



**ALSO PRESENT:**

**ALEX ACKEMANN, Protestant**  
**SIMONE ANDREWS, DC ABRA Staff**  
**ANGELLE BAUGH, Protestant**  
**JORDAN BAUGH, Protestant**  
**CRYSTAL GEISE, Protestant**  
**DARRYL JONES, Applicant**  
**DOMINIQUE JONES, Applicant**  
**JOEL KELTY, ANC 6C**  
**MARC KNOBBE, Protestant**  
**ANDREW LUND, Protestant**  
**JEFFEARY MISKIRI, Applicant**  
**ADAM MITCHELL, DC ABRA Investigator**



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

2 (10:05 a.m.)

3 CHAIRPERSON ANDERSON: Good morning,  
4 everyone. I'm Chairperson of the Alcoholic  
5 Beverage Control Board for the District of  
6 Columbia. According to its DC Code Section 2-576  
7 of the Open Meetings Act. I am welcoming you to  
8 the regular scheduled meeting of the Alcoholic  
9 Beverage Control Board. This meeting has been  
10 conducted pursuant to guidance made available by  
11 the District of Columbia Office of Open  
12 Government regarding electronic meetings held by  
13 public bodies during the public health emergency.

14 CHAIRPERSON ANDERSON: Pursuant to  
15 this guidance, notice of today's meeting was  
16 provided 48 hours in advance on ABRA's website,  
17 and on the District's central meeting calendar.  
18 The notice included the time, date, agenda, and  
19 call-in or login information for public  
20 participation. This electronic meeting has been  
21 hosted by a WebEx account provided by the  
22 District of Columbia Government. Please address  
23 any questions or complaints to the OOG at  
24 OpenGovOffice@DC.gov.

25 My name is Donovan Anderson and I'm

1 the Chairman of the Board. I would like to  
2 introduce other members of the ABC Board who are  
3 also participating electronically pursuant to  
4 Mayor's Order 2020-054. Please respond when I  
5 announce your name. Mr. James Short?

6 MEMBER SHORT: Mr. James Short.  
7 Present.

8 CHAIRPERSON ANDERSON: Mr. Bobby Cato.

9 MEMBER CATO: Bobby Cato. Present.

10 CHAIRPERSON ANDERSON: Ms. Jeni  
11 Hansen.

12 MEMBER HANSEN: Jeni Hansen. Present.

13 CHAIRPERSON ANDERSON: Mr. Edward  
14 Grandis.

15 MEMBER GRANDIS: Edward Grandis.  
16 Present.

17 CHAIRPERSON ANDERSON: The Board has  
18 five members in attendance for the conduct of  
19 business today, and that constitutes a quorum.  
20 Before we get underway with today's hearing  
21 calendar, I need to make a few instructions very  
22 clear so the conduct of these hearings is  
23 understood by everyone. We have one case today  
24 on our calendar. Once your case is called, I  
25 will take a moment for our IT specialist to

1       elevate the rights for each party to enable their  
2       cameras and microphone. Then and only then will  
3       you have the ability to enable to your  
4       microphone.

5                 What I would also say, I would ask  
6       that if you are not speaking, that at each time  
7       you mute your microphone. Please only unmute  
8       microphone when you are speaking. And this is --  
9       if your microphone is unmuted, then there is a  
10      lot of interference in the background. Should  
11      you have any questions or require technical  
12      assistance during the hearing, please submit them  
13      using the question and answer feature or e-mail  
14      Simone.Andrews2@dc.gov.

15                Our first order of business today is  
16      a protest hearing. Case number 20-PRO-00006.  
17      Felicity Lounge, license number 112502. Ms.  
18      Andrews, can you please elevate the rights of the  
19      parties in this case?

20                MS. ANDREWS: Sure. Stand by.  
21      Investigator Mitchell, your rights have been  
22      elevated. Commissioner Kelty, your rights have  
23      been elevated. Mr. Miskiri, your rights have  
24      been elevated. Mr. Baugh, your rights have been  
25      elevated. Mr. Knobbe, your rights have been

1 elevated. Ms. Baugh, your rights have been  
2 elevated. Mr. Lund, your rights have been  
3 elevated.

4 Mr. Chair, we have a few that are on  
5 the line, but I do not have them listed as an  
6 attendee that's supposed to be in this hearing.  
7 Do you want me to elevate their rights?

8 CHAIRPERSON ANDERSON: Yes, please  
9 elevate -- let me -- hold on. Give me a minute  
10 please, okay? I will let you know whose rights  
11 to elevate once I will ask. I'm going to ask --  
12 good morning, everyone. Mr. -- good, Mr. Kelty,  
13 you're the only one speaking; is that correct?  
14 For the -- you're not bringing witnesses; is that  
15 correct?

16 MR. KELTY: I'm representing the ANC  
17 and I am not bringing any witnesses because  
18 they're all Protestants.

19 CHAIRPERSON ANDERSON: That's fine.  
20 Okay. Fine. Mr. -- I'm sorry, Ms. Baugh, you're  
21 representing the group; is that correct?

22 MS. BAUGH: Yes, sir.

23 CHAIRPERSON ANDERSON: And who are  
24 your witnesses? Who are your witnesses? Name  
25 your witnesses, please.

1 MS. BAUGH: Mr. Jordan Baugh, who's  
2 sitting right here with me on the screen.

3 CHAIRPERSON ANDERSON: Okay.

4 MS. BAUGH: Then Mr. Marc Knobbe.

5 CHAIRPERSON ANDERSON: Mr. Marco?

6 MS. BAUGH: K-N-O-B-B-E. He's present  
7 on the screen.

8 CHAIRPERSON ANDERSON: Okay.

9 MS. BAUGH: We will also have Mr. Alex  
10 Ackemann.

11 CHAIRPERSON ANDERSON: Alex?

12 MS. BAUGH: Ackemann.

13 CHAIRPERSON ANDERSON: Ackemann? How  
14 do you spell the last name?

15 MS. BAUGH: A-C-K-E-R-M-A-N.

16 CHAIRPERSON ANDERSON: Okay.

17 MS. BAUGH: And he will have to join  
18 us in progress. He has a medical appointment  
19 that is right now.

20 CHAIRPERSON ANDERSON: Okay.

21 MS. BAUGH: And then we do also have  
22 two additional members of our Protest present,  
23 Andrew Lund and Crystal Johnson.

24 CHAIRPERSON ANDERSON: Are Mr. Lund  
25 and Crystal Johnson, are they on the screen?



1 MS. BAUGH: I see Mr. Lund, I do not  
2 see Ms. Johnson, but I do understand she has  
3 dialed -- or that she has logged into the  
4 platform.

5 CHAIRPERSON ANDERSON: All right, so  
6 Ms. Andrews, if you see Crystal Johnson, please  
7 elevate the rights of Crystal Johnson, please.

8 MS. BAUGH: I'm sorry. Her last name  
9 is Geise. Crystal Geise.

10 CHAIRPERSON ANDERSON: Crystal Geise.  
11 How do you spell that?

12 MS. BAUGH: G-E-I-S-E. Crystal  
13 Johnson Geise.

14 CHAIRPERSON ANDERSON: All right. So  
15 we'll elevate Crystal Johnson Geise. So those  
16 are all your witnesses; is that correct? Ms.  
17 Baugh, those are all your witnesses; is that  
18 correct?

19 MS. BAUGH: Yes, sir.

20 CHAIRPERSON ANDERSON: Mr. Miskiri?

21 MR. MISKIRI: Good morning.

22 CHAIRPERSON ANDERSON: Good morning.  
23 Do you have a camera, sir?

24 MR. MISKIRI: Yes.

25 CHAIRPERSON ANDERSON: Can you please

1 open your camera, please, sir?

2 MR. MISKIRI: Hold on one second.

3 CHAIRPERSON ANDERSON: All right.

4 Good morning, sir. Are you the only one  
5 testifying here today? Do you have any witnesses  
6 with you?

7 MR. MISKIRI: No, sir.

8 CHAIRPERSON ANDERSON: You have no  
9 witnesses; is that correct? All right. All  
10 right. So I think we have elevated the rights  
11 stuff. Mr. Miskiri, I hope you are -- this is  
12 going to be a couple of hours so I hope you are  
13 at a location where you are -- you're not moving.  
14 And because this is going to be a couple of  
15 hours. So I do hope that you're in a location --  
16 I see that you're walking at the moment, but I  
17 hope -- I'm assuming you're walking to a location  
18 where you can sit and we don't have to worry  
19 about having internet.

20 MR. MISKIRI: Correct. Correct.

21 CHAIRPERSON ANDERSON: All right.

22 MR. MISKIRI: Correct.

23 CHAIRPERSON ANDERSON: All right. All  
24 right. All right. Good morning, everyone.

25 We're having this protest hearing. Hold on one

1 minute. All right. This is the way this will  
2 operate this morning. We will have myself as  
3 Chair, I'll provide opening remarks to the  
4 parties. I will ask if there are any preliminary  
5 motions that either side wants to bring, then the  
6 Applicant will make an opening statement. The  
7 opening statements from Applicant is to let me  
8 know what is it that he is requesting from the  
9 Board and what is it that he intends to prove  
10 today.

11 Then once the Applicant has provided  
12 their opening statement, then I will have the ANC  
13 provide an opening statement. Then I'll have the  
14 group provide an opening statement. Once the ANC  
15 and the group have provided their opening  
16 statement, then the Board will call its first  
17 witness, which is our investigator. The  
18 investigator will testify. The Board will ask  
19 questions of the investigator. Once the Board  
20 has asked questions of the investigator, Mr.  
21 Miskiri, you will have an opportunity to ask  
22 questions of the investigator based on his  
23 testimony.

24 Once Mr. Miskiri has asked questions  
25 of the investigator, then the ANC will have an

1 opportunity to ask questions of the investigator.  
2 Once the ANC has had an opportunity to ask  
3 questions of the investigator, then you, Ms.  
4 Baugh, will have an opportunity to ask questions  
5 of the investigator.

6 The Board might ask follow-up  
7 questions of the investigator, and then the Board  
8 will dismiss the investigator. Once the Board  
9 has dismissed the investigator, then you, Mr.  
10 Miskiri, then you will present your case. I will  
11 swear you in. You will testify about what it is  
12 that you're seeking and why is it that you  
13 believe that the Board should provide you the  
14 Substantial Change to change your establishment  
15 from a CR to a CT.

16 Once you are done testifying, then I  
17 will -- then Mr. Kelty, as the ANC  
18 representative, will have an opportunity to ask  
19 you questions. Once Mr. Miskiri -- I'm sorry,  
20 once Mr. Kelty has had an opportunity to ask  
21 questions of you, then Ms. Baugh will have an  
22 opportunity to ask questions of you.

23 Mr. Miskiri, you have one hour to  
24 present your case. So you have one hour to  
25 present your case. Once Mr. Miskiri has

1 presented his case, then I will have the ANC  
2 present its case. And, Mr. Kelty, you have one  
3 hour to present your case. And we'll have  
4 opportunity for people to cross-examine and we'll  
5 go through that same process. Once the ANC has  
6 presented its case, then I'll ask you, Ms. Baugh,  
7 to present your case.

8 I see that you have -- how many  
9 witnesses do you have, Ms. Baugh?

10 MS. BAUGH: So in addition to myself,  
11 we have three witnesses who are planning to speak  
12 and two additional who are present.

13 CHAIRPERSON ANDERSON: Three -- that's  
14 three, that's five, and you're testifying?

15 MS. BAUGH: Yes, sir.

16 CHAIRPERSON ANDERSON: Well --

17 MR. MISKIRI: So it's myself and three  
18 other individuals will testify.

19 CHAIRPERSON ANDERSON: So that's four?

20 MS. BAUGH: Correct.

21 CHAIRPERSON ANDERSON: All right.

22 MR. MISKIRI: I'm sorry. Excuse me,  
23 sir. Also my business partner, owner, Darryl  
24 Jones. He's not -- I don't see him in here, but  
25 he should --

1 CHAIRPERSON ANDERSON: Ms. Andrews,  
2 can you please elevate the rights of Mr. Darryl  
3 Jones, please?

4 MS. ANDREWS: Sure. Stand by. All  
5 right. Mr. Jones, your rights have been  
6 elevated.

7 CHAIRPERSON ANDERSON: All right. All  
8 right.

9 MS. ANDREWS: Also, a Dominique Jones  
10 on the call.

11 CHAIRPERSON ANDERSON: Who is  
12 Dominique Jones? Mr. Miskiri, do you know --  
13 does anyone here know Dominique Jones? Dominique  
14 who? Ms. Andrews, Dominique who?

15 MS. ANDREWS: Jones. Jones.

16 MR. MISKIRI: He's the manager of the  
17 business.

18 CHAIRPERSON ANDERSON: You can elevate  
19 those rights and we'll address that issue as it  
20 progresses, but you can elevate the rights of  
21 Dominique Jones. All right. So everyone who's  
22 on whose rights have been elevated, could you  
23 please show -- open your video, please, if you  
24 have the ability to do that.

25 So let me have the parties introduce

1 themselves for the record. I need all the  
2 parties to introduce themselves for the record,  
3 and I need you to state and spell your name and  
4 your role. And let me start with the -- I'll  
5 start with the licensee. And what I want the  
6 licensee to do is to start to introduce himself  
7 for the record and let me know who will be -- who  
8 is it here representing -- I'm sorry, who will be  
9 potential witnesses for the licensee.

10 And so I'd like the licensee to state  
11 who the person is and then once the licensee has  
12 identified his potential witnesses, then I need  
13 those witnesses to identify themselves for the  
14 record by spelling and stating their name. So  
15 after the licensee has done that, then I will  
16 have the ANC introduce themselves for the record.  
17 And if he has any witnesses, then I need him to  
18 state who the witnesses are and then the  
19 witnesses can identify themselves. And then  
20 we'll have the group will -- identify themselves  
21 for the record by spelling and stating their  
22 name.

23 And then I need -- I also need them to  
24 identify their witnesses and I need the witnesses  
25 then to identify themselves or the potential

1 witnesses to identify themselves for the record  
2 and spell or state their -- spell and state their  
3 name.

4 So let's start with you, Mr. Miskiri,  
5 can you identify yourself for the record by  
6 spelling and state your name, please.

7 MR. MISKIRI: Mr. Jeffeary Miskiri.  
8 Spelling is J-E-F-F-E-A-R-Y, last name MISKIRI.  
9 And I'm an owner/partner of Felicity Lounge, 707  
10 H Street Northeast, Washington, DC

11 CHAIRPERSON ANDERSON: And who is with  
12 you here today, Mr. Miskiri.

13 MR. MISKIRI: Today I also have Darryl  
14 Jones, who's co-owner of Felicity Lounge. And  
15 Dominique Jones, who's manager, general manager  
16 of Felicity Lounge.

17 CHAIRPERSON ANDERSON: Mr. Jones, can  
18 you please open your camera and identify yourself  
19 for the record, please.

20 MR. DARRYL JONES: My camera's open.  
21 My name is Darryl Jones --

22 CHAIRPERSON ANDERSON: I can't hear  
23 you, sir.

24 MR. DARRYL JONES: My camera's open.  
25 I don't know if you can see me, if I need to open



1 it and re-close, or --

2 CHAIRPERSON ANDERSON: I can see you,  
3 also, you're on -- well, I saw you and you  
4 disappeared because you're on my screen twice.

5 MR. DARRYL JONES: Okay. My name is  
6 Darryl Jones. I'm a co-owner of Felicity Lounge,  
7 707 H Street. The spelling of my name is D-A-R-  
8 R-Y-L. Last name Jones, J-O-N-E-S.

9 CHAIRPERSON ANDERSON: All right. I  
10 was seeing you before but I'm not seeing you  
11 anymore, so you can work on that issue. Ms.  
12 Dominique Jones, can you identify yourself for  
13 the record by, please, if you have a camera,  
14 please open your camera.

15 MR. DOMINIQUE JONES: Dominique Jones  
16 --

17 CHAIRPERSON ANDERSON: I apologize,  
18 sir. You see, that's one of the reasons why I  
19 ask people to let me see them because I said Ms.  
20 Dominique Jones and it's a mister. So that's one  
21 of the reasons why I ask you, please, if you have  
22 a camera, please open your camera so I know who  
23 I'm talking to. So, Mr. Dominique Jones, can you  
24 please identify yourself for the record, please?

25 MR. DOMINIQUE JONES: Yes. Dominique

1 Jones. Spelling D-O-M-I-N-I-Q-U-E, J-O-N-E-S.  
2 And I'm a manager at Felicity Lounge.

3 CHAIRPERSON ANDERSON: And you don't  
4 have -- do you have a camera, sir? Because I  
5 can't see you. Do you have a camera? If you  
6 don't have one, that's fine. If you have one,  
7 I'll ask that you open, sir. At least I can see  
8 who it is that I'm speaking to.

9 MR. DOMINIQUE JONES: I mean, I think  
10 my camera is on but I don't know why it's not  
11 showing.

12 CHAIRPERSON ANDERSON: All right.  
13 That's fine. Well, you can work on that issue if  
14 you're able to solve it. If you're not able to  
15 solve it, that's fine. All right. Let's go to  
16 you, Mr. Kelty.

17 MR. KELTY: Good morning. This is  
18 Joel Kelty. I'm representing ANC-6C. The  
19 spelling of my name is J-O-E-L, last name K-E-L-  
20 T-Y. I have no witnesses as the group that's  
21 here, I'm organized to direct.

22 CHAIRPERSON ANDERSON: All right.  
23 Thank you, Mr. Kelty. Ms. Baugh, can you please  
24 identify yourself for the record, please.

25 MS. BAUGH: Yes, sir. My name is

1 Angelle Baugh, A-N-G-E-L-L-E, B-A-U-G-H. And I'm  
2 a Protestant in this matter. And I'm serving as  
3 a representative of our group of 24 neighbors who  
4 signed a protest letter.

5 CHAIRPERSON ANDERSON: And who are --  
6 all right, so who is the first -- who are the  
7 witnesses with you? Why don't you just state  
8 their names and then once you've stated the  
9 person's name, I'm asking for them to identify  
10 themselves and spell their name for the record,  
11 please.

12 MS. BAUGH: Yes, sir. So our first,  
13 one of our witnesses will be Jordan Baugh.

14 MR. BAUGH: Hi. Jordan Baugh, J-O-R-  
15 D-A-N, B-A-U-G-H.

16 CHAIRPERSON ANDERSON: All right. Who  
17 else?

18 MS. BAUGH: Another witness will be  
19 Mr. Marc Knobbe.

20 CHAIRPERSON ANDERSON: I can't hear  
21 you, sir.

22 MR. KNOBBE: Good morning, everyone.  
23 My name is Marc Knobbe. And if you just think of  
24 Star Wars, it'll be fine. I live at 727 Seventh  
25 Street Northeast, directly across the alley. My

1 name is spelled M-A-R-C, last name, K-N-O-B-B-E.

2 CHAIRPERSON ANDERSON: Thank you. Ms.  
3 Baugh?

4 MS. BAUGH: Another witness will be  
5 Mr. Alex Ackemann.

6 MR. ACKEMANN: Hi everyone, this is  
7 Alex Ackemann, a neighbor at 723 seventh Street,  
8 two houses removed from the alley behind the  
9 establishment. My name is spelled A-L-E-X, A-C-  
10 K-E-M-A-N-N.

11 MS. BAUGH: Sir, we do have two  
12 additional members of the protest here, who we  
13 have listed as witnesses in case they would like  
14 to speak, however, they're not necessarily part  
15 of the planned presentation. Would you like me  
16 to identify them for the record?

17 CHAIRPERSON ANDERSON: If you're -- if  
18 they're here, yes. Identify them, please.

19 MS. BAUGH: Okay. Yes, sir. The  
20 first one is Mr. Andrew Lund.

21 MR. LUND: Good morning. This is  
22 Andrew Lund, A-N-D-R-E-W, L-U-N-D. I live at 722  
23 Eighth Street Northeast. So one of the homes  
24 that abuts the alley, and I'm a signatory to the  
25 protest.

1 MS. BAUGH: Thanks. And we also have  
2 Crystal Geise.

3 MS. GEISE: Hi. Crystal Geise, C-R-Y-  
4 S-T-A-L, G-E-I-S-E. And I am also in the  
5 neighborhood and one of the Protestants. My  
6 address is 718 Seventh Street Northeast.

7 MS. BAUGH: And that is the entirety  
8 of our group that's here.

9 CHAIRPERSON ANDERSON: Thank you. Mr.  
10 Mitchell, can you please identify yourself for  
11 the record, please?

12 MR. MITCHELL: Yes. Good morning.  
13 Adam Mitchell, investigator for ABRA. It's A-D-  
14 A-M, Last name M-I-T-C-H-E-L-L.

15 CHAIRPERSON ANDERSON: All right.  
16 Thank you. Thank you, Mr. Mitchell. All right.  
17 Are there any preliminary issues that you need to  
18 bring to my attention, Mr. Miskiri?

19 MR. MISKIRI: No, sir. No preliminary  
20 issues other than the main focus of Felicity  
21 Lounge is to, you know, be a great establishment  
22 and business, not only for our customers, to the  
23 neighborhood, but to maximize our potential.

24 CHAIRPERSON ANDERSON: You can -- when  
25 you're opening -- when you do your opening

1 statement, sir, you can say that. I was just  
2 trying to find out if there was any procedural  
3 preliminary matters at this juncture, Mr. Kelty,  
4 are there any procedural preliminary matters you  
5 want to bring to our attention?

6 MR. KELTY: No, sir.

7 CHAIRPERSON ANDERSON: And Ms. Baugh,  
8 are there any preliminary matters you want to  
9 bring to our attention?

10 MS. BAUGH: No, sir.

11 CHAIRPERSON ANDERSON: All right.  
12 Thank you. All right. I'm going to give each  
13 side five-minutes to make an opening statement,  
14 and I'll start with you, Mr. Miskiri. An opening  
15 statement, I know -- well, I'm assuming that no  
16 one here is an attorney. So an opening statement  
17 is basically the road map you're going to provide  
18 the Board. So you're going to say to us what it  
19 is that you're seeking and why you're seeking it,  
20 and at the end of the presentation, what it is  
21 that you want to do.

22 So you have five-minutes, Mr. Miskiri,  
23 to let me -- let the Board know what it is that  
24 you're asking of us today.

25 MR. MISKIRI: Okay. Well, good

1 morning, Board. The main objective and goal for  
2 --

3 CHAIRPERSON ANDERSON: Speak up, sir,  
4 your voice is kind of trailing off.

5 MR. MISKIRI: I said, good morning.  
6 Our main objective and focus for Felicity Lounge  
7 is to obtain a tavern license to fully maximize  
8 our potential of revenue, due, you know, due --  
9 or prior to COVID, our sales weren't very great.  
10 We were in the hole, in the negative. Owners  
11 investment paying out-of-pocket. And the main  
12 issue was the source of where the money was  
13 coming from. Sorry. My phone. My phone was  
14 ringing. I apologize.

15 We felt like what we were offering  
16 wasn't really making it, making ends meet. So  
17 seeing that we're tied into a ten-year lease and  
18 not to walk around with debt for the rest of our  
19 lives and file for bankruptcy, we felt that we  
20 needed to make a huge change to try to bring in  
21 more revenue. We'd continue to offer the same  
22 product with food that we currently offer, but we  
23 wanted to have entertainment. When we say  
24 entertainment, we mean controllable  
25 entertainment, where, you know, we can pair food

1 and drinks with live entertainment.

