said that.
10 So, I said on my first visit on February 11th I
11 saw a sale of a six pack of beer.

12 And then on my visit February 23rd, I
13 advised I saw three beer packs were missing one
14 item and the manager --

15 MS. BROWN: Right.

16 MR. CONDON: -- removed them.

17 Is that what you're --

18 MS. BROWN: Okay.

19 MR. CONDON: -- referring to?

20 MS. BROWN: That's what I'm referring
21 to.

22 MR. CONDON: Okay.

23 MS. BROWN: So, that only happened one
24 time where you saw something that was missing?

25 MR. CONDON: That happened that one

1 time and I saw three on that one visit and Mr.
2 Flowers removed them from that visit -- or in
3 front of me. Removed them from the aisle to
4 resale as a complete package.

5 MS. BROWN: Okay. Last question: You
6 said that Safeway stated that they monitor every
7 20 minutes the beer and wine aisle?

8 MR. CONDON: That's correct, Ms. Brown,
9 yes.

10 MS. BROWN: Do they have a log of that
11 or is that just kind of understood that's what --
12 did you see a log of it?

13 MR. CONDON: I never saw a log. I
14 didn't ask for a log. I was never provided a
15 log.

16 MS. BROWN: All right. Thank you.

17 CHAIRPERSON ANDERSON: All right. Does
18 the Board have any questions of Mr. Condon based
19 on -- any follow-up questions to Mr. Condon?

20 MEMBER SHORT: Yes, Mr. Chair. I have
21 one question.

22 CHAIRPERSON ANDERSON: Go ahead, Mr.
23 Short.

24 MEMBER SHORT: Investigator Condon, how
25 are you today?

1 MR. CONDON: Good, sir.

2 How are you, Mr. Short?

3 MEMBER SHORT: Thank you for your
4 excellent report. It was pretty well done.

5 MR. CONDON: I appreciate that.

6 MEMBER SHORT: The last question that
7 ANC Commissioner Brown asked you when you walked
8 down the aisle and you saw them remove a six pack
9 that had something missing, was that a violation
10 of one missing right there when you saw it?

11 MR. CONDON: So, in regards to that,
12 the board order that, the verbiage on that
13 advises when they become aware of that. So, when
14 they become aware of the item being missing.

15 So, I used investigative discretion on
16 that and I never saw any on any other visits.
17 So, when I saw it that time and he -- first time
18 he saw it in front me he removed it, I used
19 discretion on that and when he removed it. So,
20 that's why that would have been the case.

21 MEMBER SHORT: Thank you, Mr. Condon.

22 That's all I have, Mr. Chair.

23 MR. CONDON: Appreciate it.

24 CHAIRPERSON ANDERSON: All right.

25 Thank you.

1 Any other questions by any other board
2 members?

3 (Pause.)

4 CHAIRPERSON ANDERSON: All right.
5 Hearing none, All right. Thank you very much,
6 Mr. Condon. Thank you very much for your
7 testimony today. All right. Thank you very
8 much.

9 CHAIRPERSON ANDERSON: All right. Mr.
10 Moore, do you have a witness that you want to
11 call, sir?

12 MR. MOORE: Actually, I have three,
13 sir. Thank you.

14 CHAIRPERSON ANDERSON: All right. So,
15 who is your first -- hold on. All right. So,
16 who is your first witness, sir?

17 MR. MOORE: A lady by the name of
18 LaShawna Burke. Hopefully she's here. I can't
19 see anyone.

20 CHAIRPERSON ANDERSON: Well, I do see
21 the problem that you have, Mr. Moore. Yes, I can
22 see her. You can't see her, but I can see you.

23 MR. MOORE: Okay.

24 CHAIRPERSON ANDERSON: Ms. Burke, can
25 you please raise your right hand, please.

1 Ms. Burke, do you --

2 MS. BURKE: Yes, sir.

3 CHAIRPERSON ANDERSON: -- swear or
4 affirm to tell the truth and nothing but the
5 truth?

6 MS. BURKE: I do.

7 CHAIRPERSON ANDERSON: It's your
8 witness, Mr. Moore.

9 MR. MOORE: Thank you, sir.

10 Ms. Burke, good afternoon. Would you
11 state your name for the record, please.

12 MS. BURKE: LaShawna Burke.

13 MR. MOORE: Yes. And are you employed?

14 MS. BURKE: Yes.

15 MR. MOORE: And how are you employed,
16 ma'am?

17 MS. BURKE: I'm employed by Safeway.

18 MR. MOORE: In what capacity?

19 MS. BURKE: First assistant store
20 director.

21 MR. MOORE: An assistant store
22 director.

23 You're management, right?

24 MS. BURKE: Yes.

25 MR. MOORE: All right.

1 MS. BURKE: Yes. Second in command.

2 MR. MOORE: All right. How long have
3 you been in that position, ma'am?

4 MS. BURKE: For five years.

5 MR. MOORE: All right. And for those
6 five years, what have -- just a general summary
7 of your store duties.

8 MS. BURKE: Payroll, human resources,
9 you know, day-to-day sales, forecasting,
10 operations, making sure all of the employees are
11 in a safe and happy environment, making sure all
12 of our customers are -- have a safe and happy and
13 peaceful environment at Safeway.

14 MR. MOORE: All right. Do your store
15 duties include management of the operations of
16 the store?

17 MS. BURKE: Yes.

18 MR. MOORE: And do those operations
19 include loitering, that is, trying to keep
20 loitering low?

21 MS. BURKE: Yes.

22 MR. MOORE: All right. Do you, in your
23 mind, have a distinction between loitering,
24 vagrancy and what I'll just call ride sharing,
25 that is, people who come -- mostly seniors want

1 to -- offering rides to other seniors because --
2 for senior shoppers who don't have a way home
3 other than public transportation?

4 MS. BURKE: Yes, I know the difference
5 between all three.

6 MR. MOORE: All right. Is there a need
7 at your store -- do you know what ride givers
8 are? When I say "ride givers" --

9 MS. BURKE: Yes. So, we have courtesy
10 drivers at our Safeway. So, it's a courtesy that
11 they'll give rides to the people in the community
12 free of charge.

13 MR. MOORE: And how often do you think
14 that happens?

15 MS. BURKE: Every day from the store
16 open to close because a lot of people in the
17 community don't have money to pay for the ride
18 sharing with Uber and/or Lyft.

19 MR. MOORE: And what is Safeway's
20 position, as far as management's position, in
21 regards to the voluntary drivers?

22 MS. BURKE: The voluntary drivers, they
23 have -- they've been -- had a police record
24 clearance through the Metropolitan Police
25 Department.

1 We have record of each courtesy
2 driver. We have a copy of their license and the,
3 like, the certificate that they get from the
4 police department stating that they can be a
5 courtesy driver only at the Safeway on 2845
6 Alabama Avenue.

7 MR. MOORE: Thank you. In your
8 judgment, is there a need for these ride givers
9 out there?

10 MS. BURKE: Yes. We serve, you know,
11 a low-income community and only form of payment
12 that they have to pay for some of their groceries
13 is EBT, SNAP.

14 So, they don't have bank accounts.
15 They don't have, you know, apps to get home
16 through Uber and Lyft.

17 So, it is definitely a need for the
18 ride sharing and they are deeply grateful for the
19 courtesy drivers that we have at Safeway.

20 MR. MOORE: Okay. If I'm an ordinary
21 citizen standing in the parking lot of the
22 Safeway --

23 MS. BURKE: Um-hmm.

24 MR. MOORE: -- looking at the Safeway
25 and I see people standing outside, is it possible

1 that some of the people who are ride givers would
2 be mistaken for loiterers and/or panhandlers?

3 MS. BURKE: In a sense, but most of our
4 courtesy drivers, they're probably working. A
5 lot of them, they designate in the parking lot.

6 MR. MOORE: Right.

7 MS. BURKE: They will be in the far
8 back of the parking lot waiting for a ride -- I
9 mean, for a rider to -- a customer needing a
10 ride.

11 They stand in the designated area on
12 the platform. So, that's how they know who needs
13 rides and who, you know, who don't.

14 MR. MOORE: All right. Distinguishing
15 between ride givers and, quote, loiterers --

16 MS. BURKE: Um-hmm.

17 MR. MOORE: -- can you distinguish
18 between the two just as a management person just
19 looking outside and there's some people standing
20 by the door?

21 MS. BURKE: Yes.

22 MR. MOORE: Can you say, these people
23 are loiterers and these people are not loiterers
24 or these people are customers or not customers?

25 MS. BURKE: The only way that I would

1 kind of differentiate a loiterer is if I happen
2 to go outside at 8:00 a.m. and then again that
3 same person may be standing there at 11:00 a.m.,
4 but I don't have that at that location and it's
5 kind of hard to distinguish a loiterer and an
6 actual paying customer.

7 MR. MOORE: Is loitering a problem at
8 your store?

9 MS. BURKE: It's not. We don't have a
10 loitering problem. It's a family store. So --
11 and I've been at that store for almost three
12 years now and the customers, you know, it's one
13 big family.

14 I see the same people every day.
15 They're shopping. I see kids, you know. It's
16 kind of hard to distinguish, like, if this person
17 is, hey, they're loitering, like, they're just
18 standing outside all day.

19 MR. MOORE: Do you ever see a loiterer
20 accosting customers of yours -- of Safeway?

21 MS. BURKE: No.

22 MR. MOORE: You don't. Okay.

23 Is calling MPD an element of the
24 store's anti-loitering policy -- anti-
25 loitering/anti-panhandling policy?

1 MS. BURKE: Yes, if we have any one of
2 those issues present at the time.

3 MR. MOORE: Um-hmm. What happens --
4 what is your feeling about calling MPD? Are they
5 happy to come or do they come right away or do
6 they assign it a low priority?

7 MS. BURKE: It depends on the
8 situation. The only time I've ever called MPD is
9 we have, like, a customer who is being really
10 disorderly, aggressive and very violent.

11 And the speed of MPD is, like, less
12 than a minute and they show up four or five cars
13 wanting to assist.

14 Sometimes it could be a low priority
15 and they'll get out and, like, we'll let them
16 know, hey, this is what happened.

17 And most of the time if we do call the
18 police on theft, the police will come, but most
19 of the time the person that is in question, the
20 customer will just -- security will take their
21 information and bar them from the store.

22 MR. MOORE: Generally, how often do you
23 have to -- do you think it necessary to call MPD?

24 MS. BURKE: It's not often. No, it's
25 not often.

1 MR. MOORE: Okay. Customer complaints
2 about loitering, do customers ever come to you to
3 complain about the people loitering or
4 panhandling outside the store?

5 MS. BURKE: Not at all.

6 MR. MOORE: Not at all?

7 MS. BURKE: Um-hmm.

8 MR. MOORE: Do you know Commissioner
9 Brown from the ANC?

10 MS. BURKE: I have not met her
11 personally. I haven't seen her. I've seen
12 another ANC commissioner. I don't remember her
13 name. She just started. I've seen her, but I
14 haven't met Ms. Brown.