2 We feel like that's the only way to  
3 survive and now with COVID, with all these rules  
4 and restrictions, we definitely believe that it's  
5 even more of a must and just for our business to  
6 make it. Like I said, we're in prime real  
7 estate. It's not cheap. We don't own the  
8 building, we're leasing it out, so we're  
9 responsible to pay that rent for the next ten  
10 years. And if the landlord were to evict us,  
11 we'd still be responsible for -- because, you  
12 know, we guaranteed that that lease.

13 So there's bars and nightclubs up and  
14 down H Street from east to west, and we feel that  
15 we just want our fair chance to, you know, try to  
16 make the best revenue that we can provide for  
17 ours. Since day one, we've always had security.  
18 The noise complaint we don't believe it was  
19 valid, from the neighborhood because we have an  
20 alleyway, and we have our bearing door, we have  
21 double doors.

22 So like I said, we welcomed the  
23 neighborhood well, more than once to come in and  
24 do, you know, test out the sound and see if we  
25 can come to common ground. But we feel as though



1 what they're offering, it's just basically trying  
2 to make us control our business and it won't work  
3 for us.

4 MR. DARRYL JONES: And Mr. Anderson,  
5 if I can add --

6 CHAIRPERSON ANDERSON: I'm sorry. No.  
7 Who's that?

8 MR. DARRYL JONES: Darryl Jones. I'm  
9 the other --

10 CHAIRPERSON ANDERSON: Hold on. Mr.  
11 -- hold on, Mr. Jones. We have to have some type  
12 of order to this.

13 MR. BAUGH: I apologize.

14 CHAIRPERSON ANDERSON: The opening  
15 statement is just definitely one lead person  
16 speak. So you're just telling me what the case  
17 is. So I mean, you can -- if you have something  
18 else to say, when you present your case, then you  
19 can present your case and speak. But as an  
20 opening statement, I'm not going to allow two  
21 people to give their opening statements.

22 So later on in the presentation of the  
23 case, then you can speak whatever you need to  
24 speak, Mr. Jones, as a co-owner of the  
25 establishment; is that fine? Mr. Jones? Mr.

1 Jones. Mr. Jones. Mr. Miskiri, Mr. Jones is  
2 your co-owner. It appears that he's in a moving  
3 vehicle. He's not frozen.

4 MR. DARRYL JONES: I'm in a stationary  
5 vehicle.

6 CHAIRPERSON ANDERSON: I'm just saying  
7 that your frozen. So I called your name three  
8 times and you haven't responded. So now your  
9 video is gone, so I don't know what is going on.  
10 And Mr. Miskiri, I don't know what is going on  
11 with your connection, sir. I need you to have a  
12 stable connection because this hearing is going  
13 to last a couple of hours.

14 MR. MISKIRI: I'm stationary, sir.  
15 I'm sitting down on my living room couch.

16 CHAIRPERSON ANDERSON: Who's that? Is  
17 that Mr. Miskiri?

18 MR. MISKIRI: Yes, sir.

19 CHAIRPERSON ANDERSON: When I look at  
20 you, Mr. Jones, it looks like you're in a car.  
21 I'm just -- that's what I'm -- I see you -- from  
22 my vision of you is that I see you in a car. So  
23 maybe that's your background but that's what it  
24 looks like to me, okay?

25 MR. DARRYL JONES: It's just, my kids

1 have Zoom in the room next door, so I'm home.

2 CHAIRPERSON ANDERSON: All right. But  
3 I'm just saying that I need you -- but I was  
4 saying to Mr. Jones -- and now Mr. Jones has  
5 frozen. Maybe that is -- I don't know what's  
6 going on with Mr. Jones. When it's time for you  
7 to present your case, then Mr. Jones can say  
8 whatever he needs to speak, but it's not  
9 necessary for him to speak to make an opening  
10 statement, okay? Not going to happen.

11 MR. MISKIRI: Okay. Would you like me  
12 to continue one or not?

13 CHAIRPERSON ANDERSON: An opening  
14 statement, sir. You're just giving me a short  
15 overview. That's why I said five minutes.

16 MR. MISKIRI: Okay, that's fine.

17 CHAIRPERSON ANDERSON: You have an  
18 hour to present your case. So whatever else you  
19 want to add, when you present your case, you and  
20 Mr. Jones can say that, okay?

21 MR. MISKIRI: Yes, sir.

22 CHAIRPERSON ANDERSON: All right. All  
23 right. Mr. Kelty, you have five minutes to make  
24 an opening statement, please.

25 MR. KELTY: Thank you. Good morning,

1 Board. On January 8, 2020, at a regularly  
2 scheduled and duly noticed meeting ANC 6C, the  
3 Protestant, voted to protest this second  
4 application for Substantial Change for Brothers  
5 Burger Bar trading as Felicity Lounge, located at  
6 707 H Street Northeast from a CR restaurant  
7 license to a CT tavern license. The applicant  
8 previously filed a request for the same  
9 Substantial Change, but failed to appear at a  
10 roll call hearing on April 15, 2019. The Board  
11 dismissed the application in order 2019-792.

12 Our protest of the Substantial Changes  
13 based on the effect of the establishment on  
14 property values, the effect of the establishment  
15 on peace, order, and quiet, recording noise and  
16 litter. And the effect of the establishment upon  
17 residential parking needs and vehicular and  
18 pedestrian safety. Since Felicity Lounge opened  
19 two years ago, there have been numerous  
20 constituent complaints about the establishment.  
21 In addition to the ANC, a group of approximately  
22 25 neighbors has organized to oppose the  
23 Substantial Change. The Applicant's illegal  
24 operation of the nightclub in close proximity to  
25 residences has created an adverse impact for

1 nearby residences.

2 A change in license classification  
3 from CR to CT will further exacerbate the problem  
4 by emboldening the Applicant to continue its  
5 illegal nightclub operation to the detriment of  
6 the surrounding community. Despite the protests  
7 and separate mediation and collaboration, the  
8 Applicant has been unresponsive to the ANC's  
9 attempts to negotiate a settlement agreement, has  
10 proposed no changes to its business operations  
11 nor to its facility to address neighbor concerns  
12 and has failed to undertake any measures to  
13 mitigate its adverse impacts on the community.

14 The ANC asks that the Board deny the  
15 request for Substantial Change and impose  
16 additional restrictions on the Applicant to  
17 reduce adverse impacts of its operations on the  
18 surrounding community. If the Board elects to  
19 grant the Substantial Change, they Protestant  
20 requests the Board impose additional conditions  
21 to mitigate the Applicant's adverse impacts on  
22 its neighbors. Thank you.

23 CHAIRPERSON ANDERSON: Thank you, Mr.  
24 Kelty.

25 Ms. Baugh?

1 MS. BAUGH: Mr. Chairman, quick --  
2 first, a quick question. Would I be able to have  
3 rights to share my screen during the opening to  
4 show a clip?

5 CHAIRPERSON ANDERSON: That's not --  
6 we don't normally do that during opening, but if  
7 you need that, we can. But if -- it would  
8 normally -- all right, normally we don't do that,  
9 but if you want to do that, we can.

10 MS. BAUGH: We can dispense with it  
11 and we'll use that during the presentation.

12 CHAIRPERSON ANDERSON: Okay. That's  
13 fine. Okay.

14 MS. BAUGH: So thank you, Mr.  
15 Chairman, and Commissioners, for the opportunity  
16 to speak on behalf of myself and the group of 24  
17 of my neighbors who have joined this protest. We  
18 reside and own property on the blocks closest to  
19 Felicity Lounge, primarily on the 700 block of  
20 7th Street Northeast, and the 700 block of 8th  
21 Street Northeast. And we are protesting Felicity  
22 Lounge's request for a Substantial Change from a  
23 restaurant to a tavern.

24 The heart of our protest is the  
25 adverse effects that we, the two dozen people who

1 signed onto this protest, have experienced on the  
2 peace, order, and quiet of our residential blocks  
3 as a result of Felicity Lounge. The Board first  
4 issued a license to Felicity Lounge in July 2019.  
5 However, the Board in its wisdom issued this  
6 restaurant license while acknowledging, and I  
7 quote, The Board is not convinced that the  
8 Applicant is prepared to adequately address the  
9 burdens on the community related to late night  
10 drinking and entertainment.

11 We are here today to tell you that you  
12 were right. The Board was absolutely right to be  
13 concerned. The concerns that you had have played  
14 out exactly as you envisioned in that July 2019  
15 order. There have been significant impacts to  
16 the peace, order, and quiet of our community due  
17 to late night drinking and entertainment at  
18 Felicity Lounge. Our protest will clearly show  
19 that the late night drinking and entertainment,  
20 not selling food, has been the primary business  
21 that Felicity Lounge is in.

22 And it's been a very real burden to  
23 the community that lives in this area. That same  
24 order, as a conclusion of law, you, The Board  
25 wrote that, quote, A well run restaurant that

1 focuses on food service is not a burden on the  
2 community. Nevertheless, a large portion of the  
3 applicant's business plan focuses on providing  
4 entertainment and operating as a Lounge. We  
5 agree. Indeed, there a number of restaurants in  
6 the immediate vicinity of our homes, including Po  
7 Boy Jim, which is owned by Mr. Miskiri, who is  
8 here today. And there are several other  
9 restaurants: Taqueria Fresca, Rice Bar, Farmbird,  
10 Fancy Radish, just to name a few that are right  
11 here at this intersection, that we think have not  
12 been a burden. And in fact, have been very  
13 positive for our community.

14 But here, the situation with Felicity  
15 Lounge is different and it seems that history may  
16 be repeating itself. Back in July 2019, The  
17 Board continued in that same order that, and I'm  
18 going to quote, this is a sentence here, Late  
19 night entertainment and drinking can impose  
20 burdens on the surrounding community and the  
21 quality of life of residents. Nevertheless, the  
22 Applicant has presented no plan to mitigate these  
23 concerns, such as soundproofing or adequate  
24 security measures or demonstrated that its  
25 management is prepared to manage such an



1 establishment.

2 As a result, while the Board finds a  
3 food service oriented restaurant appropriate, The  
4 Board will impose restrictions on nightclub and  
5 entertainment related activities. Mr. Chairman  
6 and Commissioners, this is exactly why we are  
7 here today. We have issues today. They're the  
8 exact same concerns that you, the Board,  
9 previously articulated. This area is appropriate  
10 for a restaurant, but it is not appropriate for a  
11 nightclub and entertainment related activities,  
12 especially when there was no history of or no  
13 plan to mitigate these concerns with  
14 soundproofing or adequate security.

15 As I and our other witnesses will  
16 attest to, there is not adequate soundproofing,  
17 there are not adequate security measures, and the  
18 management is not adequately managing the  
19 establishment. Regrettably, even the conditions  
20 that were placed on the original restaurant  
21 license for the Applicant were not sufficient to  
22 prevent noise and the transformation of this  
23 premises into a de facto nightclub.

24 Since Felicity Lounge opened, we have  
25 experienced, and our witnesses will speak to, a

1 significant increase in noise, traffic, and rowdy  
2 and loud disturbances on the 700 block of 7th  
3 Street and beyond. And I focus on 7th Street  
4 because that's where I live. Mr. Lund and other  
5 members of our protest are on 8th Street, on the  
6 other side of the alley. The police regularly  
7 have to break up loud groups of people  
8 congregating late night in our otherwise quiet  
9 residential block.

10 And as someone with a bedroom on 7th  
11 Street, I can confidently say that the owners of  
12 Felicity Lounge have failed to install our  
13 maintain adequate soundproofing and regularly  
14 play loud and amplified music that I can hear in  
15 my home and a number of my neighbors' homes late  
16 at night. Accordingly, we strongly believed that  
17 Felicity Lounge does not qualify for the issuance  
18 of the request of Substantial Change under DC  
19 Code 25-404, for failure to meet the  
20 appropriateness standard set forth 25-313.

21 According to 25-313, the following  
22 must be considered: The effect on the  
23 establishment on peace, order, and quiet,  
24 including noise and litter; the effect on the  
25 establishment upon residential parking needs and

1 vehicular and pedestrian safety; and the effect  
2 of the establishment on real property values.  
3 Today, when we get to our case, we're going to  
4 walk through each prong of the appropriateness  
5 standard with a particular emphasis on the  
6 adverse effects Felicity has had on the peace,  
7 order, and quiet of our neighborhood, as well as  
8 the effects of vehicular and pedestrian safety.

9 CHAIRPERSON ANDERSON: Thank you, Ms.  
10 Baugh. All right. The Board will now call its  
11 first witness, Mr. Adam Mitchell. Good morning,  
12 Mr. Mitchell. Can you please identify yourself  
13 for the record, please?

14 MR. MITCHELL: Yes. Investigator Adam  
15 Mitchell for ABRA.

16 CHAIRPERSON ANDERSON: And Mr.  
17 Mitchell, how long have you worked for the  
18 agency, sir?

19 MR. MITCHELL: Approximately 16  
20 months.

21 CHAIRPERSON ANDERSON: Have you done  
22 a protest hearing before?

23 MR. MITCHELL: This is the first one  
24 to go to a hearing. Previously, they've settled.

25 CHAIRPERSON ANDERSON: All right. Are

1 you familiar with this establishment, Felicity  
2 Lounge?

3 MR. MITCHELL: Yes, sir.

4 CHAIRPERSON ANDERSON: How are you  
5 familiar with this establishment?

6 MR. MITCHELL: I was assigned a  
7 protest investigation for this establishment's  
8 Substantial Change.

9 CHAIRPERSON ANDERSON: Were you -- did  
10 there come a time that you wrote a report  
11 regarding your findings?

12 MR. MITCHELL: Yes, sir.

13 CHAIRPERSON ANDERSON: And can you  
14 please share this report with us, please? Ms.  
15 Andrews, please give Mr. Mitchell the ability to  
16 share his screen.

17 MS. ANDREWS: Sure. One second.  
18 Okay, Mr. Mitchell, your rights have been  
19 elevated.

20 MR. MITCHELL: Okay. Thank you.

21 CHAIRPERSON ANDERSON: And, Mr.  
22 Mitchell, is this a report that you produced for  
23 this protest hearing today?

24 MR. MITCHELL: Yes, sir.

25 CHAIRPERSON ANDERSON: And, sir, can

1 you tell us what information, if any, were you  
2 able to gather as a result of your investigation?

3 MR. MITCHELL: Sure. So I conducted  
4 the protest investigation of Brothers Burger Bar,  
5 LLC, which is trading as Felicity Lounge, located  
6 on 707 H Street Northeast in Washington DC The  
7 Substantial Change application for transitioning  
8 to a class C tavern from a class C restaurant was  
9 protested by two entities, the Advisory  
10 Neighborhood Commission, or ANC for 6C,  
11 represented by commissioner Joel Kelty and a  
12 group of 24 residents, which is represented by  
13 Angelle Baugh.

14 The formal protest issues by all  
15 parties were that Felicity Lounge's transition to  
16 a class C tavern will adversely affect the peace,  
17 order, and quiet of the neighborhood, the  
18 residential parking needs, vehicular and  
19 pedestrian safety, and real property values. On  
20 January 11th, I spoke with Mr. Miskiri, who is  
21 one of the owners of Felicity Lounge over the  
22 phone regarding the Substantial Change protest  
23 and to schedule a visit to the establishment.

24 Mr. Miskiri stated that the  
25 establishment was aware of the Substantial Change

1 license application being protested by two  
2 groups. He went on to say that no agreements had  
3 been made because the establishment believed it  
4 was unreasonable what the Protestants were asking  
5 his business to do. Mr. Miskiri went on to say  
6 that he felt the Protestants were unpleasant to  
7 deal with and quote, racist. And that his  
8 business had been there for years and the  
9 residents would just like to see the business  
10 close.

11 On January 19th, I visited the  
12 establishment and met with Mr. Miskiri to conduct  
13 a walk-through and inspection of the  
14 establishment. It was closed at the time and no  
15 ABRA violations were observed. During the visit,  
16 Mr. Miskiri stated that he felt the Protestants  
17 were trying to control and dictate the operations  
18 of his business. He also stated that he  
19 previously did walkthroughs with Protestants  
20 concerning the noise, but he couldn't provide  
21 specific dates for this.

22 He stated that the business was not  
23 trying to change or limit their menu, just  
24 seeking a tavern license to limit fines for not  
25 meeting ABRA's restaurant food sale requirements

1 that are in place for class C restaurant  
2 licensees. Mr. Miskiri again stated that the  
3 business was just trying to be compliant with  
4 ABRA regulations and run a successful business  
5 within their community.

6 Moving on, on February 5th of 2021, I  
7 spoke with commissioner Kelty over the telephone  
8 in regard to the ANC's concerns with Felicity  
9 Lounge's Substantial Change application to their  
10 alcohol license. Commissioner Kelty stated that  
11 the concerns mainly revolved around noise,  
12 security, loitering, and other things including  
13 trash and litter, illegal construction, and  
14 fundamental issues surrounding the nature of a  
15 restaurant operating as a nightclub, as well as  
16 who the true owners of the establishment were.

17 Commissioner Kelty was also concerned  
18 with continuous hookah and marijuana smoking  
19 inside of the establishment, as well as events  
20 charging a cover charge, which Felicity Lounge is  
21 not endorsed to do. The commissioner also noted  
22 that felicity has been in violation of the  
23 mayor's emergency rulemaking multiple times  
24 throughout the COVID 19 public health emergency.  
25 And in ending our interview, commissioner Kelty

1 stated the ANC is not fundamentally against a  
2 class C tavern at this location, but when  
3 considering Felicity Lounge's history with ABRA  
4 and not being good neighbors within their  
5 community, and also not being able to reach any  
6 type of settlement agreement, the ANC strongly  
7 opposes this class change from class C restaurant  
8 to class C tavern.

9           And then I was able to interview  
10 Angelle Baugh and Jordan Baugh, who are the  
11 designated representatives for the group of 24  
12 property owners and residents in the 700 blocks  
13 of 7th and 8th Streets Northeast. During that  
14 telephone interview, the Baughs stated that the  
15 group's main concerns involved the  
16 establishment's negative effects on peace, order,  
17 and quiet of the neighborhood, since they  
18 believed the restaurant was operating as a  
19 nightclub, and that the ABC Board had previously  
20 stated a nightclub was not appropriate for this  
21 location.

22           The Baughs stated the establishment  
23 has live entertainment in the forms of DJs, which  
24 can often be heard and felt inside of their homes  
25 regularly. They went on to say that patrons they



1 believed to be exiting Felicity Lounge in a rowdy  
2 manner were constantly littering and loitering  
3 near their parked vehicles, which was on the 700  
4 blocks of 7th and 8th Streets Northeast, and that  
5 there had been an increase of empty alcoholic  
6 beverage containers, cigarette butts, and other  
7 litter in front of the represented group members'  
8 homes since Felicity had opened.

9 The Baughs say they've called the  
10 police and ABRA hotline numbers multiple times  
11 for the previous mentioned complaints with what  
12 they feel as a lack of accountability being  
13 enforced from the government. And finally, the  
14 Baughs stated that the establishment has a Board  
15 order requiring Felicity Lounge to operate as a  
16 restaurant and strictly prohibits its operation  
17 as a nightclub. The Baughs stated they believe  
18 Felicity Lounge was often in violation of this  
19 Board order and does not operate as a restaurant.

20 Moving on in the report, with the  
21 zoning, Felicity Lounge is in a NC-16 zone, which  
22 is neighborhood commercial 16 zone. Within its  
23 location, it falls into a neighborhood serving  
24 retail shopping district that spans from along H  
25 Street from 7th Street to 12th Street Northeast.

1 And this NC-16 zone is intended to permit mixed-  
2 use development at a moderate density with an  
3 emphasis on the provision of retail uses. And  
4 this was pulled from the DC Zoning Commission.

5 Moving on, there are 25 ABC  
6 establishments within 1200 feet of 707 H Street  
7 Northeast, three of which are located in the same  
8 block. They are Taqueria Fresca, Po Boy Jim, and  
9 both of those operate under a class C restaurant  
10 license. Allure Lounge is also in that block,  
11 and that establishment holds a class C tavern  
12 license. In total, There were 11 licensed  
13 restaurants and nine licensed taverns. 18 of the  
14 total establishments do have settlement  
15 agreements. And as far as on-premises license  
16 establishments, eight of the 11 restaurants have  
17 a settlement agreement, and seven of the nine  
18 taverns also have settlement agreements. And  
19 this is a list of all the establishments within  
20 1200 feet.

21 Moving on, parking and public  
22 transportation in the area. Parking is metered  
23 on H Street Northeast, and parking on 7th and 8th  
24 Streets Northeast is zoned residential parking  
25 with a two-hour limit for non-permitted vehicles.

1 There is a parking garage. The nearest one is  
2 located approximately 250 feet away, and it's  
3 operated by Colonial Parking, it's said to be  
4 open 24/7, and located under 756 8th Street  
5 Northeast.

6 There were no recreation centers or  
7 public libraries within 400 feet of this  
8 establishment. However, the Ludlow-Taylor  
9 Elementary School and Ludlow-Taylor Daycare are  
10 located approximately 380 feet away from Felicity  
11 Lounge, with an address of 659 G Street  
12 Northeast. Loving Daycare Nursery is  
13 approximately 260 feet away from Felicity Lounge  
14 and it's located at 616 H Street Northeast.

15 Moving on, so the establishment is  
16 located in the H Street Corridor of the northeast  
17 quadrant of Washington DC It's located toward the  
18 western end of the 700 block of H Street  
19 Northeast, with the closest intersection being H  
20 and 7th Streets Northeast. To the east, the  
21 closest intersection would be H and 8th Streets  
22 Northeast. And there is a public alley directly  
23 behind the establishment. In the area  
24 immediately surrounding Felicity Lounge, it is  
25 predominantly commercial, with numerous ABC

1 licensed and non-licensed retail establishments  
2 on H Street Northeast, and residential properties  
3 making up a majority of the surrounding side  
4 streets.

5           The building that houses Felicity  
6 Lounge is made of glass and brick. Felicity  
7 operates on the ground floor and is the only  
8 occupant of the three-story building right now.  
9 So Felicity Lounge has an open rectangular shape  
10 with space for seating in the front. The rear  
11 portion of the first floor has a full bar top  
12 with seating along the east wall. There is a  
13 raised platform in the front, right by the front  
14 window, and a DJ booth on the western wall. The  
15 first floor also has two unisex single bathrooms,  
16 and the kitchen area of the establishment is  
17 located in the rear, along with a couple of  
18 storage areas and a rear exit.

19           So it's current licensed hours of  
20 operation and sales of alcohol are Sunday to  
21 Thursday, 11:00 a.m. to 1:00 a.m., and Friday and  
22 Saturday 11:00 a.m. to 2:00 a.m. Currently, it  
23 is licensed to have live entertainment and it is  
24 the same operation hours, so 11:00 a.m. to 1:00  
25 a.m. during the week and Friday and Saturday,

1 11:00 a.m. to 2:00 a.m.

2 So ABRA investigators did monitor  
3 Felicity Lounge on 22 occasions from March 2020  
4 through February 2021. I would just like to note  
5 that the ABRA enforcement divisions initiatives  
6 changed during the public health emergency and we  
7 were focused more on ensuring compliance with  
8 that order during this period of time. Of the 22  
9 times the establishment was monitored, five  
10 resulted in ABRA violations. All of these were  
11 pertaining to the mayor's order violations.

12 And those, you can see them at the end  
13 of this report in the investigative history. One  
14 was on a Thursday, March 19th. Two were on  
15 Saturdays, August 8th and September 9th, 2020.  
16 And two were on Fridays, September 18th and  
17 September 25th, 2020. Those are right here you  
18 can see.