15 MR. MOORE: Have either of the ANC
16 commissioners that you've identified complained
17 to you about loitering?

18 MS. BURKE: Not to me at all.
19 Dominique Dudley, she's our store director, I've
20 been on the phone with her when she spoke with
21 the other ANC commissioner and she didn't
22 actually say anything about loitering or
23 panhandling. So --

24 MR. MOORE: Are you aware of any formal
25 ANC complaint that has been made to the store

1 about loitering or panhandling?

2 MS. BURKE: No. This is actually the
3 first of me hearing of --

4 MR. MOORE: Okay. Have the store
5 employees complained to you about loitering or
6 panhandling?

7 MS. BURKE: No.

8 MR. MOORE: Okay. Does the presence of
9 beer and wine sales attract loiterers or would
10 they likely be in and around the store anyway, in
11 your judgment?

12 MS. BURKE: No.

13 MR. MOORE: That is, no, that beer and
14 wine does not attract --

15 MS. BURKE: No. No, it does not
16 attract loitering. We don't even -- as long as
17 I've been there, I've never seen nobody pop a can
18 open in front of the store or, you know, I've
19 never seen it.

20 MR. MOORE: Okay. Has the store
21 instructed the cashiers to place beer and wine
22 purchases alone in translucent plastic bags?

23 MS. BURKE: Yes. Every cashier is
24 instructed through -- they signed off on the
25 handling of beer and wine for Safeway.

1 MR. MOORE: Okay. Is there a "No
2 Loitering," "No panhandling" sign placed on the
3 Safeway premises?

4 MS. BURKE: Yes. On the front when you
5 first -- when you walk in on the bricks.

6 MR. MOORE: All right. In your best
7 judgment, are customers, including families,
8 comfortable coming to your store?

9 Is it a peaceful, orderly and
10 welcoming environment?

11 MS. BURKE: It definitely is. It is.

12 MR. MOORE: That's your job; isn't it?

13 MS. BURKE: Yes, it is. That's my job
14 to make sure everybody feels safe and
15 comfortable.

16 MR. MOORE: And if they don't, you
17 wouldn't be there, right?

18 MS. BURKE: I don't think so.

19 MR. MOORE: All right. Are you
20 familiar with the exhibits in Mr. Condon's
21 report?

22 MS. BURKE: Yes.

23 MR. MOORE: All right. Do you have
24 them there before you?

25 MS. BURKE: Yes, I do.

1 MR. MOORE: Would you look at Exhibits
2 28, 29, 30 and 31? That's 28, 29, 30 and 31.

3 MS. BURKE: Yes.

4 MR. MOORE: All right. Are those
5 accurate pictures of security cameras in the
6 ceiling over the alcoholic beverage aisles?

7 MS. BURKE: Yes. We actually have --
8 we have two cameras that face the aisle.

9 CHAIRPERSON ANDERSON: Hold on. Hold
10 on. Is Mr. Condon -- are you still on the line?

11 (Pause.)

12 CHAIRPERSON ANDERSON: I wanted to see
13 if we could share this document. I know that
14 you're unable to do that, Mr. Moore, since you're
15 not -- since we can't see you.

16 I was just trying to figure out if we
17 had -- but I guess the investigator is not on.
18 All right. That's fine. Go ahead. I apologize.

19 MR. MOORE: All right. Do those
20 cameras work?

21 MS. BURKE: Yes, they work.

22 MR. MOORE: And they are regularly
23 monitored, correct?

24 MS. BURKE: They are.

25 MR. MOORE: And do you have human

1 surveillance in the alcoholic beverage aisles?

2 MS. BURKE: We do. I do store walks
3 about every 30 minutes to an hour because our
4 store definitely gets beat up.

5 So, just going around the condition of
6 the store and walking the beer and wine aisle as
7 well as security making their rounds.

8 MR. MOORE: That's your job, right?

9 MS. BURKE: Yes, that's my job.

10 MR. MOORE: And you do it, right?

11 MS. BURKE: I do.

12 MR. MOORE: All right. Would you then
13 look at Exhibits 22, 23, 24, 25, 26, and 27,
14 please.

15 MS. BURKE: Yes.

16 MR. MOORE: All right. And what are
17 those pictures of, please. Are those the beer
18 and wine aisles?

19 MS. BURKE: Yes.

20 MR. MOORE: And does that meet your
21 definition of "peaceful," "orderly" and
22 "welcoming" to your customers?

23 MS. BURKE: Yes. It actually looks
24 really nice in the pictures. Everything is
25 spaced up so --

1 MR. MOORE: Okay. Pat yourself on the
2 back.

3 MS. BURKE: Yes.

4 MR. MOORE: I have no further
5 questions, Mr. Anderson.

6 CHAIRPERSON ANDERSON: All right.
7 Thank you. Mr. Condon, thank you for sharing
8 your screen. You can close your screen, please.
9 Thank you.

10 Ms. Brown, do you have any questions
11 you want to ask Ms. Burke?

12 MS. BROWN: I just have a few
13 questions.

14 Ms. Burke, are you aware of there is
15 a woman who panhandles in the parking lot that
16 goes up to people asking them for a few dollars
17 at a time?

18 Are you aware of that woman and that
19 situation?

20 MS. BURKE: No. I don't know about
21 anybody frequently being in the parking lot
22 asking for money.

23 It could have been a one-off, but she
24 wasn't on the actual platform of Safeway --

25 MS. BROWN: No, she --

1 MS. BURKE: -- in the parking lot.

2 MS. BROWN: No, she frequents the
3 parking lot and she's been there for years. She
4 goes from the parking lot to the gas station.

5 Most people in the community know
6 exactly who she is. I don't know her name. And
7 the last -- when I took a picture in February,
8 when I got back in my car, I saw her giving
9 someone else the same sad story. So, I just
10 don't know her name and didn't take a picture of
11 her then.

12 And so, you also made a statement that
13 panhandling is not a problem. So, you're saying
14 that the Safeway -- the entrance is always clear,
15 there's no one standing around?

16 MS. BURKE: I never said that the
17 entrance was never clear or panhandling was an
18 issue. We were talking about loitering.

19 MS. BROWN: I'm sorry, you're not --
20 panhandling was the woman loitering. So, there
21 are not people just standing around in the front
22 of Safeway?

23 MS. BURKE: They could be waiting for
24 their ride, but we don't have no -- we don't just
25 have people just waiting outside and asking for

1 money at the door.

2 MS. BROWN: I'm talking about
3 loitering. I'm not talking about panhandling.
4 I'm just -- so, you're saying that there are
5 never any occasions where people are standing in
6 the front of Safeway?

7 MS. BURKE: So, if somebody is standing
8 in front of Safeway, what would be your
9 definition as to if they're waiting for a ride?

10 What is -- how long can you stand in
11 front of an establishment --

12 CHAIRPERSON ANDERSON: Hold on, Ms.
13 Burke. You're not asking questions. You're
14 answering questions. Okay? So, she's asking --

15 MS. BURKE: Okay.

16 CHAIRPERSON ANDERSON: -- a question.
17 Please answer the question to the best of your
18 ability. If you can't answer --

19 MS. BURKE: Okay.

20 CHAIRPERSON ANDERSON: -- the
21 question, then --

22 MS. BURKE: No, I can -- I can answer
23 the question. There is -- let me just -- I'm
24 just trying to figure out, like -- so, there's no
25 loitering. I don't have an issue with loitering.

1 No one comes to me and says, hey, this
2 person is standing outside for a long time not
3 doing anything.

4 MS. BROWN: Okay. So, I'm familiar
5 with the courtesy drivers and even when Safeway
6 was located in Skyland, this has been something
7 that's been going on since the '70s.

8 And I've watched how the courtesy
9 drivers are all in the back of the parking lot
10 and also up in the parcel pickup line.

11 So, I guess I'm just trying to
12 understand that there is never an occasion -- you
13 never see people standing outside of the Safeway?

14 MS. BURKE: I didn't never say there
15 were people standing outside of the Safeway.
16 They could be waiting for a ride. They could be
17 waiting for someone, but there's not an instance
18 where there's one particular person out there
19 from 6:00 a.m. to 10:00 p.m. because loitering,
20 like, what would be the time limit for someone to
21 be standing outside of an establishment to call
22 that loitering?

23 So, that's, you know --

24 MS. BROWN: Okay. You also stated that
25 there aren't very many police calls. Is that

1 what you stated earlier that the police is not
2 called very often?

3 MS. BURKE: No, I didn't state that.
4 They asked did we call for loitering and I said
5 we don't call -- I don't make any -- many calls
6 for loitering. I don't make any calls for
7 loitering. All of my calls for MPD is theft,
8 disorderly customers.

9 MS. BROWN: Okay. I thought the
10 question was calls for service, not necessarily
11 about loitering because Mr. Condon, in his
12 report, reported that there were 280 calls in a
13 year's time.

14 MS. BURKE: Um-hmm.

15 MS. BROWN: Would you consider that to
16 be excessive or a normal amount of calls at one
17 establishment?

18 MS. BURKE: I mean, when you live in a
19 community -- when you work in a community like
20 that, we have a lot of theft, like --

21 MS. BROWN: So, that is an excessive
22 amount or is not an excessive amount of calls?

23 MS. BURKE: To me, that -- if that's
24 needed, no, not to me because a lot of those
25 calls, it could have been for somebody being

1 hurt.

2 So, then we would have to look at each
3 call and break down each call to see exactly what
4 that call was for because I've called -- I've
5 called several times for 911 and somebody fell, a
6 customer passed out. Customers that have
7 seizures in the store, we call 911.

8 So, then you will have to
9 differentiate which calls are which.

10 MS. BROWN: I believe you said police
11 service call. You did not --

12 MS. BURKE: Yeah. So, but most -- we
13 call 911. So, a lot of the times the police do
14 come out to see what actually happened.

15 MS. BROWN: So, there were 280 calls
16 for the police, not 280 calls for 911.

17 (Simultaneous speaking.)

18 MS. BROWN: Is 280 calls for the police
19 an excessive amount of calls for an
20 establishment?

21 And I just want to note I live around
22 the corner from Safeway. So, you work there, I
23 live there and it's my community also.

24 So, is that an excessive amount of
25 calls or is that normal?

1 MR. MOORE: I'm not sure what
2 "excessive" means. Is it 1 to 10? Is it 10 to
3 20? What --

4 CHAIRPERSON ANDERSON: All right. Hold
5 on. Mr. Moore, are you raising an objection,
6 sir?

7 MR. MOORE: Yes, sir.

8 CHAIRPERSON ANDERSON: What's the
9 nature of your objection?

10 MR. MOORE: I don't understand the
11 question. When you ask is 280 calls excessive,
12 what does "excessive" mean?

13 CHAIRPERSON ANDERSON: All right. Hold
14 on.

15 MR. MOORE: As an adjective, it can
16 mean many things to many people. I don't know
17 what it is. All you've got to do is tell me what
18 it is.

19 CHAIRPERSON ANDERSON: All right.
20 Okay, Mr. Moore.

21 Okay. Ms. Brown, can you please
22 rephrase your question, please. So, I'm going to
23 sustain the objection.

24 Ms. Brown, just rephrase the question,
25 please. I think the objection that was raised is

1 that reasonable minds can disagree or agree what
2 "excessive" means.

3 So, maybe you can rephrase your
4 question and ask another question.

5 MS. BROWN: I'll just withdraw my
6 question. I have no other questions.

7 CHAIRPERSON ANDERSON: I wasn't trying
8 to get you to withdraw your question, Ms. Brown.

9 MS. BROWN: So, "excessive," in my
10 opinion, means a lot. But if that's not --
11 wasn't clear, then I just won't ask the question.

12 CHAIRPERSON ANDERSON: If you want --
13 Ms. Brown, if you want to ask the question, ask
14 the question.

15 I'm just -- he made an objection and
16 I said you can rephrase it. So, that doesn't
17 necessarily mean you can withdraw it.

18 MS. BROWN: Okay.

19 CHAIRPERSON ANDERSON: You can re-ask
20 the question a different way, ma'am. That's all.

21 MS. BROWN: That's fine. I won't ask
22 the question at all about the number of service
23 calls.

24 CHAIRPERSON ANDERSON: Is there a
25 question or are you -- is there a question?

1 MS. BROWN: No question.

2 CHAIRPERSON ANDERSON: Okay. All
3 right. Do you have any other questions? No?

4 MS. BROWN: No more questions.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 Any questions of Ms. Burke by the
8 Board?

9 (Pause.)

10 CHAIRPERSON ANDERSON: Well, I'm
11 confused, Ms. Burke. Where is -- where are these
12 courtesy ride folks? Where are they staged?

13 MS. BURKE: On a back -- the back end
14 of the parking lot. When you first come in the
15 Safeway, most of the time they're on that back
16 row of parking waiting for someone to show up on
17 the platform to the right when you walk out the
18 door with their groceries and/or they could be
19 just waiting for a ride from Uber or Lyft.

20 CHAIRPERSON ANDERSON: So, how do I, as
21 a customer, know that -- how do I know where
22 these courtesy rides are and how do you
23 distinguish who these people are?

24 How is that distinguishable?

25 MS. BURKE: So, the courtesy drivers,

1 they have a -- I will say like a supervisor or
2 manager or leader, Mr. Charles, and he
3 orchestrates on, you know, the different -- the
4 different -- the courtesy drivers.

5 They will come up and you will know
6 exactly who is a real courtesy driver and who is
7 not.

8 If we ever had any issue as to
9 somebody trying to pick up people, they'll bring
10 it to management and we'll check and see if their
11 information is in our folder for the courtesy
12 drivers.

13 CHAIRPERSON ANDERSON: So, these
14 courtesy drivers, they never -- so, they're never
15 in front of the store?

16 MS. BURKE: No, unless they're picking
17 up a customer or they're dropping off a customer.

18 CHAIRPERSON ANDERSON: Okay. All
19 right. I don't have any other questions.

20 Any other questions by any of the
21 Board members?

22 (Pause.)

23 CHAIRPERSON ANDERSON: Ms. Brown, do
24 you have any questions of Ms. Burke based on the
25 questions that I asked?

1 MS. BROWN: No.

2 CHAIRPERSON ANDERSON: Mr. Moore, do
3 you have any questions of Ms. Burke based on the
4 questions that I asked?

5 MR. MOORE: No, sir.

6 CHAIRPERSON ANDERSON: All right.
7 Thank you. Thank you very much, Ms. Burke.
8 Thank you for your testimony today.

9 CHAIRPERSON ANDERSON: All right. Mr.
10 Moore, do you have another witness?

11 MR. MOORE: Yes, I do. I call Robert
12 Rosato, please. Hopefully he's there.

13 MR. ROSATO: Yes. Good afternoon,
14 everyone.

15 CHAIRPERSON ANDERSON: Mr. Rosato, I
16 can't see you.

17 Are you able to -- do you have a video
18 you can turn on?

19 MR. ROSATO: I don't have a camera on
20 my phone. I do not.

21 CHAIRPERSON ANDERSON: All right. And
22 I'm going to hope that you're doing exactly what
23 I'm asking.

24 Sir, can you raise your right hand,
25 please.

1 MR. ROSATO: Yes, sir.

2 CHAIRPERSON ANDERSON: Do you swear or
3 affirm to tell the truth and nothing but the
4 truth?

5 MR. ROSATO: Yes, sir.

6 CHAIRPERSON ANDERSON: All right. Your
7 witness, Mr. Moore.

8 MR. MOORE: Thank you, sir.

9 Sir, would you state your name,
10 please.

11 MR. ROSATO: Robert Rosato.

12 MR. MOORE: And are you employed?

13 MR. ROSATO: Yes, I am.

14 MR. MOORE: And how are you employed,
15 sir?

16 MR. ROSATO: Currently, I'm on an
17 operational role involving payroll.

18 MR. MOORE: Um-hmm.

19 MR. ROSATO: Previously I was the
20 director of asset protection for a period of
21 about four and a half to five years.

22 MR. MOORE: Does that include store
23 security?

24 MR. ROSATO: Yes.

25 MR. MOORE: All right. Are you

1 familiar with Store 1445 -- No. 1445 at 2845
2 Alabama Avenue?

3 MR. ROSATO: Yes, sir, I am.

4 MR. MOORE: Are you familiar with
5 loitering at that store? That is, in your mind,
6 does loitering -- unreasonable loitering exist at
7 that store?

8 MR. ROSATO: Sir, when I go to the
9 store, I speak to the store manager or the young
10 lady that spoke previously, the assistant
11 manager. That's never been a topic of concern
12 with this store.

13 And from the times that I visited the
14 store, I have not had to, you know, stop and, you
15 know, make notice that somebody might be out
16 there, you know, hanging out, asking for money or
17 harassing customers.

18 MR. MOORE: Is it a part of your job to
19 make sure that there is a welcoming atmosphere,
20 family-oriented atmosphere at that store?

21 MR. ROSATO: Yes. And I feel that the
22 management team there does a very good job of
23 that.

24 And I think that the manager who's not
25 on the call has really, you know, made that part

1 of her daily plan. I think she does a nice job
2 of it.

3 MR. MOORE: Have you received customer
4 complaints about loitering?

5 MR. ROSATO: No, sir, I have not.

6 MR. MOORE: Have you received a
7 complaint from Commissioner Brown about loitering
8 and panhandling?

9 MR. ROSATO: No, sir, I have not.

10 MR. MOORE: Have you received a
11 complaint from the Advisory Neighborhood
12 Commission 7B about excessive loitering or
13 panhandling?

14 MR. ROSATO: No, sir.

15 MR. MOORE: Have you received
16 complaints from the employees at Store 1445 about
17 excessive panhandling?

18 MR. ROSATO: No, sir. And part of the
19 job with security also involved shrink. So, I
20 did speak to different people in the -- about
21 their, you know, department or their area of the
22 store and that conversation, it never came up or
23 took place.

24 MR. MOORE: All right. "Shrink" is
25 theft, right?

1 MR. ROSATO: Well, not necessarily. It
2 could be operational shrink.

3 MR. MOORE: All right. In your visits
4 to Store 2845 Alabama Avenue, S.E., do you notice
5 loiterers at that store?

6 MR. ROSATO: 1445?

7 MR. MOORE: Yeah -- well, I will say
8 "2845." I'm not sure the Board knows Safeway's
9 terminology.

10 MR. ROSATO: Okay.

11 MR. MOORE: Just for the record,
12 Safeway calls that store "No. 1445."

13 MR. ROSATO: Okay. So, we're talking
14 about 1445. No, I haven't.

15 MR. MOORE: All right. Have you
16 noticed loiterers near other businesses in Good
17 Hope Marketplace?

18 MR. ROSATO: In that area, no. But, I
19 mean, to be honest with you, I'm not really
20 looking at the other businesses, but I haven't
21 noticed anything.

22 You come in the one entrance, you're
23 going right to the store. If you come in the
24 other one, you would pass them and I don't recall
25 having that -- seeing anything that caught my

1 attention.

2 MR. MOORE: And in your capacity as a
3 security manager, does the presence of beer and
4 wine sales attract loiterers or would they be
5 likely in and around the store anyway?

6 MR. ROSATO: Personally I don't think
7 that the sale of beer and wine, you know, affects
8 that at all.

9 MR. MOORE: Are you aware of security
10 in the alcoholic beverage aisles at 1445?

11 MR. ROSATO: Yeah. I placed a -- we
12 had two guards in the store. One would stay at
13 the front door and then the other one would
14 monitor the aisles with particular attention to,
15 say, beer and wine, HBC, health and beauty aide
16 items, and, say, the tide would be the major
17 focus.

18 MR. MOORE: Um-hmm. And are those
19 aisles -- alcoholic beverage aisles constantly
20 monitored?

21 MR. ROSATO: Part of their duty is to
22 keep an eye on those aisles. And I also know
23 that the store team in that store -- and it's not
24 a -- it's not one of your larger stores, but I
25 know the store team is -- any time I go in there,

1 they're on the sales floor and they're around the
2 building.

3 So, I know they're monitoring and
4 walking around the building throughout the day.

5 MR. MOORE: You, as the security
6 manager, full-time security manager for Safeway,
7 I will tell you that the ANC and Commissioner --
8 ANC 7B Commissioner Brown say that there is no
9 surveillance, human or electronic, in the beer
10 and wine aisle at 1445.

11 What is your reaction to that
12 statement?

13 MR. ROSATO: There is -- my
14 understanding is there's two cameras on beer and
15 wine and then the store itself has about 80
16 cameras -- approximately 80 cameras.

17 MR. MOORE: And they're on?

18 MR. ROSATO: Yeah, they're on. I
19 mean, and the reason I say "approximately" is I
20 couldn't tell you if there was a camera, say,
21 pointing to the meat department and there could
22 be an issue; but they're checked by the stores
23 and they're able to call service in right away if
24 there's an issue.

25 MR. MOORE: Now, do you instruct the

1 cashiers to place beer and wine purchases alone
2 in translucent bags?

3 MR. ROSATO: That's what should be
4 taking place. Translucent bags -- we have the
5 white bags and the items should be placed in the
6 bags by themselves.

7 MR. MOORE: Thank you. Other than the
8 people who bring their own bags, the translucent
9 bags may be the only bags that are available; is
10 that correct?

11 MR. ROSATO: Those are the ones we
12 supply, correct.

13 MR. MOORE: Right. Is there a "No
14 Loitering" or "No Panhandling" sign placed on the
15 Safeway premises at 2845 Alabama Avenue, S.E.?

16 MR. ROSATO: Yes. The last time I
17 remember seeing it was on the front of the
18 building by the -- where the brick area is.

19 MR. MOORE: Um-hmm. Are customers,
20 including families, comfortable coming to the
21 store at 2845 Alabama Avenue?

22 Is it a peaceful, orderly, welcoming
23 environment, in your judgment?

24 MR. ROSATO: Not even talking about
25 this call, but I've made comments to leadership

1 about the feel in that store and I think the
2 management team's done a really good job.

3 And whenever I'm in the store, the
4 customers are very pleasant with me. I make it a
5 point to say hello to just about every customer,
6 you know.