19 So according to the information  
20 provided from the District's Office of Unified  
21 Communications, there were a total of 19 calls  
22 for service for the address 707 H Street  
23 Northeast, between March of 2019 and January  
24 2021. All these calls were not necessarily  
25 dedicated to the establishment, but rather the

1 address and were ultimately responded to by city  
2 emergency services. Of the 19, four specifically  
3 listed Felicity Lounge, and that was on December  
4 12, 2019, 11:54 p.m., there was a noise  
5 complaint. January 5, 2020, 1:48 a.m., there was  
6 a noise complaint. July 19, 2020 at 12:11 a.m.,  
7 showing an armed robbery. And July 19, 2020,  
8 12:17 a.m., there was a citywide call.

9 Moving onto aberrant noise complaints.  
10 There were a total of 13 noise complaints filed  
11 against Felicity Lounge from December 2019  
12 through January 2021. And according to ABRA  
13 records, of the 13, none were substantiated or  
14 resulted in ABRA violations. And here's a list  
15 of all the complaints, dates, and times.  
16 Felicity Lounge does not currently have a  
17 settlement agreement or security plan on file  
18 with ABRA. They do have two current Board  
19 orders. Board order 2019-527, which orders  
20 operating limits on the establishment. And Board  
21 order 2020-323, which accepted an offer in  
22 compromise for previous violation.

23 And then this is just the  
24 investigative history that'll show any  
25 enforcement action taken which dates back to

1 December of 2019. And that is my report minus  
2 the exhibits, which I can go through if you'd  
3 like.

4 CHAIRPERSON ANDERSON: Yes. Please  
5 identify the exhibits.

6 MR. MITCHELL: Sure. So Exhibit  
7 number 1 is the protest letter from a ANC-6C.  
8 Exhibit number 2 is the protest letter from the  
9 group of 24, whose representative was Sara Baugh.  
10 In this, they have their protest issues and then  
11 they include some exhibits themselves, some  
12 complaints and some screenshots from what looks  
13 to be social media belonging to Felicity Lounge.  
14 And then Exhibit number 3 is a protest letter  
15 from a group of ten, which ultimately merged to  
16 form the group of 24 from Dr. Marc Knobbe, and  
17 I'm sorry if I pronounced that wrong, sir.

18 And then Exhibit number 4 is a  
19 Regulatory Inspection, a copy of it, the one I  
20 did from January 9, 2021, when I visited the  
21 establishment. Exhibit number 5 is a copy of the  
22 Certificate of Occupancy, which was provided by  
23 Mr. Miskiri to me. Exhibit number 6 is Felicity  
24 Lounge's menu. Exhibit number 7 is a copy of the  
25 GIS information regarding ABC licensed

1 establishments within 1200 feet. Exhibit number  
2 8 is the parking sign on H Street Northeast,  
3 which shows it being metered. Exhibit number 9  
4 is a parking sign on 7th Street Northeast, which  
5 shows a two-hour parking limit in this zone,  
6 which shows the Zone 6 permit holders. It  
7 doesn't pertain to them.

8 Exhibit 10 is a copy of the parking  
9 sign on 8th Street Northeast. Same thing, two-  
10 hour parking for non-permit holders. Exhibit  
11 number 11 is a copy of the GIS information that  
12 regards recreation centers, schools, and  
13 libraries. This one shows the Ludlow-Taylor  
14 Elementary School and the next one, Exhibit 12 is  
15 the same, it just shows the Loving Daycare center  
16 located on H. Exhibit 13 is an exterior photo of  
17 the Ludlow-Taylor Elementary School, which is  
18 located at 7th and G Streets Northeast. Exhibit  
19 14 is a photo of 8th and H Streets Northeast  
20 looking toward the 700 block of H. Exhibit 15 is  
21 the 700 block of 8th Street Northeast.

22 Exhibit number 16 is a photo of the  
23 alley that is in the rear of the establishment.  
24 This was taken from 8th Street Northeast looking  
25 towards 7th Street Northeast. Exhibit 17 is



1 another photo of the alley, kind of in the middle  
2 of the block, still looking towards 7th Street  
3 Northeast. Exhibit 18 is a photo from the rear  
4 alley and it is of Felicity's rear door. Exhibit  
5 19 is a photo of the rear alley from 7th Street  
6 Northeast looking toward 8th Street Northeast.  
7 Exhibit number 20 is a photo from the alley on  
8 7th Street Northeast looking toward H Street  
9 Northeast. And this summer garden or sidewalk  
10 cafe belongs to the Taqueria Fresca, which was  
11 mentioned earlier.

12 Exhibit 21 is also from the rear alley  
13 on 7th Street and it is looking towards the 700  
14 block of 7th Street Northeast. Exhibit number 22  
15 is a photo of 7th and H Streets Northeast looking  
16 towards the 700 block of H Street Northeast.  
17 Exhibit number 23 through 25 are all photos of  
18 Felicity Lounge from the front. So this is one  
19 of their front main entrance. 24 is another one  
20 kind of just looking down the block of H Street  
21 Northeast from directly in front of the  
22 establishment. And the same with 25, looking  
23 back towards the intersection of 7th and H  
24 Streets Northeast.

25 Exhibit 26, this is an interior photo

1 of Felicity Lounge and this is from the main  
2 entrance in the front, right when you walk in.  
3 Exhibit number 27 is another interior photo and  
4 this is of the front main window and a raised  
5 platform right here. Exhibit 28 is the interior  
6 front seating area, which would be all this right  
7 here. Exhibit number 29 shows the DJ booth,  
8 which is right here along this wall. Exhibit 30  
9 shows the speakers in the front seating area.  
10 And there's two speakers, one hanging right here  
11 and another one right there.

12 Exhibit 31 shows the bar area and bar  
13 seating, where bar seating would be of the  
14 establishment. Exhibit number 32, this one shows  
15 a speaker at the rear of the bar. It's up here  
16 right by the camera. Exhibit number 33 shows the  
17 restroom hallway. So there's two unisex  
18 bathrooms in the establishment. These are their  
19 doors. Exhibit 34 is the interior of one  
20 restroom and 35 would be the other restroom.  
21 Exhibit 36 is just a storage area inside the  
22 establishment. Exhibit 37 is another storage  
23 area inside the establishment. Exhibit number 38  
24 is the walkway into the back kitchen area.

25 Exhibit 39 is another one shows the

1 kitchen area to the left and then the rear exit  
2 door in the center. Exhibit 40 is of the kitchen  
3 area. 41, also the kitchen area. And 42,  
4 another angle of the same kitchen area. 43 is an  
5 exhibit of the rear door. So the rear door  
6 pushes out and then it goes into a corridor where  
7 the trash is stored here and then that rear exit  
8 door that I showed earlier from the rear of the  
9 establishment at the alley. Exhibit 44 is the  
10 Board order from 2019-527, which puts some limits  
11 on the operating of the establishment. And the  
12 final exhibit is Board order 2020-323, which  
13 accepted an offer in compromise for a previous  
14 violation. And that's all my exhibits.

15 (Whereupon, the above-referred to  
16 documents were marked as Exhibits 1 through 45  
17 for identification.)

18 CHAIRPERSON ANDERSON: Thank you, Mr.  
19 Mitchell. I want to go back to Exhibit 6 for a  
20 moment please.

21 MR. MITCHELL: Sure. Exhibit 6.

22 CHAIRPERSON ANDERSON: Where did you  
23 get Exhibit 6 from?

24 MR. MITCHELL: This is a menu for the  
25 establishment. It was on the bar top whenever I

1 visited the establishment on January 9th and did  
2 the Regulatory Inspection.

3 CHAIRPERSON ANDERSON: Was there  
4 another menu or was this the only -- to the best  
5 of your knowledge, was this the only menu that  
6 the establishment had?

7 MR. MITCHELL: To my knowledge, this  
8 was the only menu. When I requested it from Mr.  
9 Miskiri during the visit, this is what he  
10 provided me.

11 CHAIRPERSON ANDERSON: When you went  
12 to visit, I know that you provided Exhibit 40 and  
13 41. Let's go to 40 and 41.

14 MR. MITCHELL: Sure. Exhibit number  
15 40 and Exhibit number 41.

16 CHAIRPERSON ANDERSON: And when did  
17 you take -- when did you take these pictures?

18 MR. MITCHELL: These photos were taken  
19 on January 9, 2021, during the Regulatory  
20 Inspection and site visit.

21 CHAIRPERSON ANDERSON: And  
22 approximately what time? Do you recall what time  
23 this was?

24 MR. MITCHELL: It was in the morning,  
25 I believe. I can scroll up and look at the

1 Regulatory Inspection to get you a specific time.  
2 Approximately 11:45 until 12:00 noon.

3 CHAIRPERSON ANDERSON: Was the  
4 restaurant open? I know that this was through  
5 the emergency, but was the restaurant open during  
6 that period of time?

7 MR. MITCHELL: No, sir. They were  
8 not.

9 CHAIRPERSON ANDERSON: Okay. All  
10 right. All right. Thank you. I don't -- you  
11 can close the screen, please. I'm trying to see  
12 if I have any other issues, any other questions.  
13 I'm sorry. I think it was page -- hold on,  
14 please. Let me see what it -- I want to go back  
15 to an exhibit. Where are the exhibit that has  
16 the establishments on the block? That have the  
17 establishments in 1200 feet, I want to ask you  
18 about.

19 MR. MITCHELL: Yes. These are the  
20 establishments located within 1200 feet.

21 CHAIRPERSON ANDERSON: All right. So  
22 what exhibit is that, please?

23 MR. MITCHELL: This is not an exhibit.  
24 This is in my report on page 5 and 6.

25 CHAIRPERSON ANDERSON: I'm sorry.

1 Page 5 and 6 of your report, I apologize. Is  
2 Allure Lounge -- where's Allure Lounge in  
3 comparison to this establishment?

4 MR. MITCHELL: Allure Lounge is  
5 located at 711 H Street Northeast. If I remember  
6 right, it is Felicity Lounge, directly next to  
7 that is Po Boy Jim, and then next to Po Boy Jim  
8 is Allure Lounge.

9 CHAIRPERSON ANDERSON: And Allure  
10 Lounge is -- within that block is Allure Lounge  
11 the only CT establishment within that block? Is  
12 that the closest CT establishment to Felicity  
13 Lounge?

14 MR. MITCHELL: Yes, sir.

15 CHAIRPERSON ANDERSON: All right. And  
16 you don't have the hours -- I guess you stated --  
17 I see in your report, it states that it provides  
18 entertainment and holiday extension, so all  
19 right. All right. All right. Okay, that's  
20 fine. Thank you. You can close the screen,  
21 please. Do any other board members have any  
22 questions of the investigator?

23 MEMBER SHORT: Yes, sir. Mr.  
24 Chairman, I'd like to ask a question.

25 CHAIRPERSON ANDERSON: Go ahead, Mr.

1 Short.

2 MEMBER SHORT: Good morning,  
3 investigator --

4 CHAIRPERSON ANDERSON: Mitchell.

5 MEMBER SHORT: Mitchell.

6 MR. MITCHELL: Good morning.

7 MEMBER SHORT: Again, how long have  
8 you been with ABRA?

9 MR. MITCHELL: Approximately 16  
10 months.

11 MEMBER SHORT: Okay. How many times  
12 have you visited the H Street Corridor and the  
13 700, 800, and 600 blocks?

14 MR. MITCHELL: I probably visited  
15 there numerous times.

16 MEMBER SHORT: At various hours?

17 MR. MITCHELL: The shift I work is at  
18 night, so most of the time it's at night. Not  
19 too many visits during the day.

20 MEMBER SHORT: The hours that you  
21 visit, that you were working there?

22 MR. MITCHELL: Yes, sir. At nights,  
23 from 7:00 p.m. to 4:00 a.m.

24 MEMBER SHORT: Okay. Have you been to  
25 Felicity Lounge between 12:00 and 4:00 a.m.?

1                   MR. MITCHELL: I can't recall a  
2 specific time if I've been there during that  
3 time. I know there was one time I went in  
4 January of last year, around 9:30. And that's  
5 the only specific time I remember.

6                   MEMBER SHORT: Okay. It was mentioned  
7 during this testimony of that hookah is used or  
8 smoked in this restaurant; is that true?

9                   MR. MITCHELL: Personally, I can't  
10 say. I don't think I've ever witnessed it.  
11 During my walkthrough inspection, there was  
12 hookah smoking materials there. There were  
13 hookah stored in the storage areas, but the  
14 restaurant was closed during the inspection, so I  
15 can't say.

16                   MEMBER SHORT: Okay. Very briefly,  
17 You've had 16 months experience with ABRA. Tell  
18 us what you know in your experience or your  
19 information you gathered regarding hookah in your  
20 time with ABRA?

21                   MR. MITCHELL: ABRA doesn't enforce  
22 the hookah laws. That would be under the  
23 Department of Health. And in order to get a  
24 permit for that, I believe the requirements from  
25 the Department of Health is you'd have to show at



1 least two years of maintained tobacco sales at  
2 the establishment. And that's about the extent  
3 of my knowledge.

4 MEMBER SHORT: So you say during your  
5 investigation you saw evidence of hookah at  
6 Felicity; is that correct?

7 MR. MITCHELL: Correct. There was  
8 hookah stored in the storage areas of Felicity  
9 Lounge.

10 MEMBER SHORT: Does Felicity Lounge  
11 have a permit from Department of Health for  
12 hookah?

13 MR. MITCHELL: I do not believe so,  
14 no.

15 MEMBER SHORT: Okay. Also, you showed  
16 during your exhibits, the rear exit in the alley?

17 MR. MITCHELL: Yes, sir.

18 MEMBER SHORT: Now, how many exits  
19 does Felicity Lodge have?

20 MR. MITCHELL: I only observed the  
21 front main entrance and exit and the rear main  
22 entrance or exit. So two ingress and egress.

23 MEMBER SHORT: Okay. To make it clear  
24 for me or for the purpose of this hearing, if I  
25 were to enter on H Street, which is the main

1 entrance I would gather?

2 MR. MITCHELL: Yes, sir.

3 MEMBER SHORT: And there was an  
4 incident on H Street, give me the pathway as a  
5 client or a customer if you could not use the  
6 front entrance on the H Street, how would you  
7 then exit Felicity Lounge?

8 MR. MITCHELL: You'd have to go  
9 towards the rear of the establishment past the  
10 bar, and then you'd go through the hallway with  
11 the refrigerator that was shown in the exhibits,  
12 which leads straight to the emergency exit at the  
13 rear.

14 MEMBER SHORT: So where is the kitchen  
15 in relation to this exit?

16 MR. MITCHELL: The kitchen is located,  
17 if you're exiting the rear, the kitchen will be  
18 located on the left-hand side of that emergency  
19 exit and there's a wall there with a little --  
20 with a window. So it's -- the kitchen is  
21 separated by a wall. And then the emergency exit  
22 is right on the right-hand side of the kitchen.

23 MEMBER SHORT: So would I be exposed  
24 to the kitchen at all if I were customer trying  
25 to leave out of there in a hurry?

1           MR. MITCHELL: It's not a completely  
2 enclosed wall. So maybe you would be exposed to  
3 the kitchen, but you would not have to walk  
4 directly into the kitchen. You'd have to make a  
5 left-hand turn to go into the kitchen instead of  
6 continuing straight to the emergency exit.

7           MEMBER SHORT: Okay. You've answered  
8 my question, but I guess the real question I'm  
9 trying to find out is: Is there a complete  
10 separation or is there a separation from smoke or  
11 heat coming from the kitchen into that exit?

12          MR. MITCHELL: I'm unsure about that,  
13 sir.

14          MEMBER SHORT: You said there's not a  
15 wall there or the wall is not complete; is that  
16 correct?

17          MR. MITCHELL: That's correct.

18          MEMBER SHORT: Okay. So I'm to  
19 surmise, if I asked that question again, would  
20 the kitchen or does the kitchen -- is it separate  
21 from the corridor completely?

22          MR. MITCHELL: No.

23          MEMBER SHORT: Thank you. Lastly, my  
24 last questions are going to be about the history.  
25 You provided us a history also in your exhibits.

1       Would you, for the purpose of my examination of  
2       you, how many, on their history, how many  
3       violations are there?

4               MR. MITCHELL:   On their history, it  
5       shows six violations.

6               MEMBER SHORT:   What are they?

7               MR. MITCHELL:   On December 8, 2019,  
8       there was a case drafted for the Board for  
9       increased interior occupancy, failure to follow a  
10      settlement agreement, and that was referred to  
11      the Board, and that was an OIC.   So there was a  
12      warning on charge 1 and charge 2 was dismissed.  
13      March 19th of 2020, there was a citation issued  
14      for failing to comply with the Mayor's order.   So  
15      that was March 19th of 2020.   On May 1st of 2020,  
16      they were issued a warning citation for failing  
17      to file quarterly statements.   In August --  
18      August 8th of 2020, a citation was issued for  
19      failing to comply with the Mayor's order,  
20      specifically, they offered entertainment.   On  
21      September 18, 2020 --

22              MEMBER SHORT:   Let me stop you there  
23      for a moment.   Does Felicity Lounge have an  
24      endorsement for entertainment?

25              MR. MITCHELL:   Yes, sir.

1                   MEMBER SHORT: Okay. So what was the  
2 citation about?

3                   MR. MITCHELL: During the Mayor's  
4 emergency order, live entertainment cannot be  
5 offered at establishments even if they have an  
6 endorsement.

7                   MEMBER SHORT: Okay. Continue.

8                   MR. MITCHELL: September 18, 2020, a  
9 citation was issued for failing to comply with  
10 the Mayor's order, and this was for not adequate  
11 social distancing, patrons were not wearing  
12 masks, patrons were standing at a staffed bar  
13 while consuming alcoholic beverages. And the  
14 occupancy was greater than 50 percent. And then  
15 September 25, 2020, case was drafted for failing  
16 to comply with the Mayor's order, and that was  
17 for not social distancing, having music above a  
18 conversational level, and they offered  
19 entertainment while -- and patrons were not  
20 wearing masks, and they were standing up and  
21 consuming alcoholic beverages.

22                   MEMBER SHORT: Okay. So I do thank  
23 you for your examination information. I do thank  
24 you for your report. And again, thank you for  
25 your contributes that you bring to your job.

1 Thank you. That's all I have.

2 MR. MITCHELL: Yes, sir. Thank you.

3 MEMBER SHORT: That's all I have, Mr.  
4 Chair.

5 CHAIRPERSON ANDERSON: Thank you, Mr.  
6 Short. Any other questions by other Board  
7 members? All right, Mr. Kelty, do you have any  
8 questions of the investigator?

9 MR. KELTY: I do. Mr. Mitchell, you  
10 provided some photos of the interior of the  
11 establishment in Exhibits, I believe it's 26 --

12 CHAIRPERSON ANDERSON: Hold on a  
13 minute, Mr. Kelty. Could Mr. or Ms. Ackemann,  
14 can you put your phone -- can you mute your line,  
15 please. Go ahead, Mr. Kelty.

16 MR. KELTY: Sure. So you provided  
17 some photos of the interior of the establishment.  
18 They're a little hard to see in the  
19 reproductions. Would you characterize the dining  
20 area as having tables and seats for dining or  
21 would you say it's more of a dance floor?

22 MR. MITCHELL: I couldn't gather that  
23 from the visit. As you can see, all the tables  
24 and chairs are lined up against the western and  
25 eastern walls. So no tables were set up. They

1 were closed at this time And they said that they  
2 had been closed for a few weeks, so I couldn't  
3 tell you their layout or what they did because  
4 the tables were not set up at this time.

5 MR. KELTY: Okay. Thank you. Exhibit  
6 5 was a Certificate of Occupancy. Was that  
7 posted on the wall? It looks like it was a  
8 screenshot.

9 MR. MITCHELL: That was not posted on  
10 the wall. That was e-mailed to me by Mr.  
11 Miskiri. They were in the process of trying to  
12 get a new copy, whenever I did visit the  
13 establishment on January 9th. So they didn't  
14 have a C of O there.

15 MR. KELTY: Okay. Just so you know,  
16 that C of O was revoked. That's not the correct  
17 C of O. I'll get into that during my testimony.  
18 43, Exhibit 43 was a picture of what you  
19 described as an emergency exit at the rear. Did  
20 you actually open that door and look through that  
21 door to the alley?

22 MR. MITCHELL: I don't recall if I did  
23 or not during that visit.

24 MR. KELTY: I'll get into this later,  
25 but that actually leads into a trash room and is

1 not a legal means of egress. The last thing is,  
2 can you pull up the picture of the menu again in  
3 your exhibit?

4 MR. MITCHELL: Sure, one moment.

5 MR. KELTY: If I can get the Exhibit  
6 number here for you. You said you didn't see any  
7 hookah smoking, you saw hookah materials. But  
8 what does it say on the left-hand panel, a little  
9 more than halfway down under Happy Hour? Can you  
10 just read for me what it says there?

11 MR. MITCHELL: Sure. It says in red  
12 ink, Hookah. And then under that in black ink,  
13 it says Hookah. And then another one, Hookah  
14 Head Replacement. Happy Hour Hookah. Happy Hour  
15 Head Replacement.

16 MR. KELTY: Thank you. That's all I  
17 have. I appreciate it.

18 CHAIRPERSON ANDERSON: Ms. Baugh, do  
19 you have any questions for Mr. Mitchell?

20 MS. BAUGH: Yes, sir. I do have a few  
21 questions. Mr. Mitchell, I have a question  
22 regarding the list of establishments on page 6  
23 and, you know, the other licensee is in the area.  
24 You mentioned that Allure Lounge is the closest  
25 licensee with a tavern license. Looking at this



1 list, can you confirm that there are no other  
2 licensees with a tavern license on the 700 block  
3 or even the 600 block of H Street?

4 MR. MITCHELL: That's correct.

5 MS. BAUGH: Thank you. And then  
6 flipping to page 9 of your report where you had  
7 the visits to the premises, it shows that you  
8 said ABRA monitored Felicity Lounge on 22  
9 occasions from March '20 until January 2021. Can  
10 you just confirm for us that all of these  
11 occasions were during COVID when the Mayor's  
12 orders were in effect?

13 MR. MITCHELL: That's correct.

14 MS. BAUGH: And so were there any --  
15 and so on a number of these occasions, you know,  
16 it's one, two, three, four, five, there were  
17 violations issued. Are you able to confirm  
18 whether the establishment was even open during  
19 most of the other -- or during all of these  
20 visits listed here?

21 MR. MITCHELL: No, I can't confirm  
22 that.

23 MS. BAUGH: Okay. I specifically want  
24 to look at the end, these end of January visits  
25 and February '21 visits. Do you have any record

1 of Felicity Lounge being open during this time?

2 MR. MITCHELL: No, I don't have a  
3 record.

4 MS. BAUGH: Okay. And do you know  
5 that during a number of periods during this time  
6 period, that Felicity Lounge was not allowed to  
7 be open by either an ABRA order or the Department  
8 of Health?

9 MR. MITCHELL: Yes, I'm aware of that.

10 MS. BAUGH: Okay. Thank you. Then I  
11 just quickly wanted to turn to the noise  
12 complaints. These begin on page 10 and there's a  
13 chart on page 11.

14 MR. MITCHELL: Yes.

15 MS. BAUGH: It says that these were  
16 noise complaints between December 2019 and  
17 January 2021. It looks like all but three months  
18 of this were during COVID; is that correct?

19 MR. MITCHELL: Yes.

20 MS. BAUGH: And so that looks to me,  
21 and if you look at the chart, every single one of  
22 these complaints is actually during a three-month  
23 period, which is the three-month period that you  
24 looked at when the establishment was actually  
25 open, from before COVID; is that right?