7 Do I do it 100 percent maybe in a
8 conversation or not notice someone, and I get
9 nothing but positive feedback from, you know, the
10 customers and I don't recall a time when I was
11 there where, you know, someone seemed upset,
12 annoyed or had any types of issue.

13 MR. MOORE: In your judgment, would you
14 call the store to -- would you call this store to
15 be one of Safeway's signature stores in the
16 District of Columbia --

17 MR. ROSATO: Leadership-wise?

18 MR. MOORE: -- as far as --

19 MR. ROSATO: I'm sorry?

20 MR. MOORE: -- insofar as peace, order
21 and quiet.

22 MR. ROSATO: Yeah, I would. And I
23 think it's driven by the leadership of the store.

24 MR. MOORE: Okay. I have no further
25 questions for Mr. Rosato.

1 CHAIRPERSON ANDERSON: Thank you, Mr.
2 Moore.

3 Ms. Brown, do you have any questions
4 for Mr. Rosato?

5 MS. BROWN: Yes, I just have a few.

6 Mr. Rosato, when you come and visit
7 the store, are your visits announced visits?

8 MR. ROSATO: No, they're not and mainly
9 because a lot of times I'd look for shrink or
10 just to see -- get a real view. So, no, it's
11 rare.

12 I mean, I can think of, you know,
13 again, I have announced visits in stores. I
14 don't recall any in that store because usually
15 what I'm looking at, I want to, you know, see
16 what the real world is.

17 So, I wouldn't make it a point of
18 calling and saying "I'm on the way" or "I'll be
19 there tomorrow."

20 MS. BROWN: Okay. Just for a point of
21 background reference, how long had you done
22 security for Safeway or done it professionally?

23 MR. ROSATO: Professionally?

24 MS. BROWN: Um-hmm.

25 MR. ROSATO: I did it for other

1 organizations, too. So, I would say over ten
2 years.

3 MS. BROWN: Okay. Can you speak to why
4 the Safeway does not have a security plan at this
5 location?

6 MR. ROSATO: I think --

7 MR. MOORE: Hold on. Wait a minute.

8 CHAIRPERSON ANDERSON: Hold on, Mr.
9 Rosato.

10 Are you saying something, Mr. Moore?

11 MR. MOORE: Yeah. I don't know that
12 Safeway is required to have a security plan at
13 this location.

14 The ABRA regulations require security
15 plans for nightclubs, but not for full-service
16 grocery stores.

17 CHAIRPERSON ANDERSON: The question was
18 that -- wasn't whether it was a requirement. She
19 just asked him the question -- so, I'm going to
20 overrule the objection.

21 If he can answer the question, he can.
22 I don't think that she was saying, was it
23 required -- was Safeway required to have it, she
24 was just asking a general question. So, if he
25 can answer the question, he can. If he can't,

1 then so be it.

2 So, go ahead. If you can answer the
3 question, Mr. Rosato, go ahead if you can.

4 MR. ROSATO: The biggest reason is
5 every store has a different need. So, you know,
6 one plan doesn't fit every store.

7 There's 110 stores. Quite frankly,
8 there's just numerous, different situations
9 depending on the store.

10 So, there can be 70 plans out there to
11 cater to, you know, whatever the issues are in
12 that certain store.

13 MS. BROWN: The reason I ask is because
14 it was noted in Mr. Condon's ABRA report.

15 And so, is shrinkage a problem at that
16 particular Safeway?

17 MR. ROSATO: This -- the company, you
18 know, there is -- I don't want to speak to
19 company numbers, but there's -- that's just what
20 I look at when I go to stores. There is, you
21 know, numerous stores I go to.

22 We have 110, 111 and, you know, that's
23 part of my duties when I go into a store to see
24 if they're tagging items, you know, if we have
25 the proper security in the store.

1 So, it's a normal duty on any store
2 visit that I would go into.

3 MS. BROWN: Okay. Let me ask the
4 question again and ask it differently.

5 Is theft a problem at this Safeway on
6 Alabama Avenue at the Good Hope Marketplace?

7 MR. ROSATO: I think it's comparable to
8 numerous other stores in the company.

9 MS. BROWN: Okay. You said that you
10 knew that there was human monitoring going on.

11 How did you know that? Is there a log
12 at the Safeway or do you -- is that a requirement
13 as a part of some sort of security, I guess, at
14 the --

15 MR. ROSATO: You mean the store staff?

16 MS. BROWN: Yes.

17 MR. ROSATO: So, what was the question?

18 MS. BROWN: So, the question was about
19 human monitoring --

20 MR. ROSATO: Yes.

21 MS. BROWN: -- and you stated that you
22 knew that human monitoring was going on.

23 My question is, how do you know that?
24 Was there a log? Is that a part of the standard
25 regulatory procedures?

1 MR. ROSATO: I'm very sorry, I'm not
2 aware of the law, ma'am. It's just something
3 that the store does and --

4 CHAIRPERSON ANDERSON: Hold on.

5 MR. ROSATO: -- we --

6 CHAIRPERSON ANDERSON: Hold on, Mr.
7 Rosato. I think she's asking "log," not "law."
8 "Log," not "law."

9 MS. BROWN: L-O-G.

10 MR. ROSATO: No, I'm not aware of any
11 log, ma'am. I'm sorry, I misunderstood what you
12 said.

13 I'm not aware of a log, but you got to
14 remember it's also part of a manager's duty, too,
15 because you're also looking at other stuff when
16 you're walking a building.

17 You're not -- you're looking to see if
18 there's a sale item that needs to be filled. So,
19 quite frankly, the whole time I've been -- and
20 I've done operational -- I'm operational now,
21 I've been operational in the past.

22 That's just part of your normal
23 procedure during the day and that's another way
24 to speak to customers, have a customer, you know,
25 be able to ask you if they're looking for

1 something, have an issue.

2 So, it's really just a normal process
3 and it's not -- it's not 100 percent just to be
4 looking to see if there's an issue in the beer
5 and wine aisle.

6 It's just a normal procedure that has
7 been around since, you know, I've been in this
8 business and I'm not going to tell you how many
9 years because I'm not going to tell you how old I
10 am, but it's a normal practice.

11 MS. BROWN: Okay. Two more questions
12 and then I'll be done.

13 MR. ROSATO: Thank you.

14 MS. BROWN: Let's see. You mentioned
15 something about complaints.

16 Have you ever gotten a phone call or
17 a letter from former Commissioner Robin Marlin?

18 MR. ROSATO: Not that I recall, ma'am.
19 No.

20 MS. BROWN: Okay.

21 MR. ROSATO: Usually if I get a letter
22 or a complaint, I would call that person. I
23 don't remember a letter or a conversation with
24 the woman you mentioned.

25 MS. BROWN: Okay. The last thing, you

1 said that you did not notice any loitering or any
2 -- any loitering in the surrounding areas.

3 I just want to ask you, when you came
4 into the Safeway, across the street did you see
5 the BP gas station? Were you able to see that in
6 your line of sight?

7 MR. ROSATO: Yes. Yes, I did. I'm
8 trying to picture it right now, ma'am, and, yes,
9 I'm pretty sure I can.

10 MS. BROWN: Okay. That was all.
11 Thank you.

12 CHAIRPERSON ANDERSON: All right. Let
13 me ask a question.

14 MR. ROSATO: Yes.

15 CHAIRPERSON ANDERSON: Mr. Rosato, how
16 frequently do you go to this store?

17 MR. ROSATO: Recently, you know, going
18 back, say -- I don't know, going back like a
19 month ago, I would go there, I would say, once
20 every ten days for a short period of time.

21 And then before that, you know, it's
22 hard for me to say because I -- like I said, I
23 have 111 stores. So, I wouldn't -- offhand I
24 don't recall.

25 CHAIRPERSON ANDERSON: But you're

1 saying that over the last month you have been
2 visiting the store more often; is that -- I'm
3 just trying to figure out when was the last time
4 you were at the store. That's all I was trying
5 to find out.

6 MR. ROSATO: The last time I was there,
7 sir, again, this would be a guess, but I would
8 say maybe three weeks ago.

9 CHAIRPERSON ANDERSON: All right. Any
10 other questions by any other board members?

11 MEMBER SHORT: Yes, Mr. Chair.

12 CHAIRPERSON ANDERSON: Go ahead, Mr.
13 Short.

14 MEMBER SHORT: Good afternoon, Mr.
15 Rosato.

16 MR. ROSATO: How are you, sir?

17 MEMBER SHORT: Great.

18 Mr. Rosato, how long have you had this
19 store as one of your 111 stores that you monitor?

20 MR. ROSATO: For the -- well, I monitor
21 all stores. So, I'm -- I was responsible for all
22 111 stores, so the time period in which I was the
23 director of asset protection.

24 MEMBER SHORT: Okay. Have you ever had
25 to testify before this board before?

1 MR. ROSATO: No, I don't think I have.

2 MEMBER SHORT: Well, at the last
3 protest hearing for this particular licensee,
4 this Safeway on Alabama Avenue, we did have a
5 person to testify before us.

6 And that's the reason why you would
7 not know Robin Marlin because you have -- you
8 weren't a part of the Safeway there on Alabama
9 Avenue, apparently, when she was our ANC
10 commissioner; is that correct?

11 MR. ROSATO: Yes, I -- that sounds
12 correct.

13 MEMBER SHORT: Okay. Now, one of the
14 questions that was asked before, and you might be
15 able to have an answer for us today, your
16 shopping baskets, are there any losses at this
17 store on Alabama Avenue with your shopping
18 baskets?

19 MR. ROSATO: I'm not aware, sir.
20 What's the -- it's never been brought to my
21 attention that there was an issue.

22 MEMBER SHORT: Okay. The issue came up
23 the last time because it was brought to our
24 attention at the last hearing -- at the last --
25 with this store that the baskets were being left

1 out in the shopping lot and that you were having
2 a lot of theft with the baskets.

3 So, has that been taken care of?

4 MR. ROSATO: Yes. It hasn't been
5 anything that's been mentioned to me on visits or
6 when I spoke to the store manager.

7 So, all I can say is it hasn't been
8 brought to my attention as being an issue, sir.

9 MEMBER SHORT: Okay. So, theft and
10 robberies, in your 11 stores that you are
11 responsible for, which store --

12 MR. ROSATO: 111, sir.

13 MEMBER SHORT: 111?

14 MR. ROSATO: Um-hm.

15 MEMBER SHORT: Without mentioning any
16 addresses, which -- just say the top three, would
17 this store on Alabama Avenue, this Safeway store
18 on Alabama Avenue, would it rank in the top three
19 of losses and robberies or theft?

20 MR. ROSATO: I'd really have to check
21 stats to give you an answer because right now it
22 -- I wouldn't feel comfortable answering because
23 I'm not -- I'm not sure.

24 MEMBER SHORT: Would it be possible
25 that you could send a letter back to this board

1 and give us that information?

2 MR. ROSATO: Sure.

3 MEMBER SHORT: So, you'll make that
4 commitment?

5 MR. ROSATO: If that's something that
6 everybody would like me to do, we can take a look
7 at it and, you know, send something out.