1 MR. MITCHELL: Yes, that appears  
2 correct.

3 MS. BAUGH: Okay. And so this is  
4 really, if you're looking at when the  
5 establishment was operating Normally, this chart  
6 is really just a snapshot of noise complaints in  
7 a three-month period?

8 MR. MITCHELL: Correct.

9 MS. BAUGH: Okay. Thank you.

10 MR. MITCHELL: You're welcome.

11 CHAIRPERSON ANDERSON: Any other  
12 questions? All right. Any follow-up questions  
13 from any Board members? Mr. Mitchell, Thank you  
14 very much for your testimony.

15 MR. MITCHELL: Thank you.

16 MR. KELTY: Sir, I'm sorry to  
17 interrupt, but did you want to ask the Applicant  
18 if they had any questions?

19 CHAIRPERSON ANDERSON: I thought he  
20 said he didn't have any questions. Mr. -- hold  
21 on. I thought I did. That's where we started.  
22 Mr. Miskiri. I was -- Thank you. Mr. Kelty. I  
23 was, I myself was thinking that Mr. Miskiri --  
24 Mr. Miskiri?

25 MR. MISKIRI: Yes.

1 CHAIRPERSON ANDERSON: Did I -- I gave  
2 you an opportunity to ask questions of Mr.  
3 Mitchell and you said you didn't have any  
4 questions; is that correct?

5 MR. MISKIRI: I think you did. Yes.

6 CHAIRPERSON ANDERSON: All right. I  
7 thought I did, but Mr. Kelty, you're thinking the  
8 same way as I'm thinking because I was going  
9 through my mind, to say, did I give them an  
10 opportunity to ask questions, but thank you for  
11 reminding, keeping me on my toes. Thank you for  
12 that. All right. Again, thank you, Mr.  
13 Mitchell. All right. Mr. Kelty, you have an  
14 hour to -- let me set my timer on. So you have  
15 an hour for the ANC to present its case.

16 MS. BAUGH: Mr. Chairman? Can I ask  
17 a quick procedural question?

18 CHAIRPERSON ANDERSON: Yes.

19 MS. BAUGH: I know we do want Mr.  
20 Kelty to have an opportunity to go next --

21 CHAIRPERSON ANDERSON: You know what?  
22 I'm sorry. I'm sorry. I'm sorry. I'm sorry.  
23 I'm -- I apologize. No, I'm wrong. It's the  
24 Applicant need to present this case. I  
25 apologize. I'm sorry. I'm sorry.

1 MR. DARRYL JONES: I'm sorry, Mr.  
2 Anderson, you didn't give us an opportunity to  
3 ask Mr. Mitchell any questions.

4 CHAIRPERSON ANDERSON: I'm sorry, sir,  
5 what?

6 MR. DARRYL JONES: We weren't  
7 presented an opportunity to ask Mr. Mitchell any  
8 questions. I think it went straight into Mr.  
9 Kely asking him the questions, but we weren't  
10 given an opportunity to ask him any questions  
11 ourselves.

12 CHAIRPERSON ANDERSON: Sure. I  
13 thought I'd asked Mr. Miskiri and he said he did  
14 not have any questions of the investigator. Let  
15 me --

16 MR. DARRYL JONES: We'll just move on  
17 with our hour, that's fine.

18 CHAIRPERSON ANDERSON: No, no, no.  
19 No. I'm sorry. I need to make sure. I need to  
20 make sure. So maybe my Board members can remind  
21 me. Did I give -- I thought I did. I just want  
22 to make sure, did I give Mr. Miskiri an  
23 opportunity to ask questions of the investigator,  
24 and I thought he said he didn't have any  
25 questions? That's what I remembered, but I could

1 be wrong.

2 MR. DARRYL JONES: Right. I mean,  
3 it's not a big ordeal. I mean, it's just a  
4 couple of questions really. It wasn't that big.  
5 I can just speak during my hour time. I can just  
6 speak my mind, that's fine.

7 CHAIRPERSON ANDERSON: Well,  
8 procedurally. Procedurally, sir, if you were  
9 never given an opportunity to ask questions of  
10 the investigator, then I need to give you. So  
11 this is what I'll do. So if I did not, I  
12 apologize. I thought I did. Mr. Miskiri, you  
13 have the investigator. Please, this is an  
14 opportunity for you to ask questions of the  
15 investigator based off his report. I apologize  
16 if I did not do that, but I thought I did. So  
17 but this is not going to take from your time.  
18 This is just an opportunity for you to ask  
19 questions of the investigator. So I apologize.  
20 So go ahead, Mr. Miskiri.

21 MR. MISKIRI: No, that's fine. We'll  
22 move onto the next section, unless Mr. Jones has  
23 anything to say.

24 CHAIRPERSON ANDERSON: No. No, sir.  
25 I'm saying, are you -- I need the record to be

1 clear. All right. Are you electing not to ask  
2 questions of the investigator, and if I skipped  
3 him, I apologize. So that's why I'm giving you  
4 an opportunity now to ask questions of the  
5 investigator based on his report. So do you have  
6 questions to ask the investigator or do you not  
7 have questions to ask the investigator?

8 MR. MISKIRI: No questions.

9 CHAIRPERSON ANDERSON: All right.  
10 Thank you for that. Again, I apologize. I'm  
11 trying to -- while I do this, I'm keeping notes,  
12 so I do apologize. If I unintentionally miss  
13 someone and I will ask that if moving forward, if  
14 I unintentionally skip someone in asking  
15 questions, the person that I skipped, can you  
16 please let me know, okay? Because I don't have a  
17 problem and thank you, Mr. Kelty. I myself was  
18 thinking, did I offer an opportunity and so it  
19 was going through my mind when you raised the  
20 question, so I do apologize. I do appreciate  
21 that.

22 All right. Okay. So now -- All  
23 right. So it's now -- since the Board has now  
24 presented its portion of the case, it is now the  
25 Applicant to present its case. And so, Mr.

1 Miskiri, are you presenting?

2 MS. BAUGH: Mr. Chairman, can ask a  
3 procedural question?

4 CHAIRPERSON ANDERSON: Yes. I'm  
5 sorry, Ms. Baugh. Yes.

6 MS. BAUGH: Thank you. We do have a  
7 witness who I think is an important witness. He  
8 resides right next door to the alley next to the  
9 establishment, who has to drop at noon and he's  
10 made himself available before. Is there any way  
11 we can give him an opportunity to be heard before  
12 he has to drop at noon?

13 CHAIRPERSON ANDERSON: That is Mr.  
14 Miskiri's call, ma'am. I can't -- procedurally,  
15 it's the Applicant's opportunity to present its  
16 case. So I can't -- I -- if the Applicant agrees  
17 that he will allow you to go out of order, that  
18 is a call from the Applicant. I cannot tell the  
19 applicant that he needs to postpone his case and  
20 wait until you present a witness out of order  
21 because you would not be able to present your  
22 case until Mr. Kelty presents his case, after Mr.  
23 Miskiri presents his case, Mr. Kelty presents his  
24 case, and you present your case, so is it that --  
25 will the witness -- I mean, all of this remote.



1 And I mean, is it possible that the witness will  
2 be available at 12:30 or 1:00 to testify because  
3 I believe -- looking at, it's 11:36, I mean,  
4 we're thinking about it's going to be another  
5 hour or so before your witness will be able to  
6 testify.

7 MS. BAUGH: Mr. Knobbe, I would have  
8 to ask you about your availability.

9 MR. DARRYL JONES: Mr. Anderson.  
10 We're fine If they want to present and let Mr.  
11 Knobbe speak his part. We want everybody to be  
12 able to voice their opinion and so hopefully we  
13 can get to a better outcome of everything.

14 CHAIRPERSON ANDERSON: All right.  
15 That's fine. Thank you, Mr. Jones. All right.  
16 Where's Mr. Knobbe? Mr. Knobbe, do you have a  
17 camera to turn on, sir? So we're going out of  
18 order, so we'll just take this one witness out of  
19 order. So Mr. Knobbe, do you have a camera? Mr.  
20 Knobbe? If you do not, then that's fine. I'm  
21 asking. I can't hear you, Mr. Knobbe.

22 MR. KNOBBE: Hello?

23 CHAIRPERSON ANDERSON: Mr. Knobbe?  
24 Mr. Knobbe?

25 MR. KNOBBE: Yes. This is Marc. Did

1 you have a question for me? Or is it my turn?

2 Yes.

3 CHAIRPERSON ANDERSON: All right. All  
4 right. Can you -- do you have a camera, sir?

5 MR. KNOBBE: I'm sorry, I'm in a low  
6 reception zone. I had to switch to voice-only,  
7 sir. I apologize.

8 CHAIRPERSON ANDERSON: I'm fine with  
9 -- all right, fine. But I need to make sure that  
10 you're in -- I'm having problems hearing you  
11 also. So I need to make sure that you're in an  
12 area that I can hear you. Because I'm fine with  
13 you not having a camera, but I'm having some  
14 issues clearly hearing you speak.

15 MR. KNOBBE: I'm sorry. I had to go  
16 to a flight zone, a flight line. If you still  
17 can't hear me, I will just have to stand down  
18 from my testimony.

19 CHAIRPERSON ANDERSON: I can hear you  
20 better. All right. I can hear better.

21 MR. KNOBBE: Okay.

22 CHAIRPERSON ANDERSON: Can you raise  
23 your right hand, please?

24 MR. KNOBBE: Yes.

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MARC KNOBBE

was called for examination by the agency, and after having been first duly sworn, was examined and testified as follows:

CHAIRPERSON ANDERSON: Go ahead, Ms. Baugh. I can't hear you, Ms. Baugh.

MS. BAUGH: Can you hear me now?

CHAIRPERSON ANDERSON: Yes.

MS. BAUGH: Great. So we know in the Protest Group when we present our full case later, we're going to tick through the appropriateness standards. The first one is going to be on the peace, order, and quiet, including noise and litter. And we do want to go ahead and give Mr. Knobbe an opportunity to begin by sharing his experience of living next door to Felicity Lounge. As he can tell you, literally, his home is on the alley, the shared alley with Felicity Lounge.

CHAIRPERSON ANDERSON: Ms. Baugh, you have to ask him specific questions. I -- he just can't speak. You have to ask him questions, then he needs to respond. So I can't have him just speak. You have to ask him specific questions for him to respond, ma'am.

1 MS. BAUGH: Okay. Mr. Knobbe, can you  
2 tell me what it is like to live next door to  
3 Felicity Lounge?

4 MR. KNOBBE: Yes. So I purchased the  
5 property --

6 CHAIRPERSON ANDERSON: I'm sorry. Why  
7 don't you start off having Mr. Knobbe tell  
8 exactly who he is, where he lives, and where he  
9 lives.

10 MS. BAUGH: Yes, sir. Mr. Knobbe, can  
11 you please tell us who you are and state your  
12 address?

13 MR. KNOBBE: Sure. My name is Marc  
14 Knobbe and I purchased the property located at  
15 727 7th Street Northeast in the summer of 2017.  
16 So I live directly across the alley from the  
17 establishments that reside in-between the seventh  
18 and 800 block of H Street Northeast. And since  
19 I've moved in, it's been challenging, dealing  
20 with noise and other nuisances within --  
21 associated with the establishments and Felicity.

22 My first -- I was actually out of the  
23 country starting May of 2019 until August of  
24 2020. But at that time, since the renovation of  
25 that location, my partner who's remained at that

1 location, has filed numerous complaints or calls  
2 of numerous complaints of noise during the  
3 renovations. Trucks that have come through,  
4 damaged our gutter on the side of the house. And  
5 I've called in to the ABRA hotline and the police  
6 a couple of times.

7 Probably most of the noise complaints  
8 that I've called in are related to patrons coming  
9 out at 2:00, 3:00 a.m. in the morning. That's  
10 the largest nuisance. A couple of times there  
11 have been physical violence. (Audio interference)  
12 five or ten minutes and if they haven't left  
13 (audio interference).

14 MS. BAUGH: Mr. Knobbe, I think you  
15 might have cut out.

16 MR. KNOBBE: Any questions or  
17 comments?

18 MS. BAUGH: Yes, sir. Mr. Knobbe, can  
19 you tell us, when you are inside your home, are  
20 you able to hear noise coming from inside  
21 Felicity Lounge?

22 MR. KNOBBE: Yes. At the at the  
23 beginning, I recall numerous -- a couple of times  
24 where I could hear the bass in our kitchen and in  
25 our upstairs bedrooms and multiple -- and

1 depending on which establishment it was, I would  
2 always go out into the alley and to check which  
3 establishment it was because it could be either  
4 one of the three establishments. And there were  
5 times where noise was coming from Felicity  
6 through the backdoor.

7 CHAIRPERSON ANDERSON: Hold on a  
8 minute, please. Mr. Knobbe, we're having --  
9 well, not necessarily -- I'm hearing you.  
10 There's some issues of our court reporter,  
11 however, who is transcribing this hearing, is  
12 having some concerns hearing you because of the  
13 poor connection, so I just want to let you know  
14 that, unfortunately, the transcript might not be  
15 able to reflect all of your testimony because of  
16 the poor communication. I just wanted to let you  
17 know that it's --

18 MR. KNOBBE: Okay. I apologize.

19 (Audio interference).

20 CHAIRPERSON ANDERSON: You're breaking  
21 up, sir, and I apologize, but I'm not sure, based  
22 on your connection, I am not sure if we will --  
23 if we're able to capture the testimony that  
24 you've giving here, sir. So if you're not able  
25 to get in a better zone, I think that your

1 testimony is going to be of naught because we  
2 will not be able to -- the court reporter is  
3 having a difficult time picking you up, sir.

4 MS. BAUGH: Mr. Knobbe, if I could just  
5 ask you one question with a simple one-word  
6 answer in the hopes that maybe will hear your  
7 answer, hear your testimony come through. When I  
8 heard you say, I was wondering if you could  
9 confirm this, that you have said you were --  
10 while you were inside of your home, you heard  
11 noise coming from inside Felicity Lounge and you  
12 went outside into the alley and confirmed that  
13 you heard this noise coming from Felicity Lounge  
14 and not any of the other establishments on the  
15 block. Can you just please confirm with a simple  
16 yes or no if that is accurate?

17 MR. KNOBBE: Yes. That is correct.

18 MS. BAUGH: Thank you very much, Mr.  
19 Knobbe. I think that was helpful. And I do  
20 appreciate it, Mr. Jones, you letting us go out  
21 of order for that brief moment for Mr. Knobbe  
22 before he dropped. But with that, we're happy to  
23 turn it back over to you. We appreciate that.

24 CHAIRPERSON ANDERSON: Now, Mr. Jones,  
25 I guess you're the one who's asking the

1 questions. Do you have any questions of Mr.  
2 Knobbe?

3 MR. DARRYL JONES: Yes, I do.

4 CHAIRPERSON ANDERSON: Go ahead, sir.

5 MR. DARRYL JONES: So I just wanted to  
6 point out that Mr. Knobbe, you said that you  
7 moved in in 2017 and you've had noise issues  
8 since you moved in in 2017, which is prior to  
9 Felicity being established in 2019, correct?

10 MR. KNOBBE: Correct.

11 MR. DARRYL JONES: Okay. And then I  
12 also want to ask, you said that you had an issue  
13 with a gutter that was knocked down by a trash  
14 removal company, which I'm sure we're talking  
15 about the same gutter, that you reached out to me  
16 through e-mail that you said happened multiple  
17 times that you've had to correct. But I  
18 corrected myself and got your gutter replaced for  
19 you, correct?

20 MR. KNOBBE: Is this about the gutters?  
21 Is this about the gutters?

22 MR. DARRYL JONES: Yes, and that you've  
23 had those gutters knocked down several times in  
24 the past that you've had to pay for it to get  
25 corrected yourself. But I corrected them for you



1 because you were out of the state and I took  
2 pictures and sent them to you that they were  
3 corrected and I also spoke with your partner who  
4 lives at that address as well, correct?

5 CHAIRPERSON ANDERSON: Are you there,  
6 Mr. Knobbe? Mr. Knobbe? Mr. Knobbe?

7 MR. DARRYL JONES: A simple yes or no  
8 that I -- that your gutters had an issue and that  
9 they were corrected by Felicity as we stated,  
10 that we would fix them for you. Yes or no?  
11 Sorry.

12 CHAIRPERSON ANDERSON: Mr. Knobbe?

13 MR. KNOBBE: Yes. (Audio  
14 interference).

15 CHAIRPERSON ANDERSON: I cannot hear  
16 you, Mr. Knobbe.

17 MR. KNOBBE: (Audio interference).

18 CHAIRPERSON ANDERSON: Mr. Knobbe, we  
19 cannot hear you, sir. Mr. Knobbe, we cannot hear  
20 you. Mr. Jones, if you're going to eat, sir, can  
21 you like turn your camera off? I don't want to  
22 be sitting here. You're cross examining, so I  
23 don't need to see you eating. Mr. Knobbe? Mr.  
24 Knobbe? Mr. Knobbe? Mr. Jones?

25 MR. DARRYL JONES: Yes, sir.

1                   CHAIRPERSON ANDERSON: Did you have  
2 any other questions that you wanted to ask Mr.  
3 Knobbe?

4                   MR. DARRYL JONES: I'm not sure if  
5 he'll be able to answer, but that's all I have,  
6 sir.

7                   CHAIRPERSON ANDERSON: Mr. Kelty, did  
8 you have any questions you want to ask Mr.  
9 Knobbe?

10                  MR. KELTY: No. Thank you.

11                  CHAIRPERSON ANDERSON: All right. Mr.  
12 Knobbe, thank you for your testimony. This is  
13 not the way I want it to go, but Mr. Knobbe, me,  
14 thank you for your testimony. All right. Thank  
15 you, sir. All right. I'm not sure if all of the  
16 testimony was captured by the court reporter, but  
17 the record should reflect that I did inform Mr.  
18 Knobbe that we were having some concerns in  
19 hearing him. So I do not want, if -- when the  
20 parties read the transcript, if there is a  
21 portion of Mr. Knobbe's testimony was not  
22 captured by the transcript that they're going to  
23 complain. I did put everyone on notice that  
24 based on the poor connection that he has, we were  
25 having that issue.

1 All right. Thank you. All right, Mr.  
2 Jones, are you -- is it Mr. Miskiri or are you  
3 presenting for -- on behalf of the business?

4 MR. DARRYL JONES: I will be  
5 presenting on behalf of the business, sir.

6 CHAIRPERSON ANDERSON: So you can put  
7 your camera back on? Are you testifying? Are  
8 you calling witnesses? What is it that you're  
9 doing?

10 MR. DARRYL JONES: I don't have any  
11 witnesses. I'm simply testifying, I guess so,  
12 sir.

13 CHAIRPERSON ANDERSON: Can you raise  
14 your right hand, please?

15 WHEREUPON

16 DARRYL JONES  
17 was called for examination by the Agency, and  
18 after having been first duly sworn, was examined  
19 and testified as follows:

20 CHAIRPERSON ANDERSON: Go ahead.

21 MR. DARRYL JONES: I'm sorry. Can you  
22 hear me?

23 CHAIRPERSON ANDERSON: I can hear you.

24 MR. DARRYL JONES: So Felicity Lounge,  
25 we're a business. We started out with the

1 business plan to own and operate as a restaurant.  
2 We do offer food and drinks as well. We've been  
3 investigated. I spoke with the head investigator  
4 of ABRA, I can't think of his name off the top of  
5 my head, but I told him maybe four months in that  
6 we were thinking about going into -- turning into  
7 a tavern as opposed to a restaurant because I did  
8 some research saying they wouldn't have to pay a  
9 fine for not having our food sales be a certain  
10 percentage of revenue. Whereas our liquor sales  
11 were more of a revenue for us.

12 So I spoke to my business partner  
13 Jeff, and also to an advisor of mine who was  
14 saying that I thought that it would be in our  
15 best interest that if we change from a restaurant  
16 to a tavern, we can avoid the opportunity of  
17 being taxed, or given a fee for not being able to  
18 uphold the percentage of sales that was required  
19 for a restaurant, class C restaurant license. So  
20 that was the goal and purpose was in order to  
21 kind of avoid the fee, operate a business in a  
22 defined manner that was under the umbrella of the  
23 certification or licensing that we were operating  
24 under.

25 There was no idea or thought to stop

1 selling or serving food, it is still going to be  
2 a full service restaurant, serving entrees,  
3 appetizers, and meals paired with drinks, as  
4 we've already tried to, and have tried to do in  
5 the past. I guess I wanted to address a few  
6 things that was stated as far as egress and  
7 entering the place and exiting the building.  
8 Excuse me. We do have, just as a normal place  
9 dose, one entrance, one exit. I mean, it's very  
10 -- it's not often that you have building in the  
11 DC area with multiple entrances and exits. It's  
12 just not really suitable for the infrastructure.

13 So as far as, I guess more so, I guess  
14 it's more so just kind of defending ourselves. I  
15 mean, as far as like property value, I'm not sure  
16 if anybody has the stats or the number or the  
17 estimates on what the property value in that area  
18 was prior to Felicity coming in to establishment  
19 and what the property value is currently, but I'm  
20 just going to take a wild guess and say that the  
21 property value has not come down. Adverse  
22 effects, which was mentioned in I believe Mr.  
23 Kelty's opening statement and Ms. Baugh's opening  
24 statement is adverse effects. I'm not exactly  
25 sure what adverse effects we're causing. Peace,

1 order, quiet, pedestrian and vehicle safety.  
2 Again, as I've stated multiple times, it is no  
3 one of our interests or our business plans to  
4 disturb anyone's peace or the order of a place.

5 As far as pedestrian and vehicle  
6 safety, I'm not aware of any heightened  
7 pedestrians being struck by vehicles or any of  
8 that, of any of those incidences since Felicity  
9 has opened or has closed. As far as -- I'm sorry  
10 if I'm all over the place. But Ms. Baugh's  
11 statement as far as noise complaints being lower  
12 now that Felicity is closed during the COVID  
13 process, I would go on notice saying that I'm  
14 sure that noise is low everywhere being that  
15 there is no entertainment going on anywhere. So  
16 just that in itself would limit the amount of  
17 noise or the likelihood of noise or the  
18 accumulation of noise between a block of  
19 businesses doing business.

20 And then she spoke of Po Boy Jim's and  
21 how they're okay with Po Boy Jim's, but I've  
22 assisted Po Boy Jim's on countless times since  
23 their tavern has been open and there's been  
24 multiple times that they either cited Po Boy's  
25 for something or had a disagreement about Po Boy

1 Jim's or something. So I don't think that is  
2 right or even moral to use them as a crutch to  
3 leverage how they're okay with that establishment  
4 as opposed to being not okay with our  
5 establishment. I guess the other thing is late  
6 night drinking. One of the biggest thing that  
7 our bartenders are held accountable for is for  
8 over intoxicating a patron. That is the easiest  
9 way to lose your job as a server or a bartender  
10 in our restaurant is to overly pour or over  
11 intoxicate a patron or serve an alcoholic  
12 beverage to a patron that is known for being  
13 intoxicated.

14 Felicity Lounge has gone on notice  
15 several times for a patron that is intoxicated or  
16 making sure they either had arrived home or gave  
17 them a Uber or Lyft ride to their place of --  
18 were they live or wherever they felt most  
19 comfortable going. And then as far as it goes  
20 with the establishment and noise complaint, I  
21 spoke to, and I'm sorry that he had to leave, but  
22 Mr. Knobbe, but I spoke to him numerous times  
23 over e-mail because he doesn't live in the state  
24 or he travels for his job. I'm not exactly aware  
25 of what he does, but his partner or renter or

1       whoever it may be that lived in that assignment,  
2       we spoke to them multiple times on how to  
3       alleviate any kind of issues, for example, with  
4       his gutter that was knocked down by a trash  
5       removal company.