8 MEMBER SHORT: Mr. Chairman, am I in
9 order to ask that that be done?

10 CHAIRPERSON ANDERSON: I don't think
11 that's appropriate at this juncture, Mr. Short,
12 but I believe -- and Mr. Moore needs to respond,
13 but I think, at this juncture, this is not the
14 appropriate question to be asking this witness.

15 MEMBER SHORT: Mr. Chair, the question
16 has come up several times about loss or theft at
17 the store.

18 I'm not the only person who's asked
19 that question and there's got to be some record
20 or note.

21 And so, I don't think it's
22 inappropriate for me to ask that question. If
23 he's committed to giving us that information,
24 what's wrong with that?

25 CHAIRPERSON ANDERSON: No, I'm saying

1 I don't believe that this is the proper forum to
2 request this type of information because also
3 this hearing will be closed -- the record will be
4 closed at the end of this hearing.

5 So, if you're asking for information
6 to consider as part of your deliberation, then
7 that's not information that can be --

8 MEMBER SHORT: With all due respect,
9 Mr. Chair, I didn't say anything about it having
10 anything to do with my deliberation.

11 I would like to know, since the
12 question's been asked about theft at this
13 hearing, and if it's not going to affect anything
14 and if this person is willing to give it to us,
15 what's the harm.

16 CHAIRPERSON ANDERSON: No, what I said,
17 Mr. Short, in this -- where we are procedurally
18 in this case, it's not appropriate to ask that
19 question and to have this witness provide that
20 type of information.

21 That's all I'm saying. Where we are,
22 I cannot ask him to provide information to us
23 because whatever he's testifying -- he's
24 testifying about this case and I'm not quite sure
25 the relevance -- I know the information that

1 you're asking for might be important, but the
2 relevancy of this information for this case for
3 our deliberation is not something that's
4 relevant.

5 So, therefore -- and also, as I stated
6 before, because the record will be closed at the
7 end of this hearing, if he was to provide
8 information, this is information that would be
9 provided after the end of this case and that's
10 not something that I -- that's not information
11 that the Board needs to make its determination.

12 So, I hear what you're saying, Mr.
13 Short, but at this juncture that is not a request
14 that can be asked for him to be providing because
15 I cannot ask him to provide the Agency with
16 information that's not relevant for this board to
17 make a decision on whether or not this license
18 should be approved or what conditions, if any,
19 can -- the Board can impose on the license.

20 So, that's why I'm saying that this is
21 not the appropriate forum to request that. That
22 is something that -- well, I'll leave it at that,
23 but this board cannot request this information.

24 MEMBER SHORT: Mr. Chair.

25 CHAIRPERSON ANDERSON: Yes, Mr. Short.

1 MEMBER SHORT: I respect your opinion,
2 but I, as a board member, would like to know that
3 particular question. And this gentleman from
4 Safeway, Mr. Rosato, doesn't seem to have a
5 problem with that.

6 I'm not asking that we do anything
7 other than to -- should this question ever come
8 up again, it might provide some answers we didn't
9 get this time.

10 And so, I know it's not going to have
11 anything to do with our deliberations, and I know
12 you, as a board member, our chairman, can tell me
13 in so many words after Mr. Rosato has told me he
14 doesn't mind sending it to us -- so you're saying
15 to me, as a board member, what I've asked -- I'm
16 trying to take this appropriately because, again,
17 I'm not a lawyer, I'm just a board member, but I
18 think that information would do anything -- would
19 not do anything to harm Safeway, it would not do
20 anything to harm this board and I think under
21 peace, order and quiet, which this hearing is
22 based on, I think that's relevant.

23 That's the relevancy, peace, order and
24 quiet, because we have testimony stating one
25 thing and I want -- this will verify exactly what

1 our testimony has been about, I think, Mr. Chair.

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: I hear what
4 you're saying, Mr. Short, but my position, as I
5 stated before, the record for this hearing will
6 be closed at the end of this hearing.

7 So, if you're asking for information
8 that cannot be provided before this hearing is
9 closed, then it doesn't -- it does not -- at
10 least in this forum, I cannot bind Safeway to
11 provide this information because it -- we cannot
12 -- the Board cannot consider it.

13 The Board cannot consider this
14 information because the record will be closed at
15 the conclusion of this hearing.

16 So, asking them to provide information
17 at some point when the record is closed, this
18 board cannot utilize this information that's been
19 provided.

20 So, that's all I'm saying. This board
21 cannot utilize -- whatever information that's
22 been requested, this board cannot utilize that
23 information to make a decision.

24 And so, therefore, I know at least for
25 this hearing that information is not relevant.

1 So, I cannot ask Safeway to provide that
2 information. Okay?

3 MEMBER SHORT: Okay. Mr. Chair?

4 CHAIRPERSON ANDERSON: Yes, Mr. Short.

5 MEMBER SHORT: I'm not going to drag
6 this out any further. I just want it on the
7 record that I requested some information and it
8 deals with peace, order and quiet, which I think
9 a lot -- this hearing has a lot to do with and I,
10 as a board member, would like to have that
11 information.

12 You have overruled me and I respect
13 that. Thank you much, Mr. Chair.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you, Mr. Short.

16 All right. Are there any other
17 questions by any other board members?

18 (Pause.)

19 CHAIRPERSON ANDERSON: Ms. Brown, do
20 you have any questions of Mr. Rosato based on the
21 questions that were asked by the Board?

22 MS. BROWN: Actually, I do.

23 CHAIRPERSON ANDERSON: Go ahead, ma'am.

24 MS. BROWN: Mr. Rosato, you came before
25 this hearing today to testify about the security

1 and the shrinkage at this particular Safeway.

2 Was that your purpose in testifying
3 today?

4 MR. ROSATO: I'm sorry, I'm having a
5 little bit of trouble. I keep bouncing in and
6 out. I don't know if that was asked of me.

7 MS. BROWN: Yes. That's what I'm
8 asking you.

9 MR. ROSATO: I didn't hear the
10 question.

11 MS. BROWN: Okay. The question was,
12 you came to testify today on the security of this
13 particular Safeway to include the shrinkage at
14 this particular Safeway.

15 MR. MOORE: Well, actually he came to
16 testify about electronic and human surveillance
17 on the alcoholic beverage aisles at the store.

18 He wasn't -- I asked him no question
19 about shrinkage.

20 MS. BROWN: So, I guess my question is
21 --

22 CHAIRPERSON ANDERSON: All right. Hold
23 on. I'm not quite sure who -- where this
24 shrinkage came up, but there were questions asked
25 about shrinkage.

1 So, I don't know whether it's relevant
2 or not, but she can ask the question. If he is
3 unable to answer, then he is unable to answer.
4 Okay?

5 MS. BROWN: I believe Mr. Rosato
6 brought up shrinkage as an issue that was
7 something that he did as part of his job.

8 Mr. Rosato, are you there?

9 CHAIRPERSON ANDERSON: Mr. Rosato? Mr.
10 Rosato?

11 (Pause.)

12 MR. MOORE: Mr. Chairman, I have a
13 witness that can --

14 CHAIRPERSON ANDERSON: No, I know that,
15 but I'm just trying to find out where Mr. Rosato
16 -- I mean, we're still -- he's still being
17 questioned. So, where is Mr. Rosato?

18 We're in the middle of this hearing,
19 you call a witness, he's being cross examined and
20 he's disappeared.

21 MR. MOORE: I think what he said when
22 --

23 CHAIRPERSON ANDERSON: Mr. Moore, hold
24 on. Hold on, Mr. Moore. It's irrelevant what he
25 said.

1 We're in the middle of a hearing and
2 the witness has been cross examined and I don't
3 know what's going on.

4 So, all I'm trying to establish is
5 where is the witness? That's the only reason why
6 I prefer that I can look at people and I can't
7 look at him.

8 He said he doesn't have a camera on
9 his telephone and okay, fine, but in the middle
10 of cross examination he has disappeared.

11 I need him to appear. I need him to
12 continue. I can't -- he needs to -- you need to
13 find him and he needs to continue testifying.

14 He is not released until I have
15 released him. So, let's go off the record for a
16 couple minutes.

17 (Whereupon, the above-entitled matter
18 went off the record at 3:45 p.m. and resumed at
19 3:47 p.m.)

20 CHAIRPERSON ANDERSON: We're back on
21 the record. Mr. Moore, I'm an attorney, you are
22 an attorney. The witness needs to be identified,
23 sir.

24 I don't need the attorney to make any
25 statement until the witness gets back on -- I

1 need the witness.

2 Once the witness is back here, sir,
3 you can make whatever statement you need to make,
4 but I need the witness on the witness stand.

5 And if you know, Mr. Moore, if you
6 were in court, the witness just -- in the middle
7 of cross examination, sir, the witness just can't
8 get off the stand and walk out of the courtroom.
9 He can't do that.

10 That's what we're doing right now.
11 Your witness has walked out of the courtroom.
12 And so, therefore, we need to stop, you need to
13 locate your witness, and once you have located
14 your witness, then we can continue.

15 That's -- I'm asking you to locate
16 your witness. Once the witness has been located,
17 then we can continue this hearing. That's all.
18 Nothing else.

19 (Pause.)

20 MR. MOORE: Chairman Anderson?

21 CHAIRPERSON ANDERSON: Yes, Mr. Moore.

22 MR. MOORE: I just spoke with Mr.

23 Rosato on the telephone.

24 CHAIRPERSON ANDERSON: Thank you, sir.

25 MR. MOORE: He indicated he did not

1 walk away. What has happened is he's having
2 connectivity problems. That's what he said when
3 he left here.

4 CHAIRPERSON ANDERSON: Well, yeah, but
5 the bottom line, sir, he's a professional. This
6 is a professional -- we're having a hearing.

7 He needs to be in an area -- he knows
8 that he's been called as a witness, so he needs
9 to be in an area where he's not going to have
10 connectivity -- and my problem with this is that
11 during your direct examination he didn't have any
12 connectivity issues; but all of a sudden he's
13 being cross examined and he's gone.

14 So, therefore, he needs to get back
15 online. Once he gets back online, we will
16 continue this hearing. That's all.

17 I need him to be back online. And
18 then whatever objection you want to raise, you
19 can raise that, but you can only raise those
20 objections while the witness is back
21 participating in this hearing, sir.

22 (Pause.)

23 CHAIRPERSON ANDERSON: All right.
24 We're going to take a 10-minute break. We're off
25 the record until four o'clock.

1 (Whereupon, the above-entitled matter
2 went off the record at 3:49 p.m. and resumed at
3 3:51 p.m.)

4 CHAIRPERSON ANDERSON: All right. Go
5 ahead. My apologies to the board members. We're
6 going to take a break shortly.

7 Mr. Rosato -- All right. Are you back
8 there, sir, Mr. Rosato? Are you back online?

9 MR. ROSATO: Yes, sir.

10 CHAIRPERSON ANDERSON: All right.

11 MR. ROSATO: I'm in the same spot. For
12 whatever reason, it cut me off.

13 CHAIRPERSON ANDERSON: All right.

14 Fine.

15 What is it that you want to say, Mr.
16 Moore?

17 MR. MOORE: I just want to say that he
18 did not deliberately go offline. He went offline
19 because the phone, whatever the connectivity is,
20 was lost, sir.

21 CHAIRPERSON ANDERSON: All right.

22 MR. MOORE: It had nothing to do with
23 this hearing.

24 CHAIRPERSON ANDERSON: All right.

25 MR. MOORE: He just went offline.

1 CHAIRPERSON ANDERSON: Okay. That's
2 fine. But as I said before, we're doing this
3 hearing and I need to make sure that when we're
4 in cross examination, that everyone is there at
5 all times.

6 And I know that Ms. Brown was asking
7 a question and I don't even know where we are
8 anymore.

9 So, do you have any more questions for
10 this witness, Ms. Brown?

11 MS. BROWN: My question was, what did
12 he come to this hearing to testify about and can
13 he tell us what the shrinkage is at this
14 particular store?

15 MR. ROSATO: I would have to speak to
16 legal because those are --

17 CHAIRPERSON ANDERSON: Hold on, Mr.
18 Rosato. That is not -- you either answer the
19 question yes or no.

20 It's -- you can't say you need to
21 speak to legal. You have an attorney. Your
22 attorney is on the line.

23 If you can answer the question, you
24 answer the question. If your attorney has a
25 problem, he needs to object.

1 Since your attorney has not objected
2 to the question, you need to answer the question,
3 sir.

4 So, either provide -- if you can
5 answer the question, you answer it. If you can't
6 answer it, you can't answer it, but you cannot
7 tell me that you need to speak to legal because
8 it's my understanding that Mr. Moore is the
9 attorney representing Safeway at this moment.

10 If he has a problem with it, then he
11 needs to file an objection. If he has not filed
12 an objection, you need to answer the question to
13 the best of your ability, sir.

14 MR. ROSATO: Sir, I wasn't asked to
15 come to the call to talk about shrink. And,
16 quite honestly, I don't have those numbers.

17 I'm -- that's why I said previously
18 I'm not able to speak to them because I can't
19 answer the question because I don't know.

20 CHAIRPERSON ANDERSON: Fine. Do you
21 have another question that you want to ask, Ms.
22 Brown?

23 MS. BROWN: No.

24 CHAIRPERSON ANDERSON: Thank you. All
25 right.

1 Mr. Moore, do you have any questions
2 of Mr. Rosato based on the questions that were
3 asked by the Board? I think that is where we are
4 in these proceedings.

5 MR. MOORE: No, sir.

6 CHAIRPERSON ANDERSON: Thank you.

7 Mr. Rosato, thank you very much for
8 your testimony today. Now, you can leave if you
9 so desire, sir.

10 MR. ROSATO: No, I'll stay on. I
11 apologize for what happened, sir.

12 CHAIRPERSON ANDERSON: I'm just saying
13 we're not going to ask you another question.
14 That's why I said you can leave if you so desire
15 or you can stay. That's all I'm saying.

16 Now, if you want to leave, you can
17 leave. If you want to stay, you can stay. But
18 the problem before was that you were still being
19 cross examined so you had to be here.

20 MR. ROSATO: I certainly understand,
21 sir.

22 CHAIRPERSON ANDERSON: All right.
23 Thank you.

24 MR. ROSATO: I totally understand.
25 Thank you.

1 CHAIRPERSON ANDERSON: All right.

2 Thanks.

3 Mr. Moore, do you have another
4 witness?

5 MR. MOORE: I do, but I want to say
6 that Mr. Rosato should stay on the line in the
7 event that I decide to call him as a redirect
8 witness, sir.

9 MR. ROSATO: Got it. I'm here.

10 CHAIRPERSON ANDERSON: All right.
11 That's fine. It's your witness. He can do
12 whatever he wants to do.

13 Okay. Who is your next witness, sir?

14 MR. MOORE: Timothy Ley. And that's
15 spelled L-E-Y.

16 CHAIRPERSON ANDERSON: Where is Mr.
17 Ley, Mr. Timothy Ley?

18 MR. LEY: Can you see me?

19 CHAIRPERSON ANDERSON: Yes, sir. Can
20 you raise your right hand, please.

21 MR. LEY: Yes, sir.

22 CHAIRPERSON ANDERSON: Do you swear or
23 affirm to tell the truth and nothing but the
24 truth?

25 MR. LEY: I do.

1 CHAIRPERSON ANDERSON: All right. Your
2 witness, Mr. Moore.

3 MR. MOORE: Sir, would you state your
4 name for the record?

5 MR. LEY: Timothy Ley, L-E-Y.

6 MR. MOORE: All right. And are you
7 employed?

8 MR. LEY: Yes, sir, by Albertson's for
9 the Mid-Atlantic Division.

10 MR. MOORE: Is Albertson's associated
11 with Safeway?

12 MR. LEY: It is.

13 MR. MOORE: In what capacity, sir?

14 MR. LEY: Liquor sales manager covering
15 the six states that the Mid-Atlantic Division
16 operates, sir.

17 MR. MOORE: All right. Those are your
18 current duties, liquor store manager?

19 MR. LEY: Yes, sir.

20 MR. MOORE: Does that include beer and
21 wine security?

22 MR. LEY: It does not include beer and
23 wine security as that would be loss prevention.
24 It includes the merchandising, pricing and
25 displaying of products in the stores.

1 MR. MOORE: Does Safeway have a problem
2 with beer and wine sales either inside or outside
3 of the store at 2845 Alabama?

4 MR. LEY: We do not have a problem,
5 sir.

6 MR. MOORE: I see. Have you received
7 complaints or commentary from Commissioner Brown
8 regarding peace, order and quiet at the store?

9 MR. LEY: Not until the protest was
10 filed.

11 MR. MOORE: Have you received
12 complaints from the ANC or Commissioner Brown
13 regarding panhandling or loitering at the store?

14 MR. LEY: Not until the concerns from
15 the protest.

16 MR. MOORE: Do you believe that beer
17 and wine sales attract loiterers/panhandlers to
18 the store?

19 MR. LEY: No, sir.

20 MR. MOORE: Do you take the store
21 security and customer comfort seriously at this
22 and other Safeway stores?

23 MR. LEY: The customer part,
24 absolutely, and the security would be part of the
25 customer.

1 MR. MOORE: All right. Comparatively
2 has this store been a problem with Safeway or to
3 the community because of beer and wine sales?

4 MR. LEY: No, sir.

5 MR. MOORE: That's it. I have no
6 further questions for Mr. Ley at this point.

7 CHAIRPERSON ANDERSON: All right.
8 Thank you, Mr. Moore.

9 Ms. Brown, do you have any questions
10 for Mr. Ley?

11 MS. BROWN: Mr. Ley, how long have you
12 been in this position for Safeway?

13 MR. LEY: I have been in the liquor
14 sales manager position -- for the last three
15 years with Safeway -- six years and retail
16 category management for about 32 years.

17 MS. BROWN: Okay. Did you attend the
18 last protest hearing for this Safeway?

19 MR. LEY: I did not, ma'am. Sorry.

20 MS. BROWN: One last question.

21 MR. LEY: Yes, ma'am.

22 MS. BROWN: Have you ever received a
23 phone call or a letter from former Commissioner
24 Robin Marlin?

25 MR. LEY: I did not, ma'am. This is

1 the first protest that I have taken part in.

2 MS. BROWN: Outside of the protest
3 hearing, you didn't receive an email or a phone
4 call from her?

5 MR. LEY: No, ma'am. You're the first
6 person that I associated with this store from our
7 previous discussions.

8 MS. BROWN: Okay. Thank you.

9 MR. LEY: Yes, ma'am.

10 MR. MOORE: May I ask Ms. Brown to
11 spell that person's -- Robin Marlin, can you
12 spell that name for me?

13 MS. BROWN: Sure. She was the former
14 commissioner for 7B05, which Safeway resides in.
15 Her first name, R-O-B-I-N. Last name, M-A-R-L-I-
16 N.

17 MR. MOORE: Thank you.

18 MS. BROWN: Um-hmm.

19 CHAIRPERSON ANDERSON: All right. Mr.
20 Ley, if I wanted to contact you, how would I
21 contact you? How would I know to contact you?

22 MR. LEY: Well, basically, I mean, if
23 there was a problem and someone went to the
24 store, they would reach out to me if it was about
25 beer and wine or any issues pertaining to it.

1 Usually since I'm in my position the
2 last three years, any ANC concerns would come to
3 me. It's just that in the last three years at
4 1445 there has not been one of the concerns that
5 has crossed my desk in the three years I've been
6 in charge of it.

7 CHAIRPERSON ANDERSON: Now, would it
8 have been directed to you or would it come to
9 someone else and then -- I guess I'm trying to
10 find out the process.

11 How would someone know -- or how would
12 the ANC or anyone know to get to you? That's all
13 I'm really trying to find out.

14 MR. LEY: I mean, everything that comes
15 through to the Safeway office, just Safeway in
16 general, from any ANC would eventually come to my
17 desk be it an issue that comes through our
18 licensing department or an issue that would come
19 -- maybe it was sent directly to Jerry or our
20 legal office.

21 For instance, I was literally just
22 down at ABRA last week dropping off a renewal for
23 our new store in Cap Hill. So, it all funnels to
24 me.

25 The ANCs that I've had discussions

1 with right now have only been for the Georgetown
2 one. They had something that came up. And then
3 we had an ANC concern with the one near Capital
4 One Arena, but they do eventually come to me,
5 sir.

6 CHAIRPERSON ANDERSON: No, I guess what
7 I'm trying to find out is that are these concerns
8 funneled to you or does the ANC, or any customer,
9 would they know to contact you directly?

10 That's what I'm trying to find out.
11 How is -- is the information funneled to you or
12 do people know that, okay, if I have this issue,
13 I need to contact Timothy Ley. That's what I'm
14 trying to find out.

15 MR. LEY: Yes, sir. It is funneled to
16 me unless I have a contact with somebody. And
17 then at that point we have that relationship.

18 For instance, when I had to talk to a
19 different ANC, I didn't know them, they didn't
20 know me. The information came funneled to me
21 through a different department. And then once I
22 established that relationship, now I do have
23 that.

24 So, I guess the best way to answer it,
25 sir, is that it comes funneled to me until I

1 establish a personal connection.

2 CHAIRPERSON ANDERSON: All right.

3 Thank you.

4 MR. LEY: Yes, sir.

5 CHAIRPERSON ANDERSON: Are there any
6 questions by any other board members?

7 (Pause.)

8 CHAIRPERSON ANDERSON: Ms. Brown, do
9 you have any questions of Mr. Ley based on the
10 questions that I asked him?

11 MS. BROWN: This question is really
12 like a point of information.

13 Mr. Ley, are you the, I guess, ABRA
14 manager for all of the stores?

15 MR. LEY: When you say "ABRA," so
16 you're just referring to the D.C. area at that
17 point, correct?

18 MS. BROWN: Yes.

19 MR. LEY: I would be a liquor sales
20 manager for the stores as far as when you say
21 "manager."

22 So, if you don't like the product, the
23 placement, the pricing, the displays in the
24 stores, the promotions, that is me, yes, ma'am.