6                   I spoke to them and I was like,  
7       there's no reason and we wasn't sure whether or  
8       not the trash company removal was coming in to  
9       remove things from Felicity or from the 7-11, or  
10      any other place on our block. But once it was  
11      understood that it was our establishment and the  
12      trash company had their clause that held them not  
13      accountable, not responsible for it, we paid to  
14      get the gutter fixed for Mr. Knobbe. And that  
15      just speaks on my attention as the owner to work  
16      with the community to create a functioning  
17      establishment that doesn't cause any harm or  
18      issue to the neighbors surrounding.

19                   Mr. Knobbe is the closest resident to  
20      that establishment. So as far as noise  
21      compliance and things of that nature, it was to  
22      my understanding that if I could alleviate his  
23      problem, then that probably would alleviate all  
24      problems beyond his residence. And then as it  
25      goes with issues of noise complaints, there's



1 noise complaints filed all the time. That is  
2 just the nature like of that area, Washington DC  
3 in itself. But there's also on note from our  
4 first -- I'm sorry, our first meeting that there  
5 were noise established -- I mean, there was noise  
6 complaints for Felicity Lounge that we produced  
7 the evidence that we weren't even open on the  
8 date in question and the noise complaint was for  
9 Felicity Lounge. So the reason -- and that is  
10 one of the reasons why we're so apprehensive of  
11 signing a settlement agreement with the ANC  
12 because their requirements and restraints that  
13 they intend to put us into, literally makes it  
14 easy for them to have three or four constituents  
15 simply sign the bill.

16 Because I can tell you that 24 people  
17 signing a document saying that they're having  
18 noise complaints, it's almost impossible for 24  
19 row of homes -- 24 or ten homes down to have the  
20 same complaint as Mr. Knobbe does. I mean, so  
21 it's those kind of situations that make us err on  
22 the side of caution when trying to come to a  
23 settlement agreement when we can simply or they  
24 can simply have a group of their peers, or their  
25 friends sign off on a bill that literally just

1 shuts us down on the acts or the thoughts of a  
2 single person or whoever it may be.

3 So all in all, like our goal from  
4 switching to a class C restaurant to a tavern, is  
5 operating a business that's more suitable to us  
6 changing the structure of our business, which is  
7 to serve beverages and food, but if beverages is  
8 bringing more revenue, it makes no sense for us  
9 to pigeon hole ourselves and constantly be given  
10 a fee for something that we can simply fix by  
11 adjusting our license to our business structure.

12 CHAIRPERSON ANDERSON: Do you have  
13 anything else to say, sir? Is that it?

14 MR. MISKIRI: Mr. Anderson, can I  
15 speak, since he has an hour and it hasn't been  
16 that long, can I add just --

17 CHAIRPERSON ANDERSON: Who is  
18 speaking?

19 MR. MISKIRI: This is Mr. Miskiri, Mr.  
20 Anderson.

21 CHAIRPERSON ANDERSON: All right, go  
22 ahead, Mr. Miskiri.

23 MR. MISKIRI: Okay. So I just want to  
24 make a couple of --

25 CHAIRPERSON ANDERSON: Speak up, sir,

1 I can't hear you.

2 MR. MISKIRI: I just wanted to make a  
3 couple -- can you hear me now, sir?

4 CHAIRPERSON ANDERSON: I can hear you  
5 better. If you can open your camera, I'd like to  
6 see who -- I like when people are testifying, if  
7 possible, if I can see them. Well, just speak  
8 louder, sir, because I can't -- your voice is  
9 very faint, so I need you to speak up. I'm  
10 saying your voice is faint. So I need you to  
11 speak up.

12 MR. MISKIRI: Can you hear me now?

13 CHAIRPERSON ANDERSON: I can hear you  
14 better. Yes.

15 MR. MISKIRI: (Audio interference).

16 CHAIRPERSON ANDERSON: I cannot hear  
17 you, sir. Where -- whatever you did, you changed  
18 your location. Now, I can't hear you. So you  
19 need to speak -- if you need to say something, I  
20 need to hear you clearly, loud and clear and I  
21 cannot. No, I still can't hear you. I don't  
22 know what is it you did, but I can't -- I cannot  
23 hear you.

24 MR. MISKIRI: (Audio interference).

25 CHAIRPERSON ANDERSON: Mr. Miskiri?

1 Mr. Miskiri? Mr. Miskiri? Mr. Miskiri? Off the  
2 record for a couple of minutes until I can figure  
3 out what's going on with Mr. Miskiri.

4 (Whereupon, the above-entitled matter  
5 went off the record at 12:04 p.m. and resumed at  
6 12:06 p.m.)

7 CHAIRPERSON ANDERSON: Can you raise  
8 your right hand, Mr. Miskiri? Mr. Miskiri?

9 MR. DARRYL JONES: Mr. Anderson?

10 CHAIRPERSON ANDERSON: Mr. Miskiri?  
11 Who's speaking?

12 MR. DARRYL JONES: This is Mr. Jones,  
13 sir.

14 CHAIRPERSON ANDERSON: Yes, Mr. Jones.

15 MR. DARRYL JONES: We can move on to  
16 the next person.

17 CHAIRPERSON ANDERSON: And who's the  
18 next person? And who's that?

19 MR. DARRYL JONES: No, we don't have  
20 a next person. I'm saying that that concludes  
21 our statement, sir.

22 CHAIRPERSON ANDERSON: Well, all  
23 right. So all right. Mr. Kelty, do you have any  
24 questions for Mr. Jones?

25 MR. KELTY: Yes. Mr. Jones, you noted

1 that you treat over-serving patrons quite  
2 seriously and that you've provided rides home for  
3 people who have been over-served on several  
4 occasions. Can you tell us approximately how  
5 many times that's happened in the last year?

6 MR. DARRYL JONES: I said maybe four or  
7 five times. I mean, it's not our policy to do  
8 that. It's kind of just, if we notice it, then  
9 if we can help, we help.

10 MR. KELTY: Okay. I think that's  
11 enough for now. Thank you.

12 CHAIRPERSON ANDERSON: Ms. Baugh, do  
13 you have any questions for Mr. Miskiri -- I'm  
14 sorry, Mr. Jones?

15 MS. BAUGH: Yes, sir. I do have a few.  
16 Mr. Jones, can you tell us, when did Felicity  
17 Lounge open?

18 MR. DARRYL JONES: Our first official  
19 day of opening was July 23rd of 2020 -- 2019,  
20 sorry.

21 MS. BAUGH: Okay. So can you tell me,  
22 do you have a security plan on file with ABRA?

23 MR. DARRYL JONES: We don't have a  
24 security plan on file with ABRA, but we do have a  
25 security plan and I will update that to ABRA.

1 MS. BAUGH: Have you ever provided a  
2 security plan to the ANC?

3 MR. DARRYL JONES: We have not.

4 MS. BAUGH: Have you ever given a  
5 security plan to the Protestants?

6 MR. DARRYL JONES: No, ma'am.

7 MS. BAUGH: Okay. And do you have a  
8 soundproofing plan on file with ABRA?

9 MR. DARRYL JONES: We do not. As we --

10 MS. BAUGH: And okay --

11 MR. DARRYL JONES: Per our conversation  
12 last time, that's something we're working on.

13 MS. BAUGH: And have you ever submitted  
14 a soundproofing plan to the ANC?

15 MR. DARRYL JONES: No, ma'am.

16 MS. BAUGH: Have you ever submitted a  
17 soundproofing plan to the Protestants in this  
18 matter?

19 MR. DARRYL JONES: No, ma'am.

20 MS. BAUGH: Okay. That's enough for  
21 me. Thank you very much.

22 CHAIRPERSON ANDERSON: Mr. Jones, you  
23 stated that four months in your license, you  
24 decided that you needed to change -- you told  
25 ABRA that you needed to change from a CR to a CT.

1 So what was -- when you initially applied for a  
2 license, what did you truly define that you want  
3 to have a restaurant?

4 MR. DARRYL JONES: Yes, sir. I mean,  
5 This was more so just a conversation that I had  
6 with several of the people at ABRA just being new  
7 into the thing. My goal and Jeff's goal was to  
8 have a restaurant. We have a family history of  
9 owning restaurants. A tavern wasn't even in my  
10 thoughts. I wanted to open a restaurant to serve  
11 food and create an environment where I could  
12 serve the food that I enjoyed making and eating  
13 myself.

14 CHAIRPERSON ANDERSON: But I look at  
15 Exhibit 6.

16 MR. DARRYL JONES: Exhibit 6.

17 CHAIRPERSON ANDERSON: Exhibit 6 that  
18 the investigator shared with us earlier. Now,  
19 has this always been the menu or did you change  
20 the menu for the restaurant?

21 MR. DARRYL JONES: We recently updated  
22 the menu, but that menu -- I'm sorry, it's a two-  
23 sided menu. So if you flip, that's only one of  
24 them. If you flip those sheets over, there's an  
25 entire different -- a whole other set of food

1 options on that menu.

2 CHAIRPERSON ANDERSON: So what's on  
3 the other side? So what was on your menu?

4 MR. DARRYL JONES: So we had chicken  
5 and fries basket. We had salmon, with sauteed  
6 spinach, and mushroom. We had a jerk salmon  
7 platter, we had mozzarella sticks, salads,  
8 chicken quesadillas, buffalo shrimp. I mean,  
9 that's from the top of my head, those are some of  
10 the most -- and then like we just had kind of  
11 assortment of flavors for different wings.

12 CHAIRPERSON ANDERSON: So you're  
13 saying that Exhibit 6, that's in the  
14 investigative report, that there is another side  
15 that had entrees on it, and so that's the -- the  
16 record doesn't -- so the menu that's in the  
17 record, that does not accurately describe the  
18 fare that your establishment provides?

19 MR. DARRYL JONES: That's correct. We  
20 do offer more food than what you see on those --  
21 in that exhibit.

22 CHAIRPERSON ANDERSON: So if you -- so  
23 if as you stated that this was a restaurant, why  
24 is it that you were not -- you're unable -- why  
25 is it you were unable to meet the food versus



1 alcohol requirements. Why did you have that  
2 problem?

3 MR. DARRYL JONES: We open around like  
4 4:00 or 5:00. Most of the townspeople kind of  
5 sit at the bar or drink and watch games, things  
6 of that nature. So I guess naturally that's just  
7 what occurred. People were ordering more drinks  
8 and our I guess smaller options were what people  
9 were buying, wings and fries and things of that  
10 nature. The salmon trays and things of that  
11 nature was kind of like few and far between. And  
12 then our like, I guess it's percentage based so  
13 our happy hour wings and fries are a lot cheaper,  
14 so it was just a hot item I guess. And the  
15 shrimp baskets. Like, so I guess percentage  
16 sales, our wings and fries were cheaper, I mean,  
17 I guess because it changed our, I guess,  
18 promotion and made drinks cheaper and food more  
19 expensive, but I'm not sure.

20 CHAIRPERSON ANDERSON: I don't have  
21 any other questions. Does any other Board  
22 members have any questions?

23 MEMBER SHORT: Yes, Mr. Chair, I had  
24 a couple of questions.

25 CHAIRPERSON ANDERSON: Go ahead, Mr.

1 Short.

2 MEMBER SHORT: Good afternoon, Mr.  
3 Jones.

4 MR. DARRYL JONES: Good afternoon, sir.

5 MEMBER SHORT: Mr. Jones, you, in your  
6 testimony, said that you were in the food or  
7 restaurant business prior to you opening up  
8 Felicity Lounge; is that correct?

9 MR. DARRYL JONES: Yes. I said, my  
10 family, yes.

11 MEMBER SHORT: Did you work with that  
12 family restaurant or family food business?

13 MR. DARRYL JONES: Yeah, I've assisted  
14 Po Boy Jim's on a few occasions.

15 MEMBER SHORT: No. I'm speaking of you,  
16 your business in your family. I'm not talking  
17 about any other businesses other than your family  
18 and you prior to you opening your business.

19 MR. DARRYL JONES: When I spoke as far  
20 as like family, I guess I'm saying, I was  
21 speaking of Mr. Miskiri's family who actually  
22 owns the restaurant, sir.

23 MEMBER SHORT: Where was it located?

24 MR. DARRYL JONES: Po Boy Jim's is  
25 located at 709 H Street, it's right next door.

1                   MEMBER SHORT: So Mr. Miskiri's family  
2 owns that business?

3                   MR. DARRYL JONES: Yes, sir.

4                   MEMBER SHORT: Okay. Did you have any  
5 experience yourself?

6                   MR. DARRYL JONES: Yes. I, again,  
7 I've assisted there. I had a catering company  
8 for four years prior, where I've offered more so  
9 fitness nutrition meals. I'm a fitness trainer  
10 and nutrition specialist. So I've also created a  
11 business trying to create a healthier meals for  
12 people, sir.

13                  MEMBER SHORT: Okay. I guess what I  
14 want to ask, sir, is do you know of many  
15 restaurants in the District of Columbia that have  
16 entertainment endorsements or have disc jockeys,  
17 restaurants that have disc jockeys?

18                  MR. DARRYL JONES: I know of many  
19 restaurants that have entertainment, sir.

20                  MEMBER SHORT: I understand that. I'm  
21 saying disc jockeys. Restaurants with a disc  
22 jockey.

23                  MR. DARRYL JONES: I know a few, sir.

24                  MEMBER SHORT: Okay. All right.  
25 That's fair. I'll just say this now, you said

1 you opened your business in July of 2019.

2 MR. DARRYL JONES: That was our first  
3 day of like officially opening the doors.

4 MEMBER SHORT: Okay. What was your  
5 business plan before you applied for your  
6 Certificate of Occupancy? What was your business  
7 plan?

8 MR. DARRYL JONES: It was to bring the  
9 food to the H Street Corridor, sir, a different  
10 style of food to the H Street Corridor.

11 MEMBER SHORT: When did those plans  
12 change?

13 MR. DARRYL JONES: Officially, I mean,  
14 we changed our menu in maybe April of 2020. So  
15 officially, maybe seven months after of being  
16 open, eight months after being opened.

17 MEMBER SHORT: Okay. There was also  
18 some questions about your Certificate of  
19 Occupancy. What was on your Certificate of  
20 Occupancy in July of 2019? What kind of  
21 business? What kind of business was your C of O,  
22 your Certificate of Occupancy?

23 MR. DARRYL JONES: What kind of  
24 business? A restaurant, sir.

25 MEMBER SHORT: Okay. Your Certificate

1 of Occupancy said you were a restaurant, correct?

2 MR. DARRYL JONES: Yes, sir.

3 MEMBER SHORT: Your ABRA license said  
4 you were a restaurant, correct?

5 MR. DARRYL JONES: Yes, sir.

6 MEMBER SHORT: And when did that  
7 change?

8 MR. DARRYL JONES: It hasn't changed.

9 MEMBER SHORT: So what does your  
10 Certificate of Occupancy say now?

11 MR. DARRYL JONES: It still says a  
12 restaurant.

13 MR. MISKIRI: Hello? Can you guys  
14 hear me now? Am I clear? Can you hear me now?

15 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
16 Miskiri. I mean, we've moved beyond you, so I'm  
17 --

18 MR. MISKIRI: I can't control -- the  
19 wi-fi never gets service

20 CHAIRPERSON ANDERSON: I'm saying,  
21 sir, you are -- we've moved on. Mr. Jones said  
22 we should move on and we have moved on, so  
23 there's really -- all right. So we have moved on  
24 based on what Mr. Jones --

25 MR. MISKIRI: So I'm not allowed to

1 answer the questions that Mr. Short's asking  
2 about the occupancy certificate?

3 CHAIRPERSON ANDERSON: No, sir. Mr.  
4 Jones is the one who testified, and so Mr. Jones  
5 has been cross-examined. So Mr. Jones is the one  
6 who -- Mr. Jones is the one who needs to -- who  
7 is testifying.

8 MR. MISKIRI: All right, I'll go back  
9 on mute.

10 CHAIRPERSON ANDERSON: I didn't even  
11 know you were there, but I'll give you an  
12 opportunity to testify if you want once we're  
13 done with Mr. Jones.

14 MR. MISKIRI: Sure.

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

17 MEMBER SHORT: Mr. Jones? Mr. Jones?

18 MR. DARRYL JONES: Yes, sir. I just  
19 muted myself.

20 MEMBER SHORT: Okay. There was also  
21 testimony given to this body today that there was  
22 a situation in which you had a problem with DCRA  
23 and your Certificate of Occupancy, Department of  
24 Consumer and Regulatory Affairs. Can you  
25 highlight that for us any?

1                   MR. DARRYL JONES: I mean, initially,  
2 we inherited the C of O from the previous  
3 restaurant, which I believe the Certificate of  
4 Occupancy held 203 people. We've been -- once we  
5 opened, we were then -- and had to close down,  
6 which wasn't even open to us because --

7                   CHAIRPERSON ANDERSON: Hold on, Mr.  
8 Jones. Mr. Jones, I need you to be in a  
9 stationary position. I don't know why your --  
10 your voice is trailing off, okay?

11                   MR. DARRYL JONES: I'm sorry.

12                   CHAIRPERSON ANDERSON: And your phone  
13 is moving here, there, and everywhere, okay? I  
14 need you to be in a stationary position so we can  
15 hear you. We're not hearing you. Your voice is  
16 trailing off. All right. So I'll need you to be  
17 in a stationary position because your voice is  
18 trailing off. And I need you to keep your phone,  
19 if you're holding your phone in your hand, I need  
20 you to keep your phone directly in front of you  
21 so it doesn't keep on moving.

22                   MR. DARRYL JONES: I'll keep it right  
23 here. Only thing I have is just notes to my  
24 left, so I'll keep it right here.

25                   CHAIRPERSON ANDERSON: Good. All

1 right. Go ahead, Mr. Short because I can't hear  
2 what you're saying.

3 MEMBER SHORT: Okay. You were  
4 elaborating on your issues you had with your  
5 Certificate of Occupancy and the last thing I  
6 heard you say was that you bought the Certificate  
7 of Occupancy along with the business when you  
8 opened it in your name, correct?

9 MR. DARRYL JONES: So there was, yes,  
10 pretty much like a changeover. So the second  
11 floor wasn't allowed to us. That wasn't approved  
12 yet. So that knocked us down to just the first  
13 floor. So that changed our Certificate of  
14 Occupancy to, I want to say 69 people. And then  
15 we were -- they brought out, through Mr. Kelty,  
16 they brought out an investigator who said that  
17 based on the required -- the amount of space and  
18 the amount of tables and seating we had, that we  
19 can only have 59 people.

20 And then from there I think they  
21 dropped it down to I think 59 may have been the  
22 final. But I mean, our Certificate of Occupancy  
23 changed three times from what was initially  
24 stated that we would have. But our final one I  
25 believe is that we're a restaurant operating on



1 one floor with an occupancy of 59 people.

2 MEMBER SHORT: Okay. So that's your  
3 current Certificate of Occupancy right now with  
4 59 people, correct?

5 MR. DARRYL JONES: I believe so, sir.  
6 I would have to have it right in front of me to  
7 be 100 percent sure.

8 MEMBER SHORT: Okay. It was also  
9 brought out in testimony today that you were  
10 cited by ABRA for having too many people. So you  
11 have -- you had over 59 people in your  
12 restaurant; is that correct?

13 MR. DARRYL JONES: Yes, sir. I'm  
14 saying, if that's what the citation says.

15 MEMBER SHORT: How do you count the  
16 number of people that you let into your business  
17 at one time?

18 MR. DARRYL JONES: We have a security  
19 person with a counter, sir, with a handheld  
20 clicker.

21 MEMBER SHORT: So the night that you  
22 were cited or the day that you were cited for  
23 having too many people, how many were on the  
24 clicker that day?

25 MR. DARRYL JONES: I'm not 100 percent

1 sure.

2 MEMBER SHORT: What happened with that  
3 violation?

4 MR. DARRYL JONES: We had to pay a fee.

5 MEMBERS SHORT: Did it happen more than  
6 once?

7 MR. DARRYL JONES: We've been cited for  
8 too many people as the inspector said, I think  
9 three times since COVID because of percentage-  
10 wise being half of what your normal occupancy is.

11 MEMBER SHORT: But that's the law,  
12 correct, because of COVID?

13 MR. DARRYL JONES: Yes, sir.

14 MEMBER SHORT: Do you think that all  
15 the other restaurants or the majority of the  
16 other restaurants in the city, are complying with  
17 that order?

18 MR. DARRYL JONES: I can't speak for  
19 what other people are doing, sir. I don't go out  
20 to restaurants personally myself, so I wouldn't  
21 know.

22 MEMBER SHORT: Why do you think the  
23 Mayor put that order in place?

24 MR. DARRYL JONES: Because there's a  
25 pandemic and people's safety is at risk and we as

1 a community, as a country, should do what's best  
2 for the general public, sir.

3 MEMBER SHORT: You've been cited twice  
4 for not doing that?

5 MR. DARRYL JONES: Correct.

6 MEMBER SHORT: No further questions,  
7 Mr. Chair.

8 CHAIRPERSON ANDERSON: Thank you. Any  
9 other questions? Any other questions by -- any  
10 other questions by any board members of Mr.  
11 Jones?

12 MEMBER GRANDIS: Mr. Chairman?

13 CHAIRPERSON ANDERSON: Yes, Mr.  
14 Grandis?

15 MEMBER GRANDIS: I have a couple of  
16 questions.

17 CHAIRPERSON ANDERSON: Yes.

18 MEMBER GRANDIS: Good afternoon, Mr.  
19 Jones.

20 MR. DARRYL JONES: Good afternoon, sir.

21 MEMBER GRANDIS: In my thought, trying  
22 to follow the exhibits that have been produced  
23 and also the testimony that's been cited today, I  
24 just need some clarification. You were the owner  
25 when the initial license from the ABC Board was

1 granted, correct?

2 MR. DARRYL JONES: Yes, sir.

3 MEMBER GRANDIS: And what was the name  
4 -- what was the trade name that was on that  
5 order?

6 MR. DARRYL JONES: Brothers Burgers  
7 Bar.

8 MEMBER GRANDIS: I believe that's the  
9 legal name.

10 MR. DARRYL JONES: The trade name was  
11 Felicity Lounge, sir, sorry.

12 MEMBER GRANDIS: Felicity Lounge was  
13 the original?

14 MR. DARRYL JONES: No, the original  
15 name was Brothers Burgers Bar. The trade name  
16 was Felicity Lounge.

17 MEMBER GRANDIS: When the ABC Board  
18 granted the license initially.

19 MR. DARRYL JONES: Yes, sir. And if  
20 you guys, I mean, I'm sorry. If you guys  
21 wouldn't mind allowing Jeff to answer some of  
22 these questions because --

23 CHAIRPERSON ANDERSON: Mr. Jones, he  
24 -- hold on. Mr. Jones. Mr. Jones?

25 MR. DARRYL JONES: Yes.

1                   CHAIRPERSON ANDERSON: You're on a  
2 cross examination. You are the one -- if you  
3 can't answer the question, you say I can't answer  
4 it. So you are the one who has to answer the  
5 question. If you don't have an answer, you say I  
6 can't answer that question.

7                   MR. DARRYL JONES: Okay, perfect.  
8 Okay.

9                   MEMBER GRANDIS: Mr. Jones, when the  
10 license was issued, was there an entertainment  
11 endorsement attached to the license?

12                  MR. DARRYL JONES: When it was issued,  
13 yes, sir.

14                  MEMBER GRANDIS: Okay. Thank you.  
15 When the license was initially issued, was there  
16 a cover charge endorsement attached?

17                  MR. DARRYL JONES: Yes, there is no  
18 cover charge.

19                  MEMBER GRANDIS: Yes -- I'm confused.  
20 There was a cover charge endorsement or there was  
21 not a cover charge endorsement.

22                  MR. DARRYL JONES: We don't -- we're  
23 not endorsed to have a cover charge.

24                  MEMBER GRANDIS: Okay. During the  
25 operation, since you've had the license, has

1 either the licensee or a promoter charged the  
2 cover charge to come into the establishment?

3 MR. DARRYL JONES: There was an issue  
4 with a promoter where they -- where the ANC said  
5 they cited them for a cover charge, but we have  
6 no record of a cover charge being cited, sir.

7 MEMBER GRANDIS: Could you help  
8 elaborate? In other words, your establishment  
9 has had promoters.

10 MR. DARRYL JONES: I wouldn't have the  
11 answer for that, sir.

12 MEMBER GRANDIS: Thank you, Mr. Jones.

13 MR. DARRYL JONES: No problem.

14 CHAIRPERSON ANDERSON: Any other  
15 questions by any other board members? All right.  
16 Mr. Kelty, do you have any questions, any follow-  
17 up questions based on the questions that the  
18 Board asked?

19 MR. KELTY: Yeah, one quick one about  
20 the menu. You mentioned that there was a flipside  
21 to the menu shown in the investigator's exhibit  
22 that had additional food items, are those items  
23 that are on the flip side of that menu shown on  
24 your website?

25 MR. DARRYL JONES: I'm not sure. We

1 have a person that manages our website.

2 MR. KELTY: Okay. And one other  
3 follow-up question. Regarding the charging the  
4 cover charge, you said there were -- you made  
5 reference to an issue where there was citation,  
6 but to your knowledge has any --

7 MR. DARRYL JONES: No. A citation --

8 MR. KELTY: Let me finish the question.

9 CHAIRPERSON ANDERSON: Hold on, Mr.  
10 Jones. Let him finish. Let him finish asking  
11 the question before you answer, sir.

12 MR. DARRYL JONES: Okay.

13 MR. KELTY: Has there ever been an  
14 event in your establishment in which a cover  
15 charge was charged? And when I say cover charge,  
16 I mean not only a cover charge at the door, but I  
17 also mean the sale of tickets either in advance  
18 or on the site?

19 MR. DARRYL JONES: Not to my knowledge.

20 MR. KELTY: That's all I have. Thank  
21 you.

22 CHAIRPERSON ANDERSON: Ms. Baugh, do  
23 you have any questions of Mr. Jones?

24 MS. BAUGH: Yes, sir. I just wanted to  
25 clarify the questions about the menu. I've heard

1 clearly that you've said that at times you have  
2 offered food beyond what was pictured in that  
3 menu that we've been discussing, that was Exhibit  
4 6 in the inspector's report. But can you  
5 confirm, are you saying that if you flip the menu  
6 over, there is in fact another side of this menu  
7 that actually lists additional food items?

8 MR. DARRYL JONES: Yes, like exactly  
9 what I said. There was more options that we have  
10 available.

11 MS. BAUGH: And so, I'm just not clear  
12 if you're saying there are more options  
13 available, which I understand you're saying, but  
14 are those options actually printed on the menu  
15 that was in fact in Exhibit 6.

16 MR. DARRYL JONES: To my knowledge,  
17 yes.

18 MS. BAUGH: Okay. That's it for me.  
19 Thank you.

20 CHAIRPERSON ANDERSON: All right.  
21 Thank you. All right. Thank you, Ms. Baugh.  
22 All right. Did you -- is there something that  
23 you want to say, Mr. Miskiri?

24 MR. MISKIRI: Yes.

25 CHAIRPERSON ANDERSON: Can you raise



1 your right hand, please?

2 WHEREUPON

3 MR. JEFFEARY MISKIRI

4 was called for examination by the Agency, and  
5 after having been first duly sworn, was examined  
6 and testified as follows:

7 CHAIRPERSON ANDERSON: All right, go  
8 ahead.

9 MR. MISKIRI: Sorry about that. I had  
10 bad service and reception. So just to elaborate  
11 a little bit more. Mr. Short asked a few  
12 questions that Darryl didn't know all the  
13 information about. Obviously I'm the one who  
14 handles all the permitting and expediting and  
15 change of use. So first things first, there was  
16 a C of O for a full-service restaurant on the  
17 building that was occupying three floors. The  
18 architect -- they had an architectural firm that  
19 they paid and dealt with, I think his name was  
20 Ian. He is the manager for zoning. So once we  
21 switched over -- once the DCRA switched over to  
22 change of use because the whole infrastructure  
23 was built, the building had sprinkler alarm  
24 services and on all three floors. So we went and  
25 we switched over and then we received a C of U

1 for Felicity Lounge, I mean, for our  
2 establishment to occupy all three floors.

3 Then after that, we received several  
4 calls and e-mails from Ian, and I forgot his last  
5 name, I know it's in the e-mail, stating that  
6 whoever the ANC was of our neighborhood has been  
7 calling harassing him, saying that the building  
8 has a zoning issue, and it should've never  
9 received a C of O, even though this previous  
10 tenant had paid to expedite it and paid for the  
11 full service drawings and paid to get the  
12 building to the right drawings in code to occupy  
13 the second floor.

14 He said, whoever this ANC guy is --  
15 this was his correct words -- doesn't like you,  
16 doesn't want your business there and he asked to  
17 revoke the C of O and he revoked our C of O. So  
18 after that, we only occupied the first floor. So  
19 then Mr. Short asked about in case of a fire and  
20 in case of emergency, we know that once the code  
21 is there only can be a certain amount of people  
22 in the building before you need to have a second  
23 means egress, for the second floor. So there's a  
24 straight path through the backdoor and the  
25 kitchen is semi blocked off that that is

1 accessible for people to exit the building.

2 Thirdly, have we been a perfect  
3 business? No. Have we been fine and citations  
4 for? Yes. Has any business in DC been a perfect  
5 business? Of course not. Whole Foods in  
6 Tenleytown, they've been shut down for a rodent  
7 issue. Guest what? They're getting ready to  
8 open back up, correct? Right. So we're a small  
9 business. I've been in business for several  
10 years. I stand firm in all my belief in all my  
11 products. I have over 100 employees. I feed the  
12 homeless. I feed the kids. When the pandemic  
13 hit, I fed all DC Public School kids free lunches  
14 every single day because I know they needed those  
15 meals. Felicity, we did a homeless drive where  
16 we did canned goods, we delivered it to the  
17 shelter.

18 And I find it, you know, so we do our  
19 social mission. But I've been to banks before.  
20 I've tried to receive loans and I'll circle back  
21 around to the comments where Mr. Mitchell quoted  
22 me saying that we feel that it was racial. And I  
23 feel as though Mr. Short, you had your questions  
24 about public safety and occupancy and how many  
25 people in there, but you never -- you have -- no

1 one ever said, hey Mr. Miskiri, why did you think  
2 that this is a racial issue, a race issue? No  
3 one said that. No one said that at all.

4 As African-American in this country,  
5 I've been to banks and tried to receive funding,  
6 it's not up until today, because of unfortunate  
7 situations and circumstances with African-  
8 Americans in this country that we are provided  
9 with opportunities, but now people are calling my  
10 phone saying, hey chef Jeff, you have these  
11 brands and I want to highlight you or acknowledge  
12 you. All these threats and concerns are from the  
13 neighborhood. It's no different from what we're  
14 doing with this entertainment from an arcade room  
15 down the street, on a street, or there's a Big  
16 Board who doesn't even have a settlement  
17 agreement, people walking out of their  
18 establishment intoxicated. They're littering.

19 I walked up and down H Street. I  
20 lived in DC my whole life, 33 years. My  
21 grandparents live in DC I'll walk up and down H  
22 Street and you have good neighbors, you have bad  
23 neighbors. Not one -- 24 out of 700,000 DC  
24 residents and there's 24 people that's in here  
25 that's arguing against us today. And the only

1 thing that we received was fines and citations  
2 from noise and ABRA came out and said there  
3 wasn't enough noise. I even had the head  
4 investigator, I don't even know his name, saying  
5 hey, it's people that is my -- this was his exact  
6 words. It's people his color, and he's  
7 Caucasian, that's complaining on businesses  
8 that's my color, which is African-American.

9 And like I said, I have over 100  
10 employees. I stand firm and strong on all my  
11 business and my beliefs, I invested my money. No  
12 one likes to waste any money or time. So I'm  
13 going to stand behind my menu, my brand. We have  
14 a full service menu. At the end of the day, if  
15 no one wants our food, guess what? We have to  
16 adjust our business to make it because the  
17 landlord won't just say, hey, give me back the  
18 keys and you're not off the hook. No. He's  
19 going to bill us \$16,000 every month.

20 So like I said before, I've been in  
21 this game for a very long time. I'm on three  
22 alcohol license as we speak right now, and I've  
23 never dealt with and tolerate a ANC like I had to  
24 dealt with Mr. Kelty and not trying to compromise  
25 and come to an agreement and just bashing and for

1 the most littlest things and then, with no  
2 support whatsoever. There hasn't been a fight in  
3 our establishment. There hasn't been a shooting.  
4 Look at what's going on issue right now, where  
5 basically people driving cars, someone just broke  
6 into -- someone just broke into my employee at Po  
7 Boy's, his -- I have a video, audio. Someone  
8 broke into his car door and took his book bag  
9 out. PD sits on that corner. There's nothing.

10 But Felicity wasn't open, so Felicity  
11 wasn't responsible for that. The violence that  
12 occurs is going to occur. We can't control that.  
13 There's people standing in front of 7-11 right  
14 now. There's marijuana smokers. Neither me or  
15 Darryl smoke marijuana. We can't control that.  
16 That's all I had to say. Now anybody want to ask  
17 me any questions, I'm more than happy to answer  
18 it.

19 CHAIRPERSON ANDERSON: Mr. Kelty, do  
20 you have any questions of Mr. Miskiri?

21 MR. KELTY: Miskiri, you make a number  
22 of allegations, some of which are somewhat  
23 incendiary about my personal character and  
24 beliefs. Do you have any exhibits or any  
25 evidence to support any of the claims you've

1 made? For example, can you provide the name of  
2 the investigator who told you this was a racial  
3 issue?

4 MR. MISKIRI: When I find his name out,  
5 I'll provide it for you. I have no problem doing  
6 that. I had to talk to him alone over -- I can't  
7 remember his first name, first or last name, but  
8 I definitely will provide his name. Not a  
9 problem.

10 MR. KELTY: I'm certain that this board  
11 would like to identify that individual and have a  
12 conversation with him --

13 MR. MISKIRI: Sure, no problem.

14 MR. KELTY: -- about creating that kind  
15 of wrong impression in dealing with a business --  
16 licensed establishments.

17 MR. MISKIRI: No problem at all.

18 MR. KELTY: You said you had three  
19 alcohol licenses. Can you name the three  
20 establishments that you have current licenses  
21 for?

22 MR. MISKIRI: Yes, Felicity Lounge, Po  
23 Boy Jim's, and Creole on 14th.

24 MR. KELTY: Okay. Thank you. And I'm  
25 correct that you don't have any exhibits to

1       substantiate any of the allegations specifically  
2       about the arcade bar or about the intoxicated  
3       patrons at the Big Board?

4               MR. MISKIRI: I mean, it's just -- I  
5       can give you the same evidence that you provided,  
6       word of mouth or neighbors saying I don't want  
7       you here. I can go and be like, Oh, I'm outside  
8       and I can see loud noise and I can see in -- I  
9       mean, arcade room is a form of entertainment, is  
10      it not?

11              MR. KELTY: I'm going to interpret your  
12      answer as a negative because you didn't provide  
13      any evidence and you didn't say that you did, so  
14      I'm going to assume that the answer is no. Thank  
15      you very much. That's all.

16              MR. MISKIRI: Yeah.

17              CHAIRPERSON ANDERSON: Ms. Baugh, do  
18      you have any questions of Mr. Miskiri?

19              MS. BAUGH: No, sir. I do not.

20              CHAIRPERSON ANDERSON: Do any other  
21      Board members have any questions of Mr. Miskiri?

22              MEMBER GRANDIS: Yes. I would like to  
23      ask Mr. Miskiri a question.

24              CHAIRPERSON ANDERSON: Go ahead, Mr.  
25      Grandis.



1                   MEMBER GRANDIS: Good afternoon, Mr.  
2 Miskiri, and it's a pleasure to have you in front  
3 of us. And I just am trying to follow the  
4 exhibits and the testimony that we've been  
5 presented today. I'd like to ask you the same  
6 question that I posed to Mr. Jones. Has either  
7 the licensee or a promoter ever advertised that  
8 there is a cover charge to come over to a certain  
9 event?

10                   MR. MISKIRI: No, sir. Not at all.  
11 From our day one, when we first got our liquor  
12 license, the agreement was, there's no cover  
13 charge. We know the rules. The promoters get  
14 paid a percentage of food and liquor sales. So  
15 they advertise free entry all night, no cover  
16 charge all night, which we do have flyers of.  
17 And they come into the establishment and there's  
18 a food and beverage minimum, sir.

19                   MEMBER GRANDIS: When was the trade  
20 name for Felicity Lounge granted to you-all?

21                   MR. MISKIRI: If I'm not mistaken, it  
22 was upon -- it was, if not at opening, a couple  
23 of months after.

24                   MEMBER GRANDIS: Okay. Thank you.

25                   MR. MISKIRI: No problem, sir.

1                   CHAIRPERSON ANDERSON: Any other  
2 questions for any other Board members? Mr.  
3 Kelty, do you have any questions of Mr. Miskiri  
4 based on the questions that was asked by the  
5 Board?

6                   MR. KELTY: No.

7                   CHAIRPERSON ANDERSON: Ms. Baugh, do  
8 you have any questions of Mr. Miskiri based on  
9 the questions that was asked by the Board?

10                  MS. BAUGH: Yes, sir. I do have a  
11 question regarding the trade name that Mr.  
12 Grandis was referencing.

13                  CHAIRPERSON ANDERSON: Go ahead,  
14 ma'am.

15                  MS. BAUGH: Thank you. If the license  
16 refers to the trade name as Aroma. Can you tell  
17 me, what was Aroma and when did you stop using  
18 that trade name?

19                  MR. MISKIRI: It was three young black  
20 men trying to open up a business, you know,  
21 trying to come up with a name and we went back  
22 and forth, and we settled on Felicity Lounge.

23                  MS. BAUGH: Okay. Thank you.

24                  CHAIRPERSON ANDERSON: All right.  
25 Thank you. Does Felicity Lounge rest? Do they

1 have another witness or do they rest? Mr.  
2 Miskiri or Mr. Jones? Do you guys rest?

3 MR. DARRYL JONES: I rest, sir.

4 CHAIRPERSON ANDERSON: All right.  
5 Fine. Thank you. Mr. Kelty, are you ready to  
6 move forward or did you guys want a five, ten-  
7 minute break?

8 MR. KELTY: I will leave that to the  
9 discretion of the Board. I'm happy to proceed.  
10 I think I need about 20 minutes.

11 CHAIRPERSON ANDERSON: Okay. All  
12 right. So -- and so you're basically going to  
13 testify; is that correct? All right, raise your  
14 right hand, please.

15 WHEREUPON

16 MR. JOEL KELTY  
17 was called for examination by the Agency, and  
18 after having been first duly sworn, was examined  
19 and testified as follows:

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

22 MR. KELTY: The ANC protested the  
23 Applicant's original application for a new CR  
24 license in case 19-PRO-00017. By the way, I have  
25 a whole bunch of exhibits here. I'm going to

1 read the testimony and then if you'd like, we can  
2 review the exhibits at the end. Is that okay?

3 CHAIRPERSON ANDERSON: It's your case.  
4 You tell me how you want to do it.

5 MR. KELTY: During that protest, the  
6 ANC presented evidence that the license  
7 application was defective, contains substantive  
8 misrepresentations of fact, including the  
9 identity of the true owners, that the individual  
10 owners of the Applicant were not qualified to  
11 receive a license, that the facility did not meet  
12 the requirements for licensure, that the  
13 Applicant had failed to meet the burden of proof  
14 in demonstrating appropriateness, and that the  
15 proposed hours were later than most other  
16 establishments in this portion of H Street. We  
17 also protested because of the nature of the  
18 operation, which heavily emphasizes special  
19 events and outside promotions, is incompatible  
20 with the adjacent residential neighborhood.

21 The ANC also objected to a proposed  
22 summer garden on the roof as fundamentally  
23 incompatible with the zoning regulations, as well  
24 as with ensuring peace, order, and quiet for the  
25 neighborhood. While it granted the initial class

1 C restaurant license in Board order 19-527, the  
2 Board did recognize the validity of the ANC's  
3 concerns. And was it, quote, not convinced that  
4 the Applicant is prepared to adequately address  
5 the burdens on the community related to late  
6 night drinking and entertainment. That's in  
7 Exhibit 3, page 1.

8 During the past two years of  
9 operation, the Applicant has validated the  
10 Board's concerns as demonstrated by ABRA  
11 violations, Health Department violations, police  
12 calls for service, and vigorous community  
13 opposition. The Board may only grant the license  
14 if it determines that the request will not have  
15 an adverse impact on peace, order, and quiet,  
16 residential parking and safety, and real property  
17 values. The ANC asks that the Board, in  
18 reviewing the operating history and records  
19 submitted, find that the Applicant has already  
20 had an adverse impact on peace, order, and quiet,  
21 on residential parking and pedestrian safety, and  
22 on property values.

23 We further ask that you find the  
24 proposed future operation under a CT license  
25 would continue to cause adverse impacts on the

1 neighborhood. We ask that you deny the  
2 Applicant's request for Substantial Change.  
3 Whether or not the Board grants the Substantial  
4 Change to a CT license, we request that the Board  
5 impose additional conditions upon the Applicant's  
6 license to mitigate the adverse impacts on the  
7 neighborhood resulting from the establishment's  
8 continued operation.

9 I'm going to talk now about District  
10 agency interactions with the Applicant that  
11 demonstrate an adverse impact. I'm going to  
12 start with ABRA investigations and hearings.  
13 Since the Board's order granting the initial  
14 license on July 10, 2019, there have been at  
15 least six different ABRA investigations of the  
16 establishment. And I list those in Exhibit 4.  
17 Four of these investigations were for violations  
18 of the Mayor's emergency order and Board's  
19 emergency rulemaking to address public safety  
20 during the pandemic. The repeated violations  
21 demonstrate not only disregard for the rule of  
22 law, but also a disregard for the public safety  
23 and health safety and welfare of the Applicants,  
24 customers, and staff.

25 Likewise, the Violation in case 19-

1 CNP-29, Exhibit 4, item 6, for failing to abide  
2 by the maximum legal occupancy of the premises  
3 demonstrates a cavalier attitude to both the  
4 District's regulations and the safety of its  
5 occupants and those of adjoining properties.  
6 Exceeding the maximum allowable occupancy cannot  
7 only create a hazard in and of itself, but as Mr.  
8 Short implied, can also impede evacuation during  
9 a fire or other emergency. This violation is  
10 particularly egregious in that one of the  
11 Applicants has in the past represented himself as  
12 a firefighter and therefore should be familiar  
13 with the hazards involved in exceeding the  
14 maximum occupancy of a structure that only has a  
15 single legal means of access -- egress, sorry.

16 The final violation involved failure  
17 to file quarterly statements. The Applicant's  
18 ownership includes at least one individual, Mr.  
19 Miskiri, who owns several other licensed  
20 establishments, and has a history of ABRA  
21 violations, including for failure to file  
22 quarterly statements, making this Applicant's  
23 failure to timely file its reports inexcusable.  
24 We've talked a little bit about Po Boy Jim, and  
25 in Exhibit 5, there was a Board order in which

1 the Board noted it was a fifth offense and fined  
2 Po Boy Jim \$2,000 for failing to timely file.  
3 The results though of a license for Po Boy Jim 2,  
4 ABRA license 105468, where they failed to file  
5 their -- pay their annual fees, and that actually  
6 resulted in a Board cancellation. Exhibit 6.

7 The Applicant continues to conceal its  
8 true ownership from the ANC and the Board. On  
9 November 18, 2019, Mr. Miskiri submitted an  
10 application to add himself as managing member of  
11 the Applicant. I believe this was in response to  
12 the ANC's concerns from the original hearing, in  
13 which he was not actually listed as an applicant.  
14 The Board approved the application on December 4,  
15 2019, which was shown in Exhibit 2, pages 23 and  
16 25, noting the ownership percentages as 50  
17 percent Darryl Jones, and 50 percent Jeffeary  
18 Miskiri. In filing the application, the  
19 Applicant demonstrated that it is aware of the  
20 requirement to accurately identify the true  
21 ownership of the establishment and obtain  
22 permission from the Board prior to making any  
23 changes in ownership.

24 However, on Wednesday, October 7,  
25 2020, an individual named Dominique Jones



1 appeared before the Board for a summary  
2 suspension hearing and testified that he is one  
3 of the owners of the Applicant. And that's in  
4 Exhibit 26 on page 7. The Applicant demonstrated  
5 prior knowledge of the requirement to identify  
6 its ownership to the Board, and yet it continues  
7 to conceal the true identity of its owners,  
8 rendering it difficult and perhaps impossible for  
9 the Board to vet individual owners against the  
10 criteria for licensure outlined in DC Code.

11 I'll note that for willfully  
12 concealing the true ownership of the  
13 establishment, the Board has the authority under  
14 DC Code 25-401(c) to revoke the Applicant's  
15 existing license and refer the matter to the  
16 Attorney General for criminal prosecution. Given  
17 that the Board previously made clear to the  
18 Applicant that it needed to disclose its true  
19 ownership, referral to the AG would not be  
20 inappropriate.

21 I now am going to talk a little bit  
22 about interactions with the Metropolitan Police  
23 Department. MPD, the Metropolitan Police  
24 Department, provided a list of incident and  
25 offense reports to the ANC from 2019 to present.

1 Those are included in Exhibits 7 and 8. Reported  
2 were 12 calls for service listing the  
3 establishment's address. And I'll note that  
4 there's some discrepancies between what we found  
5 and what the ABRA inspector found because we  
6 asked different sources. The ABRA inspector, as  
7 I understand it, asked the Office of Unified  
8 Communications, whereas we asked the police  
9 department directly.

10 Five of the violations were ABC  
11 violations. The others included theft, simple  
12 assault, and affray. Now for those who don't  
13 know what affray is, I had to look it up, I'm not  
14 a lawyer. Affray is defined as the fighting of  
15 two or more people in a public place to the  
16 terror or disturbance of others. It is a type of  
17 disorderly conduct, and a breach of the peace.  
18 And that really makes it particularly relevant  
19 because what we're talking about here is an  
20 impact on the peace, order, and quiet of the  
21 surrounding area, and this is a breach of the  
22 peace.

23 The Applicant in both the original  
24 protest hearing and in recent mediation, has  
25 implied that the ANC's opposition is racially

1 motivated, and has repeatedly asserted disparate  
2 treatment of its establishment in comparison to  
3 two other establishments on the street in the H  
4 Street Corridor. In the past, the establishments  
5 that were brought up by the Applicant or the Big  
6 Board which was mentioned today, located at 421 H  
7 Street Northeast, and Bar Elena, located at 414 H  
8 Street Northeast. At the Applicant's -- I'm  
9 sorry, at the ANC's request, MPD provided  
10 incident and offense reports for the two  
11 locations named by the Applicant during the same  
12 time period. Those are included as Exhibits 9,  
13 10, and 11.