25 MS. BROWN: Okay. So, I guess another

1 -- does the ABRA manager need to be -- name need
2 to be posted in a public, conspicuous place in
3 the store or is that something that a person
4 should ask for in the store office?

5 So, I'm asking you, Mr. Ley, but I'm
6 also kind of asking ABRA.

7 CHAIRPERSON ANDERSON: I think, Ms. --
8 I think I will direct you, Commissioner Brown, to
9 contact the Agency and the Agency can provide
10 that information to you --

11 MS. BROWN: Okay.

12 CHAIRPERSON ANDERSON: -- in a sense,
13 but I -- but generally I do not know what
14 information that -- if you, the customer, can go
15 to Safeway and ask for the ABC manager, whether
16 or not Safeway will tell you who that is.

17 I don't know if Mr. Ley can answer
18 that question, but I believe that if you contact
19 the Agency or maybe if you establish a
20 relationship with Safeway, maybe that's
21 information that they can provide to you through
22 other channels, but I don't think that Mr. Ley --
23 the reason why I'd ask the question of Mr. Ley
24 because I -- there were questions stated whether
25 or not contact was made with him.

1 And so, I was just trying to find out
2 how is it that John Public knows who Tim Ley is.
3 That's what I was trying to establish. How does
4 John Public get connected with Tim Ley? That was
5 all. All right?

6 All right. Thank you. Mr. Moore --
7 I'm sorry, do you have any other questions, Ms.
8 Brown?

9 MS. BROWN: No, sir.

10 CHAIRPERSON ANDERSON: Mr. Moore, do
11 you have any questions of Mr. Ley based on -- I'm
12 sorry, is it "lay" or "lee"? I'm sorry.

13 MR. LEY: It's "lee," but that's okay.

14 CHAIRPERSON ANDERSON: I try my best to
15 make sure I get the names properly. So, I
16 apologize.

17 Mr. Moore, are there any further
18 questions of Mr. Ley based on the questions that
19 was asked by the Board?

20 MR. MOORE: No. I'll just reserve for
21 a closing statement.

22 CHAIRPERSON ANDERSON: Mr. Ley, thank
23 you very much for your testimony today. All
24 right. Thank you very much.

25 MR. LEY: Thank you.

1 CHAIRPERSON ANDERSON: Mr. Moore, do
2 you have any other witnesses that you want to
3 call?

4 MR. MOORE: I do not.

5 CHAIRPERSON ANDERSON: Do you rest at
6 this juncture, sir?

7 MR. MOORE: Only to reserve for a
8 closing statement.

9 CHAIRPERSON ANDERSON: All right.
10 Fine. Thank you.

11 Ms. Brown, you state you don't have
12 any witnesses. So, are you planning on
13 testifying?

14 MS. BROWN: Just restating what I've
15 already --

16 CHAIRPERSON ANDERSON: All right. Hold
17 on. Hold on.

18 Can you raise your right hand, please.

19 MS. BROWN: Sure.

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

23 MS. BROWN: I do.

24 CHAIRPERSON ANDERSON: All right. This
25 is your opportunity to present your case. So, go

1 ahead, ma'am.

2 MS. BROWN: So, I just wanted to state,
3 for the record, that Safeway has been amenable to
4 the things that we discussed on the protest
5 letter. The last sticking issue is the
6 loitering.

7 When we had our last ANC meeting, it
8 was discussed that the Commission, with input
9 from the community, wanted the protest to
10 continue on.

11 And I had stated to them Safeway had
12 given us a letter that stated their commitment,
13 and several members of the community stated that
14 there are always people hanging up around there.
15 There is loitering. So, that's why the ANC, as a
16 body, continues on with it.

17 The only thing that I presented, and
18 I sent it to ABRA, was the picture that I took of
19 someone loitering.

20 And so, the question is how long is
21 loitering? I observed this person standing out
22 there for 10 minutes before I took the picture
23 because people do come outside, maybe look for
24 their ride, maybe get themselves together before
25 they walk away, and that's the only thing I had

1 to present if I need to present that.

2 CHAIRPERSON ANDERSON: Do you have
3 anything else you need to add, ma'am?

4 MS. BROWN: That's it.

5 CHAIRPERSON ANDERSON: Mr. Moore, do
6 you have any questions of Commissioner Brown?

7 MR. MOORE: No, I don't.

8 CHAIRPERSON ANDERSON; Any questions of
9 Commissioner Brown by the Board?

10 Yes, Mr. Grandis?

11 MEMBER GRANDIS: Good afternoon, Ms.
12 Brown. It's a pleasure to meet you and I have a
13 lot of respect for ANCs, as you can imagine.

14 You mentioned that there was a woman
15 who panhandled in the parking lot area, if I
16 understood that correctly, and that she's been
17 there for an extended period of time or she shows
18 up for an extended period of time.

19 Has the ANC approached the police
20 about this and then do you know, if that happens,
21 what the police have tried to do?

22 MS. BROWN: No, I don't know if the ANC
23 has approached it, if the former commissioner has
24 done it.

25 The Safeway is not in my single-member

1 district --

2 MEMBER GRANDIS: Okay.

3 MS. BROWN: -- and we don't tend to go
4 to each other's lane.

5 MEMBER GRANDIS: Um-hmm. Thank you.

6 MS. BROWN: Sure.

7 CHAIRPERSON ANDERSON: Any other
8 questions?

9 MEMBER GRANDIS: Thank you, Mr.
10 Chairman.

11 CHAIRPERSON ANDERSON: Yes. Thank you,
12 Mr. Grandis.

13 Any other questions from any other
14 board members?

15 (Pause.)

16 MEMBER CROCKETT: This is Ms. Crockett.
17 I just have one question.

18 CHAIRPERSON ANDERSON: Yes. I'm sorry,
19 Ms. Crockett.

20 MEMBER CROCKETT: So, Commissioner
21 Brown, you stated that you noticed this woman in
22 the parking lot and that she's panhandling in the
23 parking lot. So, not in front of the Safeway,
24 but in the parking lot itself.

25 MS. BROWN: In the parking lot in front

1 of Safeway.

2 MEMBER CROCKETT: Okay. Thank you.

3 MS. BROWN: You're welcome.

4 CHAIRPERSON ANDERSON: All right. Mr.
5 Moore -- any other questions by any of the board
6 members? No?

7 Mr. Moore, any questions of Ms. Brown
8 based on the questions that were asked of the
9 Board?

10 MR. MOORE: No, sir.

11 CHAIRPERSON ANDERSON: Ms. Brown, any
12 clarification of your statement that you need to
13 make based on the statements -- based on the
14 questions that were asked of the Board?

15 MS. BROWN: No.

16 CHAIRPERSON ANDERSON; All right. Do
17 you rest?

18 MS. BROWN: I rest.

19 CHAIRPERSON ANDERSON: All right. All
20 right. So, Mr. Moore, do you have any rebuttal
21 witnesses that you wish to call?

22 MR. MOORE: No rebuttal witnesses. I
23 do have a brief closing statement.

24 CHAIRPERSON ANDERSON: Yeah, I'm
25 getting there. All right. So, I will give both

1 sides -- are you ready for closing? Are both
2 sides ready for closing? Mr. Moore?

3 MR. MOORE: Yes.

4 CHAIRPERSON ANDERSON: All right. So,
5 I'll give you five minutes for closing, sir.

6 MR. MOORE: Thank you.

7 Chairman Anderson, members of the
8 Board, as I said at the outset, Safeway is a
9 family convenience store.

10 It's a full-service grocery store that
11 serves the citizens of Ward 8, and has served the
12 citizens of Ward 8, for decades over the years.

13 It has to take peace, order and quiet
14 seriously. Otherwise, it wouldn't be there.
15 That is the watch word -- those are the watch
16 words of the store operating and the store has
17 really done a good job of that, as the testimony
18 has shown today.

19 Not only has the testimony shown that
20 peace, order and quiet has been available at the
21 store, but the record in this case will
22 demonstrate that as well.

23 In a protest hearing held March 7th,
24 2018, the Board found, as a matter of fact, that
25 the cameras on the beer and wine aisles were

1 working.

2 There was no evidence of trash, litter
3 or shopping carts strewn about the parking lot.
4 No evidence of a negative impact on peace, order
5 and quiet. No Metropolitan Police Department
6 calls revealed and ABRA violations. And, on that
7 basis, the Board granted Safeway's request to
8 renew the license.

9 Now, in this case, I think that the
10 witnesses that I have -- that we put on together
11 with the Board's investigator, have shown that
12 there have been no violations observed.

13 "No Loitering" signs were posted. No
14 litter observed. No loitering or panhandling
15 observed. No beer and wine items missing from
16 the shelves.

17 Beer and wine aisles were monitored
18 every 20 minutes and a log is kept with the
19 Metropolitan Police Department.

20 There have been no noise complaints
21 filed with ABRA. No security plans filed at
22 ABRA. There are a number of exhibits which show
23 security cameras on the ceiling over the alcohol
24 and beverage aisles, that being Exhibits 28, 29,
25 30 and 31.

1 Peace, order and quiet prevails as
2 demonstrated not only by the testimony of my
3 witnesses, but by Exhibits 22, 23, 24, 25, 26 and
4 27.

5 The Board has found previously in its
6 case dated April the 16th, 2003, that the
7 applicant, Safeway, has proactively taken steps
8 to prevent or cure loitering and panhandling
9 problems in and around the establishment.

10 The testimony also demonstrated that
11 the applicant has standard procedures in place to
12 deal with panhandling activities without draining
13 MPD resources.

14 The bottom line here, Mr. Anderson and
15 members of the Board, is the ANC has said that
16 peace, order and quiet already prevails with --
17 insofar as loitering, panhandling and so far as
18 human and electronic surveillance of the beer and
19 wine aisles, insofar as putting alcoholic
20 beverages in translucent bags. That is no longer
21 the issue.

22 The issue is what can Safeway do to
23 ease the concerns of the ANC? And that is
24 something Safeway has said it will do by way of
25 two letters.

1 We said that at the roll call hearing.
2 We set that in writing that we will step up our
3 efforts to prevent or cure loitering and
4 panhandling, that there is no issue with respect
5 to human or electronic surveillance in the
6 alcoholic beverage aisles and we will reemphasize
7 to our cashiers that beer and wine items should
8 be placed separately in translucent bags.

9 With that being said, we ask the Board
10 to renew the license and to rely on the matters
11 of record, including the Board's findings of fact
12 in the case, an order that was issued by the
13 Board in the Safeway case in October of 2003.

14 Thank you.

15 CHAIRPERSON ANDERSON: All right.

16 Thank you.

17 Ms. Brown, do you wish to make a
18 closing statement?

19 MS. BROWN: Thank you, Mr. Chairman and
20 the ABRA Board, for the opportunity to come and
21 speak before you today.

22 The ANC does recognize this Safeway
23 has made improvements with their store, the
24 quality of their selection and also with just, in
25 general, tried to be a good neighbor.