14 The Big Board has four incidents,  
15 including a traffic stop, a miscellaneous report,  
16 transported a sick person, and one ABC violation  
17 or incident. There was a single offense of  
18 simple assault reported. Bar Elena had one  
19 incident of found property and zero offense  
20 reports. Just as an aside, we also had the  
21 offense reports pulled for Allure Lounge at 711 H  
22 Street. And they are more similar in number and  
23 character to those of 707 H Street, Felicity  
24 Lounge. Allure's also operating as a de facto  
25 nightclub, and I include those as Exhibit 12 and

1 13.

2           Anyway, the MPD data demonstrates that  
3 the Applicant's establishment is the source of  
4 more public disturbance than the other two  
5 establishments that were identified for  
6 comparison by the Applicant. The data  
7 demonstrates that the Applicant's business  
8 operation consumes more police resources than  
9 other licensed establishments in the H Street  
10 Corridor and creates an adverse impact on peace,  
11 order, and quiet in the neighborhood.

12           Now I'd like to talk a little bit  
13 about the Department of Health. On January 29,  
14 2021, the DC Department of Health conducted a  
15 compliance investigation at the establishment.  
16 The DOH inspector discovered numerous health code  
17 violations which are included in the reports in  
18 Exhibits 14 and 15. Violations included  
19 inadequate hand washing sinks available for  
20 staff, unsanitary food contact surfaces, improper  
21 food storage, no hot water at the bar, and  
22 restrooms/toilet facilities that were improperly  
23 constructed, supplied, and cleaned. Lack of  
24 closures on toilet room doors, inadequate  
25 ventilation and lighting, and the presence of

1 insects and rodents, including rodent droppings  
2 behind the service bar.

3           Additionally, the DOH inspector issued  
4 an immediate summary suspension for violating the  
5 District's prohibition on operating a hookah bar  
6 without a smoking exemption. The Applicant's on  
7 social media advertising and online reviews in  
8 Exhibit 16, make clear that it regularly and  
9 notoriously violates the DOH Functions  
10 Clarification Act of 2006, which I include as  
11 Exhibit 17, which prohibits smoking with tobacco  
12 products in a public place without a Department  
13 of Health issued smoking exemption. The  
14 Applicant does not appear on the DOH's list of  
15 exempt establishments, which I include in Exhibit  
16 18.

17           The Department of Health confirmed  
18 that the Applicant lacks the required exemption  
19 and that as of March 3, 2021, a few days ago when  
20 I last asked, the suspension remains in place and  
21 the Applicant has not paid the requisite fine.  
22 That is shown in an e-mail from DOH in Exhibit  
23 19. Violations of Health Department requirements  
24 contribute to adverse impacts on the peace,  
25 order, and quiet of the surrounding area. Rodent

1 infestation can easily spread to nearby  
2 properties, which impacts the peaceful enjoyment  
3 of neighbors and ultimately impacts property  
4 values. Violating District anti-smoking laws  
5 further impedes the peace and order of a  
6 community by encouraging disregard for the rule  
7 of law, and creating a smoker contamination  
8 nuisance for nearby properties.

9 Now I'm going to talk a little bit  
10 about DCRA and zoning and construction code  
11 violations. The applicant has a history of DCRA  
12 investigations and enforcement actions, at least  
13 some of which remain unresolved more than two  
14 years after they occurred. On or around October  
15 2018, the Applicant obtained a building permit to  
16 expand the establishment beyond that allowed by  
17 the zoning regulations. And I'll note here that  
18 the Applicant says they hired the proper  
19 expeditors and got plans done. The plans they  
20 got were not stamped by a licensed architect. I  
21 don't know who their expeditor was, but there was  
22 clearly something not right with this process  
23 that probably needs to be brought up with DCRA  
24 not ABRA.

25 But anyway, somehow they were able to

1 obtain a Certificate of Occupancy for 122  
2 persons, despite lacking the required interior  
3 area egress and like safety features required by  
4 code. The ANC filed a complaint with DCRA in the  
5 office of the Zoning Administrator. In February  
6 2019, DCRA revoked the building permits, as well  
7 as the Certificate of Occupancy, and placed holds  
8 on the property, which should've prevented  
9 further permits and certificates from being  
10 issued without Zoning Administrator approval.  
11 For reasons unknown, Certificate of Occupancy  
12 number 1901866 was issued on 3-26-19, with an  
13 occupancy of 65 persons. It's not a legitimate  
14 Certificate of Occupancy because the maximum  
15 number of people you can have in a building with  
16 a single means of egress is 49. And the rear  
17 exit is not a legal means of egress as DCRA  
18 confirmed.

19 On August 7, 2019, DCRA concurred with  
20 the ANC's position that the latest C of O was  
21 improperly issued. I include that communication  
22 in Exhibit 20. However, rather than revoke the C  
23 of O that was issued in error, DCRA allowed the  
24 Applicant the opportunity to correct the code  
25 violations and bring the property into

1 compliance. There was no evidence that the  
2 Applicant ever did so. No permits were filed,  
3 which would be required for modifying or adding a  
4 means of egress. And no additional C of O was  
5 ever issued.

6 In e-mail correspondence on March 3,  
7 2021, DCRA stated, An unresolved stop work order  
8 remains outstanding and that the property owner  
9 never obtained the permits to bring your property  
10 into compliance and that the property should,  
11 quote, not be operational. I include that e-mail  
12 in Exhibit 21. There was also a stop work order  
13 issued for removing a stop work notice which is  
14 illegal. I include a photo of that in Exhibit  
15 22, but that record was not -- I could not locate  
16 that record and its disposition is unknown.

17 Now I'll talk a little bit about  
18 constituent complaints. Contrary to what you may  
19 have heard earlier today. I have no animus  
20 toward the Applicant or the establishment. I am  
21 acting as a mouthpiece for my constituents who  
22 complain -- this is one of two establishments  
23 I've received complaints on, and it's the one I  
24 get the most about. Neighboring residents have  
25 made multiple complaints to ABRA, MPD, and to the



1 ANC regarding the Applicant's operations.  
2 Complaints were made in telephone calls, as well  
3 as e-mails, and e-mail correspondence to ABRA  
4 dated January 21, 2019, which I include as  
5 Exhibit 23 on page 15. There's a list of 16  
6 different calls to 9-1-1 and the ABRA enforcement  
7 hotline over the course of less than a year.

8 In addition, I've received direct  
9 complaints from constituents. I'm going to give  
10 you a sampling of the texts which I include in  
11 Exhibit 24. Constituent A writes, Late night  
12 revelers have turned the 700 block of 7th Street  
13 into a hot mess, particularly on weekend nights.  
14 They linger for hours in front of our homes, they  
15 play loud music, they shout, they fight, they go  
16 to the bathroom. They have zero regard for the  
17 families who live in the 700 block of 7th Street.  
18 This happens every weekend like clockwork. And I  
19 regularly see more rats than squirrels in the  
20 area. In the few instances when I've politely  
21 asked folks to move along or quiet down, I've  
22 been met with immediate hostility or threatening  
23 behavior. I don't feel safe confronting anyone  
24 anymore. I don't even feel safe looking out my  
25 windows to investigate the source of disturbance.

1                   Constituent B writes, We continue to  
2 routinely witness public urination, human feces,  
3 drug sales, drug use, drug paraphernalia,  
4 loitering, and a near constant flow of trash in  
5 the alleys, which I believe is directly  
6 associated with this and the other establishments  
7 in the block. These establishments are a  
8 hindrance to the peace of a pleasant  
9 neighborhood. For what it's worth, I would love  
10 your encouraging the ABL Committee members to  
11 personally witness the atmosphere along this  
12 block of H Street on any given night. Brothers  
13 Burgers is in no way a restaurant, it's a  
14 nightclub. They should observe the alley and how  
15 close it is to family homes.

16                   Another one from constituent C. I've  
17 definitely noticed an uptick in loitering, late-  
18 night shouting, fights, cars playing music.  
19 Constituent D, A definite increase in the alley  
20 loitering, garbage, illegal dumping, public  
21 urination and defecation. The outdoor hours are  
22 completely unacceptable in our neighborhood just  
23 as to the noise pollution. I'm going to skip  
24 here because I think you get the point, but I  
25 will mention another constituent wrote, For what

1 it's worth, my family and I will be trying to  
2 move in the near future due to the constant and  
3 awful behavior my children have to witness. This  
4 could be a wonderful block in an otherwise  
5 pleasant neighborhood, but businesses like  
6 Felicity Lounge make it unlivable for families.

7 The Applicant's extensive complaint  
8 investigation and enforcement history with  
9 multiple District agencies demonstrates a clear  
10 and adverse impact on peace, order, and quiet for  
11 the surrounding neighborhood. Now, I'm going to  
12 speak to the second prong, which is the effects  
13 on residential parking needs and vehicular and  
14 pedestrian safety. In constituent  
15 correspondence, numerous residents note the  
16 patrons from the establishment and others in the  
17 700 block of H Street park in the residential  
18 district, occupying unmetered parking spaces that  
19 are intended for residential parking.

20 Unfortunately with the pandemic, the Department  
21 of Public Works has suspended parking  
22 enforcement, which exacerbates an already  
23 undesirable situation.

24 Constituents also report that vehicles  
25 unlawfully block the alley. The District

1 Department of Transportation established a  
2 commercial loading zone on 7th Street for the  
3 utilization of commercial businesses on H Street.  
4 I include that in Exhibit 25. And yet the  
5 Applicant's vehicles continue to occupy the alley  
6 while loading, unloading, doing construction, and  
7 the case of refuse haulers scattering debris that  
8 they're supposed to be collecting. On the basis  
9 of the constituent reports discussed, we assert  
10 that the Applicant's operations do cause an  
11 adverse impact on residential parking needs and  
12 vehicular and pedestrian safety of nearby  
13 residents.

14 Now, regarding the third prong,  
15 property values, the Applicant's lack of  
16 consideration for the peace, order, and quiet of  
17 its neighbors, illegally operating a nightclub,  
18 and the disruptive behavior of its patrons  
19 entering and exiting, can reasonably be assumed  
20 to create an adverse impact on property values.  
21 Many residents of ANC 6C explicitly choose to  
22 live in the neighborhood because of its proximity  
23 to neighborhood commercial uses, including bars,  
24 taverns, and restaurants. Residents may even pay  
25 a premium to live in an area with arts and

1 entertainment activities and a vibrant night  
2 life. What residents do not want and will not  
3 pay a premium for is to live near a bad actor.  
4 That is an establishment that attracts disruptive  
5 patrons, operates in a disruptive manner, harbors  
6 rodents, and consumes excessive police and  
7 government agency resources and attention. Such  
8 is the case with Felicity Lounge.

9 For all the reasons outlined elsewhere  
10 in this protest, it's reasonable to assume that  
11 Felicity has a negative impact on property values  
12 for nearby residents, when we have one resident  
13 who's already said they're leaving. Now, I'd  
14 also like to talk about the fact that the  
15 Applicant has violated multiple aspects of its  
16 original Board order. The Board in granting the  
17 original CR license conditioned that license upon  
18 a restriction in hours, limitation on occupancy,  
19 and a prohibition on charging a cover charge, and  
20 also on resolving outstanding regulatory issues  
21 with DCRA. As outlined above, the Applicant has  
22 violated each of these restrictions on occupancy,  
23 cover charges, and DCRA compliance. The  
24 occupancy issue and DCRA permit and stop work  
25 orders have been discussed previously, but in an

1 attempt to circumvent the Board's prohibition on  
2 charging a cover charge, the Applicant regularly  
3 uses an online ticketing platform to click  
4 admission fees for events.

5 One example is shown on page 33 of the  
6 ABRA investigator report, which is in Exhibit 23.  
7 The advertisement makes clear there's an entry  
8 fee and that tickets may be purchased on the day  
9 of the event. Now, I'll also note that in some  
10 of the social media advertisements that are  
11 included in the exhibits and in the  
12 investigator's report, there are numerous  
13 references to ladies free. Now It doesn't say  
14 that males will be charged a cover charge, but it  
15 would not be a crazy assumption to make.

16 I also want to bring up the fact that  
17 the Applicant fails to meet the required burden  
18 of proof. DC Code 25-311(a) states that the  
19 Applicant shall bear the burden of proof. In  
20 proving to the satisfaction of the Board that the  
21 establishment for which the license is sought is  
22 appropriate for the locality, section, or portion  
23 of the District in which it is to be located. If  
24 the Board finds that the Applicant has provided  
25 no meaningful argument to support its request or

1 demonstrate its appropriateness, the Board has  
2 sufficient reason to deny the request itself.  
3 And as we saw today, the Applicant had an  
4 opportunity to prove to you why their  
5 establishment was appropriate, and they didn't.  
6 They didn't make a single argument about why  
7 their establishment was appropriate. They made  
8 arguments about racism, about a lot other things,  
9 but nothing about how their establishment is  
10 appropriate.

11 For all the reasons outlined above, we  
12 ask the Board to deny the Applicant's request for  
13 Substantial Change from a CR to a CT license. In  
14 addition, the ANC asks that the Board provide  
15 injunctive relief to neighbors adversely impacted  
16 by the Applicant's operations by imposing the  
17 following conditions upon the license. One,  
18 reduce the licensed hours of operation by two  
19 hours, limiting operation to 11:00 p.m., Monday  
20 through Thursday, and midnight on Friday and  
21 Saturday. Two, rescind the summer garden  
22 endorsement. Three, rescind the Applicant's  
23 entertainment endorsement.

24 Four, clarify that the existing  
25 prohibition on charging a cover charge includes

1 all forms of entry fees, including fees charged  
2 at the door and in advance, whether in-person,  
3 online, or via other forms of distribution,  
4 including social media. Five, prohibit  
5 consumption of tobacco products on the premises  
6 without first obtaining a smoking exemption from  
7 the Department of Health, and require compliance  
8 with all other DOH regulations pertaining to  
9 smoking. Six, require all vehicles making  
10 loading, unloading, and making deliveries to and  
11 from the premises to utilize the designated  
12 commercial loading zone on 7th Street and not the  
13 alley.

14 I've provided the following  
15 justification for these requests. Regarding the  
16 hours of operation, reducing the licensed hours  
17 would mitigate public disturbance caused by  
18 patrons leaving the premises late at night.  
19 Regarding the summer garden, the summer garden  
20 endorsement should be rescinded, both to mitigate  
21 sound impacts emanating from the establishment,  
22 and also to bring the Board order into alignment  
23 with the zoning regulations. Since the roof deck  
24 requires zoning relief that the ANC will almost  
25 certainly oppose and that the DZA is unlikely to



1 grant, the summer garden endorsement is of no  
2 utility to the Applicant.

3 Rescinding the summer garden  
4 endorsement will provide some measure of comfort  
5 to aggrieved neighbors, while doing no harm to  
6 the Applicant who is not entitled to a summer  
7 garden under the zoning regulations anyway.  
8 Should the Board decline to rescind the summer  
9 garden endorsement, the ANC requests that the  
10 Board limit the summer garden hours of operation  
11 to not later than 9:00 p.m. nightly in  
12 recognition that there are families with young  
13 children who live within close proximity, who  
14 will very likely be adversely impacted by the  
15 operation of a roof deck at the establishment.

16 Regarding the entertainment  
17 endorsement, rescinding the Applicant's  
18 entertainment endorsement will reduce, if not  
19 eliminate, the Applicant's practice of turning  
20 over its establishment to outside promoters for  
21 loud and unruly events, including live bands and  
22 DJs. This is an appropriate measure, given that  
23 the Applicant does not have a security plan, does  
24 not have a reimbursable detail, there's no  
25 evidence that provides any supervision or control

1 over its outside events or promoters. It should  
2 be noted that in the original license hearing,  
3 the Applicant indicated that it had no objection  
4 to the issuance of a license without an  
5 entertainment endorsement or cover charge  
6 endorsement. And I include in Exhibit 3 on page  
7 3 where you can see where he says that.

8           Regarding the prohibition on cover  
9 charge, we believe the clarifying that  
10 prohibition on cover charges will hopefully close  
11 a loophole which the Applicant has been using to  
12 circumvent the Board's original conditions as  
13 expressed in Board order 20-19-527. Including  
14 the existing District ban on smoking in public  
15 places in the Board order, provides the community  
16 with an additional enforcement tool in addition  
17 to the Department of Health. The additional risk  
18 of penalties or censure by ABRA may incentivize  
19 the Applicant to comply with existing District  
20 law that it is currently flaunting regarding  
21 hookah.

22           The Protestant also asks the Board to  
23 consider exercising its authority under 23 DCMR,  
24 Section 809.1(a), which empowers the Board to  
25 issue an immediate cease and desist order for

1 establishments that are issued a summary  
2 suspension by the Department of Health.  
3 Regarding deliveries, as is the case with the  
4 prohibition on smoking, requiring the Applicant  
5 to comply with existing loading regulations via  
6 Board order may incentivize the Applicant to come  
7 into compliance with those existing regulations  
8 that it has ignored in the past.

9 The injunctive relief requested is  
10 reasonable, proportional, and crafted to mitigate  
11 the adverse impacts the Applicant has had and is  
12 likely to continue to have on the surrounding  
13 neighborhood. The Board is empowered to consider  
14 past performance of an Applicant in this matter  
15 under DC Code 25-315(b)(1). The Protestant and  
16 the community encourage the Board to do so and  
17 equitably address the adverse impacts the  
18 Applicant has had and continues to have on the  
19 surrounding community.

20 That concludes my testimony. I'm  
21 happy to review the exhibits if you would like.

22 CHAIRPERSON ANDERSON: What are the  
23 exhibits that you have?

24 MR. KELTY: I have -- do you have  
25 copies of them or would you like me to bring them

1 up on my screen?

2 CHAIRPERSON ANDERSON: Bring them on  
3 the screen. I have them but they're -- well, I'm  
4 having some issues reviewing them, so why don't  
5 you -- so why don't you, Ms. Andrews, give him  
6 the ability to share his screen. So you can go  
7 over the exhibits that you disclosed.

8 MS. ANDREWS: Sure. Stand by. Mr.  
9 Kelty's rights have been elevated.

10 MR. KELTY: Okay. Does that -- can  
11 you see the exhibits now or do I have to push  
12 something?

13 CHAIRPERSON ANDERSON: You have to  
14 share you a screen, sir.

15 MR. KELTY: Okay. Give me one second.  
16 Oh, here's a button. Okay. Share screen. Okay.  
17 I have here a list of the exhibits.

18 CHAIRPERSON ANDERSON: So we need to  
19 go through the exhibits that you want to --

20 MR. KELTY: I'm not going to spend too  
21 much time on them, but Exhibit 1 is the original  
22 case order 2019-792, in which you've dismissed  
23 the original request for Substantial Change when  
24 the Applicant failed to appear. 19-PRO-00017 is  
25 a transcript of the original protest hearing that

1 I made reference to earlier. We've also got the  
2 Board order in which you put the original  
3 conditions upon the license. You've already seen  
4 this, but I include it in case I need to refer to  
5 it, the investigative history, listing the six  
6 violations the investigator spoke about. We've  
7 also got your Board order 2021-086. We've got  
8 Board order 2020-879. These were about one of  
9 the owners other establishments failing to pay  
10 and how they should know that they have to file  
11 reports.

12 The incident reports are in Exhibits  
13 7 through 13. Here you can see these are for  
14 Felicity Lounge. These are incident reports, and  
15 these are offense reports, assault, affray,  
16 theft. And then for comparison purposes, those  
17 reports for the Big Board, incident and offense  
18 reports for the Big Board, and incident and  
19 offense reports for Bar Elena. I also include in  
20 Exhibit 13, the offense reports for Allure Lounge  
21 at 711, although that's not directly pertinent to  
22 our discussion today. In Exhibit 14, we have the  
23 health inspection report from the Department of  
24 Health in which they noticed many health code  
25 violations, including the hookah violation. And

1 here in Exhibit 15 is a summary suspension, which  
2 remains in effect.

3 Exhibit 16 is Felicity's social media  
4 advertising. This does not look like a  
5 restaurant to me, but I suppose I'll leave that  
6 to the Board to decide what they think. There's  
7 numerous ads in here for live bands, various all  
8 night happy hours, and so on and so forth. And  
9 it goes on. Exhibit 17 is the Department of  
10 Health Functions Clarifications Act. I only  
11 include it in case the Board has specific  
12 questions about it and I need to refer to it.  
13 Exhibit 18 is a list of establishments that have  
14 smoking exemptions and these are really  
15 exemptions that were granted when the law went  
16 into effect to address the fact that there were  
17 already existing cigar bars and the idea was to  
18 kind of grandfather existing establishments in,  
19 rather than outlaw them outright. To my  
20 knowledge, they've never issued another smoking  
21 exemption since then, but I'm not sure.

22 Here is the e-mail from the Department  
23 of Health where they say that the violation is  
24 still in place and that they haven't paid their  
25 fine. Here's an e-mail from DCRA. Here's the

1 inspector, the second property is not adequate  
2 for public egress and they were going to bring it  
3 into compliance, which we have no record they  
4 ever did. Here again, the DCRA e-mail where  
5 there are existing stop work orders. Here's the  
6 stop work order that we could find the record of  
7 in DCRA's system, but a photo of it from the  
8 door. This is the one for removing a stop work  
9 order. And 23 is the investigator's report which  
10 you already have.

11 Exhibit 24 is the list of constituent  
12 complaint e-mails. I quoted from this list.  
13 Exhibit 25 shows the loading zone. Here's the  
14 establishment. This is the designated loading  
15 zone that they're supposed to be using. Exhibit  
16 26 is a transcript of their summary suspension  
17 hearing. 20-CMP -- Exhibit 27 is 20-CMP-106,  
18 which was another violation document. Exhibit 28  
19 is from the DCRA Scout online records system, and  
20 it shows that they actually have the C of O for  
21 49 persons, not 65. The one for 65 was one of  
22 the several that were revoked. Sorry. Here is a  
23 copy of Certificate of Occupancy 1901866. This  
24 is the one for 65 people that was revoked. And  
25 here's the one for 49 people. This is

1 Certificate of Occupancy 1903667, which  
2 supersedes the proceeding one.

3 Here on Exhibit 31 is a copy of their  
4 renewal application. This is the trade name  
5 change. I'm going to move on. Exhibit 32 is the  
6 offer in compromise in which they agreed not to  
7 break anymore rules for a year. Exhibit 33 is  
8 the class change application. And again, they're  
9 supposed to, I believe, list all the owners.  
10 They don't. Here's the change of membership in  
11 Exhibit 34 in where, oddly, and this is something  
12 ABRA may want to look into. This was an  
13 application in which Mr. Miskiri was able to  
14 change the ownership of the establishment without  
15 Mr. Jones ever appearing on this form. So a new  
16 owner was able to be added even though the  
17 existing owner didn't apparently have to agree to  
18 it. I think that's odd. But I also noticed that  
19 Mr. Dominique Jones is not listed on here.

20 Exhibit 35 is an aerial view for  
21 orientation showing H Street, the establishment,  
22 the rear alley, the abutting residential streets,  
23 the loading zone. Exhibit 36 is a map that shows  
24 the same information. Exhibit 37 is the zoning  
25 map that shows this is in the NC-16 zone, which



1 the investigator already described for you as a  
2 retail zone. It is distinct from further to the  
3 east along H Street, where we have an arts and  
4 entertainment zone. Exhibit 38 is the plat which  
5 I don't think we need to talk about. Exhibit 39  
6 is the original protest letter from the ANC.  
7 Exhibit 40 is the language from the DC Municipal  
8 Regulations providing the Board authority to  
9 issue a cease and desist order in this case.