1 We just would like for there to be no
2 loitering in front of it. We would like for the
3 Safeway to make this location the standard bearer
4 that at this location that we don't have to
5 report things because things that don't happen.

6 There are other locations at Safeway,
7 and I even mentioned this before, the one on
8 Capitol Hill, there is never anyone standing
9 around there because it is the standard. It is
10 not tolerated. It is not expected.

11 So, that's what we would like to see
12 over in our Hillcrest Safeway at Good Hope
13 Marketplace that it is the standard, that we
14 don't have to call for security because security
15 is constantly monitoring.

16 That we don't have to bring things of
17 a negative weight to the manager because the
18 manager is already taking care of it.

19 That we don't have to look in the
20 aisle to see that there is a missing beer or two.
21 That the manager, through the human monitoring,
22 has already done that.

23 And that's all we're asking for. We
24 just want to have an excellent quality of life at
25 our Safeway. Thank you.

1 CHAIRPERSON ANDERSON: All right.

2 Thank you.

3 Mr. Moore, did you provide the Board
4 with a PIP?

5 MR. MOORE: A PIP, sir?

6 CHAIRPERSON ANDERSON: Yeah. Did your
7 parties disclose documents in evidence prior to
8 seven days before the hearing?

9 MR. MOORE: Yes. Yes.

10 CHAIRPERSON ANDERSON: I did not see --
11 well, I don't have them in front of me. So, what
12 was in your documents and do you want to -- were
13 you planning to make them part of the record?

14 MR. MOORE: I do wish the PIP to be a
15 part of the record. I have nothing further to
16 add other than the --

17 CHAIRPERSON ANDERSON: What were the
18 documents that were in your PIP, sir?

19 MR. MOORE: It was a picture of the "No
20 Loitering," "No Panhandling" sign that's posted
21 on the front of the Safeway building.

22 CHAIRPERSON ANDERSON: Was that the
23 only document?

24 MR. MOORE: Yes.

25 CHAIRPERSON ANDERSON: I'm sorry, was

1 this letter that was -- I guess this letter that
2 both you and Ms. Brown talked about, was that
3 disclosed -- was the letter disclosed as part of
4 the evidence of this case?

5 MR. MOORE: No. It was a letter from
6 a Safeway executive to -- the first one was to
7 Commissioner Brown. The second one, at her
8 request, was sent to the ANC.

9 And basically what the letter said is
10 what I have testified here -- what has been
11 testified here today.

12 CHAIRPERSON ANDERSON: I'm sorry, sir.
13 I didn't hear you.

14 MR. MOORE: What those letters said was
15 our response to the ANC concerns about loitering,
16 panhandling, electronic and human surveillance in
17 the aisles and beer and wine in translucent bags.
18 We addressed those three issues in those two
19 letters.

20 CHAIRPERSON ANDERSON: You can say no,
21 but would you -- are these letters that you could
22 share with the Board and make it a part of the
23 record for this case?

24 MR. MOORE: Sure. Sure. We have
25 nothing to hide.

1 CHAIRPERSON ANDERSON: How quickly can
2 you provide the Board with this information? Can
3 you provide that information to the Agency within
4 the next couple of minutes?

5 MR. MOORE: Let me ask.

6 Tim, do you have copies of those two
7 letters? Tim?

8 MR. LEY: Yes.

9 MR. MOORE: Can you --

10 MR. LEY: Who do I send that to, sir?

11 CHAIRPERSON ANDERSON: Can you send
12 that to April -- I'm sorry, what's --

13 MR. MOORE: April.randall2.

14 CHAIRPERSON ANDERSON: Yes. Yeah. Can
15 you send that document, Tim, please.

16 MR. LEY: Yes, sir.

17 CHAIRPERSON ANDERSON: I'm sorry. So,
18 Ms. Brown, do you have -- you don't have any
19 objection to that and, Mr. Moore, you don't have
20 any objections providing the Board with this
21 record, right?

22 MR. MOORE: No. It says exactly what
23 we've said here.

24 CHAIRPERSON ANDERSON: All right. And
25 let me know, Mr. Ley, when you have emailed the

1 document.

2 MR. LEY: Yes, sir. I'll find it right
3 now.

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: I'm waiting
6 until your email -- the document before I close
7 the record. That's why I said, let me know when
8 you email the document. That's why.

9 And I'll ask that you email -- All
10 right. Yeah, just let me know when you email it
11 so I can close the record. That's all.

12 MR. MOORE: Tim, you do that by going
13 through April Randall. She can go through -- or
14 go to Mr. Anderson, if that's satisfactory to Mr.
15 Anderson, of course.

16 CHAIRPERSON ANDERSON: No, it goes to
17 Ms. Randall. That's fine. So, just let me know
18 when you have pressed the "Send" button and then
19 I'll close the record.

20 (Pause.)

21 MR. MOORE: Tim, Ms. Randall's email
22 address is april.randall2 -- the number 2 --
23 @dc.gov. Did you get that?

24 MR. LEY: Yes. I just sent it to her,
25 sir.

1 CHAIRPERSON ANDERSON: All right.

2 Thank you. All right. The record is now closed.

3 Do the parties wish to file proposed
4 findings of fact and conclusion of law or waive
5 their right to do so?

6 MR. MOORE: I'll file it.

7 CHAIRPERSON ANDERSON: I'm sorry,
8 you'll do what?

9 MR. MOORE: I'll file them.

10 CHAIRPERSON ANDERSON: You are going to
11 file -- you are going to do that?

12 MR. MOORE: Yes, sir.

13 CHAIRPERSON ANDERSON: All right. So,
14 since you're going to do that, then the record
15 will -- I'm sorry, hold on.

16 I'm sorry, Mr. Moore, I'm not trying
17 to talk you out of it, but if it's something you
18 really want to do --

19 MR. MOORE: I just was talked out of
20 it. Thank you. The answer to your previous
21 question is no.

22 CHAIRPERSON ANDERSON: All right. All
23 right. Okay. Fine.

24 MR. MOORE: You're persuasive.

25 CHAIRPERSON ANDERSON: I wasn't trying

1 to talk you out of it, sir. I was just asking
2 the question. All right.

3 So, both parties, I assume, and, Ms.
4 Brown, you're going to waive your right to do
5 that? All right.

6 MS. BROWN: Yes.

7 CHAIRPERSON ANDERSON: All right.
8 Okay. So, the record is now closed. The Agency
9 will issue a decision within 90 days.

10 So, hold on one moment, please, before
11 I dispose of this case.

12 (Pause.)

13 CHAIRPERSON ANDERSON: As chairperson
14 of the Alcoholic Beverage Control Board for the
15 District of Columbia in accordance with D.C.
16 official court section 2574(b) of the Open
17 Meetings Act, I move that ABC Board hold a closed
18 meeting for the purpose of seeking legal advice
19 from our counsel on Case No. 20-PRO-00059,
20 Safeway, pursuant to D.C. Official Code Section
21 2574(b) of the Open Meetings Act and deliberating
22 upon Case No. 20-PRO-00059, Safeway, for the
23 reasons cited in D.C. Official Code Section
24 2574(b)(13) of the Open Meetings Act.

25 Is there a second?

1 MEMBER CROCKETT: Ms. Crockett seconds.

2 CHAIRPERSON ANDERSON: Ms. Crockett has
3 now seconded the motion. I will now take a roll
4 call vote on a motion that has been properly
5 seconded by Ms. Crockett.

6 Mr. Short?

7 MEMBER SHORT: Mr. Short. I agree.

8 CHAIRPERSON ANDERSON: Mr. Cato?

9 MEMBER CATO: Bobby Cato. I agree.

10 CHAIRPERSON ANDERSON: Ms. Crockett?

11 MEMBER CROCKETT: Rafi Crockett. I
12 agree.

13 CHAIRPERSON ANDERSON: Ms. Hansen?

14 MEMBER HANSEN: Jeni Hansen. I agree.

15 CHAIRPERSON ANDERSON: Mr. Grandis?

16 MEMBER GRANDIS: Edward Grandis. I
17 agree.

18 CHAIRPERSON ANDERSON: And Mr.

19 Anderson. I agree. As it appears, the motion
20 has passed.

21 I hereby give notice that the ABC
22 Board will recess these proceedings to hold a
23 closed meeting in the ABC Board conference room
24 pursuant to Section 574(b) of the Open Meetings
25 Act.

1 This matter is now adjourned. Thank
2 you very much. And if you give me a couple more
3 minutes so I can officially close the record so
4 everyone can move on from -- with this day, hold
5 on, please.

6 (Pause.)

7 CHAIRPERSON ANDERSON: As chairperson
8 of the Alcoholic Beverage Control Board for the
9 District of Columbia in accordance with Title 3,
10 Chapter 405, Office of Open Government, I move
11 that the ABC Board hold a closed meeting on May
12 11th, 2021, for the purpose of discussing -- I'm
13 sorry, March the 11th, 2021, for the purpose of
14 discussing and hear reports concerning ongoing or
15 planned investigations of alleged criminal or
16 civil misconduct or violations of law or
17 regulations and seeking legal advice from our
18 legal counsel on the Board's investigative
19 agenda, legal agenda and licensing agenda for
20 March 11th, 2021, as published in the D.C.
21 Register on March 5th, 2021.

22 Is there a second?

23 MEMBER SHORT: Mr. Short. I second.

24 CHAIRPERSON ANDERSON: Mr. Short has
25 seconded the motion. I will now take a roll call

1 vote for the motion that's been properly seconded
2 by Mr. Short.

3 Mr. Short?

4 MEMBER SHORT: Mr. Short. I agree.

5 CHAIRPERSON ANDERSON: Mr. Cato?

6 MEMBER CATO: Bobby Cato. I agree.

7 CHAIRPERSON ANDERSON: Ms. Crockett?

8 MEMBER CROCKETT: Rafi Crockett. I
9 agree.

10 CHAIRPERSON ANDERSON: Ms. Hansen?

11 MEMBER HANSEN: Jeni Hansen. I agree.

12 CHAIRPERSON ANDERSON: Mr. Grandis?

13 MEMBER GRANDIS: Edward Grandis. I
14 agree.

15 CHAIRPERSON ANDERSON: And Mr.
16 Anderson. I agree. As it appears, the motion
17 has passed.

18 I hereby give notice that the ABC
19 Board will hold this aforementioned closed
20 meeting pursuant to the Open Meetings Act.

21 Notice will also be posted on the ABC
22 Board hearing room bulletin board, placed on
23 electronic calendar at ABRA's website and
24 published in the D.C. Register in as timely a
25 manner as practical.

1 We are now adjourned for the day. I
2 would like to thank the public and the parties
3 for participating in this hearing today.

4 Have a great day and I now direct the
5 Board to return to executive session for further
6 proceeding. Thank you very much and have a great
7 day.

8 MR. MOORE: Thank you, Chairman
9 Anderson.

10 MS. BROWN: Thank you.

11 CHAIRPERSON ANDERSON: All right. Bye-
12 bye.

13 MS. BROWN: Bye-bye.

14 (Whereupon, the above-entitled matter
15 went off the record at 4:24 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Safeway

Before: DC ABRA

Date: 03-10-21

Place: teleconference

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