10 I include Exhibit 41, which is a  
11 Twitter post from Barred in DC, which is a  
12 Twitter handle, in which they are quoting a  
13 Washington Post article. And here it says, at  
14 the Felicity Lounge on H Street Northeast, police  
15 said they saw a go-go band playing for more than  
16 two dozen patrons, all of whom departed through  
17 the rear exit as officers went in. The club's  
18 manager and owner could not be reached. This is  
19 one of the violations. Here's a copy of their  
20 license in Exhibit 42. Exhibit 43 was our  
21 original protest back in 2019. Exhibit 44 I  
22 included because the Applicant says that we have  
23 been uncooperative and that's actually not the  
24 case. The ANC attempted, both originally and  
25 during this new Substantial Change, to negotiate

1 a settlement agreement. We sent a draft  
2 settlement agreement. We had a mediation.  
3 During mediation, I agreed to try to find some  
4 funding for a sound acoustic consultant. I  
5 contacted the deputy Mayor for Planning and  
6 Economic Development's office, did not have any  
7 luck there. I contacted the Office of Night  
8 Life, Mr. Shawn Townsend, the DC's deputy Mayor  
9 for Night Life --

10 CHAIRPERSON ANDERSON: Mr. Kelty?

11 MR. KELTY: Yes.

12 CHAIRPERSON ANDERSON: I'm not going  
13 to allow the draft settlement agreement. That's  
14 -- you're saying that you were trying to  
15 negotiate with them, so --

16 MR. KELTY: I'm only including it to  
17 show that we tried to negotiate one.

18 CHAIRPERSON ANDERSON: I'm not going  
19 to -- I'm going to exclude that document from  
20 your exhibits.

21 MR. KELTY: No problem.

22 CHAIRPERSON ANDERSON: I'm sorry.  
23 What number was that?

24 MR. KELTY: That was Exhibit 44.  
25 There was an e-mail in which we offered a

1 settlement agreement and attached to it was the  
2 settlement agreement.

3 CHAIRPERSON ANDERSON: Right. So I'm  
4 not going to -- I'm going to -- so Exhibit 44  
5 will not be part of the record.

6 MR. KELTY: Would you consider  
7 allowing the e-mail which does not include the  
8 specifics of the settlement agreement?

9 CHAIRPERSON ANDERSON: The e-mail  
10 itself, I mean, for what it's worth, but not the  
11 document.

12 MR. KELTY: I appreciate that. The  
13 point of that is the e-mail shows that we tried  
14 to reach an agreement and we were unsuccessful.

15 CHAIRPERSON ANDERSON: All right.

16 MR. KELTY: We didn't even get a  
17 response. And exhibit 45 is a response to a FOIA  
18 request I made and I only -- I highlight here, it  
19 says, in it is a description of the affray, the  
20 disorderly affray, which was at 1:30 a.m. outside  
21 of Felicity Lounge. Just to provide a little  
22 background there. Also, again, in the FOIA  
23 request, a list of all ABRA recognized owners,  
24 and the only ones the FOIA result returned were  
25 Mr. Miskiri and Mr. Jones. Mr. Dominique Jones

1 is not listed. Dominique Jones does not hold a  
2 manager's licensee, he was described as the  
3 manager today I believe, but he actually, as is  
4 shown here in the FOIA response, does not have a  
5 manager's license. The only individual that  
6 we're aware of is Chela N. Brown. So that's  
7 Exhibit 45 and that I think is all of my  
8 exhibits.

9 (Whereupon, the above-referred to  
10 documents were marked as ANC Exhibits 1 through  
11 45 for identification.)

12 MR. KELTY: I think I'll stop there.  
13 And how do I return the screen? Stop. How do I  
14 stop that?

15 CHAIRPERSON ANDERSON: Just close it.

16 MS. ANDREWS: You can hit stop  
17 sharing, Mr. Kelty.

18 MR. KELTY: Thank you. Here we go.

19 CHAIRPERSON ANDERSON: Thank you. All  
20 right. Mr. Miskiri or Mr. Jones?

21 MR. MISKIRI: Yes.

22 CHAIRPERSON ANDERSON: Either/or. Mr.  
23 Miskiri, do you have any questions for -- it  
24 can't be both persons, so you, Mr. Miskiri, do  
25 you have any questions for Mr. Kelty based on his

1 testimony?

2 MR. MISKIRI: No, sir.

3 CHAIRPERSON ANDERSON: I'm sorry?

4 MR. MISKIRI: No.

5 CHAIRPERSON ANDERSON: You do not have  
6 any questions for Mr. Kelty. All right, thank  
7 you. Ms. Baugh, do you have any questions for  
8 Mr. Kelty?

9 MS. BAUGH: No, sir.

10 CHAIRPERSON ANDERSON: Does any Board  
11 members have any questions for Mr. Kelty?

12 MEMBER GRANDIS: Yes, sir.

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

15 MEMBER GRANDIS: Good afternoon, Mr.  
16 Kelty. It's a pleasure to have you and the ANC  
17 in front of us today. I believe the Board is  
18 very familiar with the number of establishments,  
19 ABC establishments, within that area. And in  
20 your testimony, you've offered some letters and I  
21 cannot read the letters. I basically went off  
22 from what you read. But it seems like there's  
23 nothing in at least the letters you submitted  
24 that indicate that any of the so-called  
25 allegations in each letter actually came from

1 this particular location.

2           And therefore, I cannot really rely  
3 upon those letters unless I read the letters and  
4 find that they do specifically -- can identify  
5 people coming out of that or going into that  
6 establishment because as the testimony today  
7 says, I think there are like, what, 19 ABC  
8 licenses within 1200 feet. And we do know that  
9 people leaving and going from night life  
10 activities usually are jovial and they can make  
11 noise, they, probably a lot of them, don't  
12 understand that they are irritating our neighbors  
13 and ourselves, but I am sympathetic to the  
14 concerns that the ANC is raising, but I just want  
15 you to know that those letters do not really help  
16 me in determining that they came from this  
17 establishment. Thank you.

18           MR. KELTY: If I may, I'll just say  
19 that that is exactly why the group of I think  
20 it's 24 is here today so that they can tell you  
21 themselves. You've heard from one of those, Mr.  
22 Knobbe, who said that he personally verified the  
23 source of the noise. And I'm sure that when the  
24 group of 24 presents, you'll hear additional  
25 testimony from the residents themselves.

1                   MEMBER GRANDIS: Mr. Kelty, if I am  
2 correct, you moved into that neighborhood prior  
3 to this establishment opening.

4                   MR. MISKIRI: Excuse me.

5                   MR. KELTY: I've been a resident since  
6 the year 2000, so quite a few years before this  
7 establishment opened.

8                   MEMBER GRANDIS: And before this  
9 establishment opened, did you -- were you ever  
10 disturbed by nightlife activity?

11                  MR. KELTY: I do not live in proximity  
12 to H Street --

13                  CHAIRPERSON ANDERSON: Mr. Kelty, hold  
14 on one minute please. Mr. Miskiri, can you  
15 please put your phone on mute. Mr. Miskiri, can  
16 you put your phone --

17                  MR. KELTY: So your question was  
18 whether I have personally been disturbed by  
19 nightlife activity on H Street. Not in my  
20 residence. I will say that I've been disturbed  
21 by hookah smoking and marijuana consumption in  
22 the 700 block of H Street emanating from some of  
23 the establishments on that block and coming out  
24 onto the sidewalk on which my family and I are  
25 traveling.

1                   MEMBER GRANDIS: And have you or your  
2 family ever gone to Felicity Lounge for a meal?

3                   MR. KELTY: I have not. I did go to Po  
4 Boy Jim's once when they first opened. I was  
5 underwhelmed and I never went back. I did go --  
6 I'm sorry?

7                   MEMBER GRANDIS: I'm just trying to  
8 understand. Is Po Boy the same establishment as  
9 Felicity Lounge?

10                  MR. KELTY: No, sir. They are adjacent  
11 establishments with common ownership.

12                  MEMBER GRANDIS: Common menu?

13                  MR. KELTY: Not to my knowledge, sir.  
14 I have not eaten at Felicity. I have been inside  
15 but I've not had a meal there.

16                  MEMBER GRANDIS: And why did you go  
17 inside?

18                  MR. KELTY: When we were attempting to  
19 negotiate a settlement agreement in 2019, the  
20 Applicant invited the ANC to come and take a tour  
21 of the establishment. And I did that.

22                  MEMBER GRANDIS: So that was the only  
23 time that you went into the establishment, was  
24 when you were invited to come by?

25                  MR. KELTY: Yes.



1                   MEMBER GRANDIS: Do you eat out at any  
2 other establishments on the H Street Corridor?

3                   MR. KELTY: Pre-pandemic, all the time.

4                   MEMBER GRANDIS: And therefore, at this  
5 location?

6                   MR. KELTY: I have not eaten at  
7 Felicity Lounge nor do I think I would.

8                   MEMBER GRANDIS: Okay. Thank you very  
9 much.

10                  CHAIRPERSON ANDERSON: Any other  
11 questions from any of the Board members? All  
12 right. All right. Mr. -- do you work for Mr.  
13 Kelty?

14                  MR. KELTY: I'm sorry?

15                  CHAIRPERSON ANDERSON: I'm sorry. Ms.  
16 Baugh, do you have any questions of Mr. Kelty,  
17 based on the questions that were asked by the  
18 Board?

19                  MS. BAUGH: Just, Mr. Kelty, I was just  
20 wondering if the number of complaints you've  
21 received for noise and rowdiness and loitering  
22 has increased since Felicity Lounge opened?

23                  MR. KELTY: I have only been an ANC  
24 commissioner for the past two years, but I can  
25 tell you, so I can't tell you a long history back

1 before that time period. What I can tell you is  
2 that I only received complaints about two  
3 establishments in my entire SMD. And this is one  
4 of them.

5 MS. BAUGH: Thank you.

6 CHAIRPERSON ANDERSON: That's it, Ms.  
7 Baugh?

8 MS. BAUGH: That's all. Thank you.

9 CHAIRPERSON ANDERSON: All right. Mr.  
10 Kelty, do you rest?

11 MR. KELTY: I do. Thank you.

12 CHAIRPERSON ANDERSON: All right.  
13 Thank you. All right. Ms. Baugh --

14 MR. KELTY: Did Mr. Miskiri want to  
15 ask me any questions? I don't remember if he --  
16 maybe -- never mind.

17 MR. MISKIRI: No, no.

18 CHAIRPERSON ANDERSON: We already went  
19 through the round test here. All right. All  
20 right. All right. Thank you very much. Ms.  
21 Baugh, you have an hour to present your case.

22 MS. BAUGH: Thank you very much, Mr.  
23 Donovan. So as I said in my opening, what the  
24 Protestants would like to do, is we would like to  
25 keep the appropriateness standard in mind, and we

1 intend to show you through our testimony why we  
2 believe the Applicant does not meet the  
3 appropriateness standards. And we are going to  
4 be focusing quite a bit on the effect of peace,  
5 order, and quiet. And I would like to go ahead  
6 and start by calling Mr. Ackemann to testify.  
7 Mr. Ackemann, if you're available now?

8 CHAIRPERSON ANDERSON: Mr. Ackemann?  
9 Mr. Ackemann?

10 MR. ACKEMANN: Yes, sir.

11 CHAIRPERSON ANDERSON: Do you have a  
12 camera, sir?

13 MR. ACKEMANN: I do. Give me one  
14 second. Sorry, I'm at work.

15 CHAIRPERSON ANDERSON: Are you in the  
16 white shirt? Is that you in the white shirt?

17 MR. ACKEMANN: No. I'm here with the  
18 mask under my chin.

19 CHAIRPERSON ANDERSON: Okay. I'm  
20 sorry, I saw someone else, but I didn't see their  
21 name, so all right.

22 MS. BAUGH: Alex, it looks like we  
23 still can't see you if you're trying to turn on  
24 your camera.

25 CHAIRPERSON ANDERSON: But that's

1 fine. Can you raise your right hand, please.

2 Yeah, I can see you.

3 WHEREUPON,

4 ALEX ACKEMANN

5 was called for examination by the Agency, and  
6 after having been first duly sworn, was examined  
7 and testified as follows:

8 CHAIRPERSON ANDERSON: All right. Go  
9 ahead, Ms. Baugh.

10 MS. BAUGH: Okay. Thanks, Alex, can  
11 you please just state your name and explain to us  
12 where you live in relation to Felicity Lounge.

13 MR. ACKEMANN: My name is Alex Ackemann  
14 and I live three houses off the alley behind  
15 Felicity.

16 MS. BAUGH: What can you tell us about  
17 the effect that Felicity Lounge has had on you  
18 and your family?

19 MR. ACKEMANN: Most notably, it's been  
20 the noise directly from the alley. I know Marc  
21 Knobbe testified earlier and it was hard to hear  
22 them, but we can actually hear noise directly  
23 from the facility and it's easy to identify it  
24 through their backdoor. That's one thing. And  
25 the other thing that we noticed, and again, it's

1       been pointed out, it's just kind of anecdotal,  
2       but the street activity on nights when Felicity's  
3       open, is noticeably different than it is when  
4       they're not. And it's been about a year because  
5       of COVID, we haven't had a lot of activity.

6               Prior to that, we were having really  
7       regular disruptions of sleep at 2:00, 3:00, 4:00  
8       in the morning with people continuing to hang out  
9       on the street. And again, it is hard to say, I'm  
10      not out there sanding on H Street watching people  
11      come out and verifying that they came out of  
12      Felicity, but that didn't happen prior to  
13      Felicity opening. We have, what I would say  
14      really solid relationships with Fresca and Po Boy  
15      Jim's. And I think, I can't remember, I know  
16      we've -- I think we came to agreements with them,  
17      with settlement agreements and talked about it  
18      and had an understanding which we haven't done  
19      here in any way.

20             MS. BAUGH: Mr. Ackemann, are there any  
21      particular stories or incidents related to what  
22      you've heard that you'd like to share?

23             MR. ACKEMANN: Yeah. I mean, there's  
24      just been -- I forgot what the term was that Joel  
25      brought up earlier, but there's been significant

1 fights out in front of our house. And again,  
2 we're kind of the first available parking spots  
3 as you get onto 7th Street. So a lot of people  
4 park there and after Felicity closes, there's a  
5 significant outpouring of people that kind of  
6 cruise over onto 7th Street and if they parked  
7 there, they may or may not leave. And a lot of  
8 times, there were brawls or shouting or just kind  
9 of hanging out there at all hours of the morning.

10 And it's notable, I mean, at 3:00 in  
11 the morning, it's noticeable. I'm not a light  
12 sleeper necessarily, but it's at a volume that's  
13 not -- that you can't look past it, you can't get  
14 through it. Our bedroom, like yours, is at the  
15 front of the house. We've got an 11-year-old son  
16 who sleeps in the middle of the house. He can  
17 hear both the bass from the building when that's  
18 happening. And then he can also, the volume on  
19 the street is such that he can hear that as well.

20 MS. BAUGH: And when Felicity closes  
21 and patrons are exiting, we've heard multiple  
22 incidents of when the patrons have exited through  
23 the back, like when the cops showed up and the  
24 Washington Post reported that the patrons were  
25 exiting to the back. When the noise goes on,

1 what type of noise are you hearing when patrons  
2 exit Felicity Lounge?

3 MR. ACKEMANN: It's mostly just volume.  
4 It's people that are talking because they've  
5 clearly been having a good time someplace, which  
6 I understand. But when they come out of the  
7 alley or they come out of the restaurant and  
8 right in front of our house, like I said, it's  
9 noticeable and it wasn't noticeable before.  
10 We've had establishments around us for quite some  
11 time. As it's been pointed out, there are other  
12 ABRA licensed establishments around, but I've  
13 never noticed the issue until Felicity opened and  
14 it's gone away since COVID started largely, but  
15 it's pretty distinctive the time when it started  
16 and the time when it stopped, which makes, for me  
17 at least, makes it pretty attributable to  
18 Felicity.

19 MS. BAUGH: And you know, you've said  
20 you've been here for a while, can you, so that  
21 the Board understands your experience on H  
22 Street, can you tell us how long you've lived  
23 here?

24 MR. ACKEMANN: Yeah. We moved in in  
25 2008. And so we've been there quite a bit.

1 We've had hearings for a number of establishments  
2 along there. And like I said, I feel like we've  
3 come to reasonable agreements with most of them.  
4 And we haven't had really large-scale noise  
5 issues on the street despite being, we are right  
6 off of H Street, which I think we all had  
7 understanding that we were in close proximity to  
8 a commercial corridor. And there's a reasonable  
9 expectation that there's going to be some noise,  
10 but we've never had it, in my -- what is that --  
11 12 years now, I've never had anything of the  
12 volume or the character of the noise and  
13 disturbances we've had in front of her house  
14 until Felicity opened up.

15 MS. BAUGH: Thanks. Have you had any  
16 issues with litter and trash since Felicity  
17 Lounge has opened?

18 MR. ACKEMANN: Yeah, both in the alley  
19 and the front. We've had increased instances of  
20 it. Again, I can't, it's hard to attribute that  
21 directly, but evening drinking, and a lot of  
22 times it's just discarded bottles and drinks.  
23 Clearly alcoholic beverages that had been just  
24 kind of dumped onto the curbs in front of the  
25 house. Unfortunately, where we live, we get a



1 lot of refuse coming off H Street. So again, I  
2 hate to target it specifically to that, but the  
3 increased volume of it is certainly something  
4 that exists.

5 MS. BAUGH: Yeah, and so you -- I'm  
6 sorry, I just wanted to clarify this. When you  
7 said bottles, you're saying you've seen bottles  
8 of alcohol, you now, left on your -- on the  
9 street right in front of your home?

10 MR. ACKEMANN: Yeah. Our true block is  
11 the first -- is the second one. Marc March is  
12 the first. Ours is the second. And they become  
13 kind of trash bins for discarded beverages. And  
14 sometimes it's plastic containers, sometimes it's  
15 bottles. It's a whole mix of things. And that's  
16 something we do see. We have seen since the time  
17 we got here, but again, the increased frequency,  
18 is what we noticed.

19 MS. BAUGH: I just wanted to give you  
20 an opportunity to elaborate a little more if you  
21 wanted to, on the relationships you've had with  
22 other establishments, like for example, Taqueria  
23 Fresca has a large summer garden or patio. I'm  
24 looking at it right now. And I was wondering if  
25 you could just tell us what experience you've had

1 with that.

2 MR. ACKEMANN: When they were opening,  
3 we were quite concerned because that sidewalk  
4 cafe appeared to us to be something where we'd be  
5 hearing considerable volume, it's almost under  
6 our house. But we've had a really great rapport  
7 with the owner. He's been listening to our  
8 concerns and been taking those into account with  
9 the way he operates. We really appreciate their  
10 business, our son eats there all time. Po Boy  
11 Jim's was a similar one. We had a lot of  
12 concerns because of the garden that courtyard  
13 opens up right onto the alley and it's like a  
14 canyon back there. Everything bounces around.  
15 We were concerned about that. We expressed the  
16 concerns at a hearing and it seems like they've  
17 heard us as well because I don't -- it was noted  
18 earlier that complaints have been made there and  
19 complaints are going to happen because  
20 occasionally there will be loud noises. But  
21 largely, we haven't had any issues with Po Boy's  
22 from our perspective at our address.

23 MS. BAUGH: So you've mentioned that  
24 you worked with the owners there. Have you had  
25 any success working with the owners of Felicity

1 Lounge regarding Felicity?

2 MR. ACKEMANN: No. I mean, I haven't  
3 made any personal attempts, but I know we've  
4 attempted to through you guys who have put a lot  
5 of legwork into this. And that's part of, I  
6 think part of the disappointment is there hasn't  
7 even been a dialogue. It feels like it's been a  
8 pushback from the beginning to just say no, we're  
9 going to do whatever we want and quite  
10 potentially, we could have avoided being here for  
11 all these hours today if we just sat down to have  
12 a conversation about it.

13 I don't know -- I know everyone's  
14 coming at this from different perspectives. I  
15 don't -- my goal, I would love to see a viable  
16 business there. It helps all of us if there's a  
17 viable business there. There's no, from my  
18 perspective, I'm not just saying I don't want  
19 anything there, but we'd just like to have an  
20 understanding of what activities are going to be  
21 taking place there, and make sure that we're kind  
22 of taken care of or understood as people who are  
23 living, you know, yards from the back of that  
24 building. We're right on top of it or they're  
25 right on top of us.

1 MS. BAUGH: Have you ever eaten at  
2 Felicity Lounge?

3 MR. ACKEMANN: I've not, no. I've eaten  
4 at Po Boy's. I have not eaten at Felicity.

5 MS. BAUGH: Do you consider Felicity  
6 Lounge to be a restaurant near our houses that  
7 you could go to for a meal?

8 MR. ACKEMANN: No, I've never explored  
9 it, so I can't tell you that for sure. From the  
10 front, it certainly doesn't look like a  
11 restaurant. Fresca has tables and menus. Po  
12 Boy's clearly is operating as a restaurant. I  
13 don't get the vibe from Felicity, but I've never  
14 tried it, I've never walked in the door.

15 MS. BAUGH: Is there anything else  
16 you'd like to add regarding Felicity?

17 MR. ACKEMANN: I don't think so. I  
18 mean, to reinforce what Marc was trying to say I  
19 think earlier and I'm not trying to speak for  
20 him, but I am one house removed from his, so I'm  
21 hearing the same things that he is. So I just  
22 wanted to reinforce. He wasn't able to voice  
23 that earlier because of the connection, but  
24 they're friends of ours. We've been at their  
25 house and you can clearly hear the noise from the

1 back of the building.

2 MS. BAUGH: Thank you, Alex.

3 MR. ACKEMANN: You're welcome.

4 MS. BAUGH: Mr. Donovan, I think  
5 you're on mute if you're trying to speak.

6 CHAIRPERSON ANDERSON: Mr. Miskiri, do  
7 you have any questions for Mr. Ackemann?

8 MR. MISKIRI: No, sir.

9 CHAIRPERSON ANDERSON: Mr. Kelty, do  
10 you have any questions for Mr. Ackemann?

11 MR. KELTY: Just one in regards to the  
12 bottles. I noted that Felicity Lounge offers  
13 what they call bottle service. The bottles  
14 you're talking about in the front yard, are they  
15 like single serving beer bottles or are they like  
16 bottles of liquor like 750 milliliter bottle of  
17 liquor. What kind of bottles do you see? Or is  
18 it a mix?

19 MR. ACKEMANN: It's a mix. Sometimes  
20 you'll find a six-pack of glass bottles from just  
21 bottles of beer. I don't really take note of it  
22 anymore. It's just part of our ritual is dumping  
23 the bottles into the recycle bin. But it's been,  
24 it's certainly been a mix. We've seen what  
25 appear to be, you know, full bottles of booze or

1 empty, empty 750s or whatever the measurements.  
2 It's been a mixed bag.

3 MR. KELTY: Thank you. That's all.

4 CHAIRPERSON ANDERSON: Any questions  
5 by the Board members?

6 MEMBER GRANDIS: Yes, sir.

7 CHAIRPERSON ANDERSON: Go ahead, Mr.  
8 Grandis.

9 MEMBER GRANDIS: Good afternoon, Mr.  
10 Ackemann.

11 MR. ACKEMANN: Good afternoon.

12 MEMBER GRANDIS: I want to thank you as  
13 a resident for taking time to participate in a  
14 hearing like this. Once again, I'm going to say  
15 to you, as I said to Mr. Kelty, the allegations  
16 you raise are very serious, and this Board takes  
17 those allegations very seriously. The concern I  
18 have is that under our ABC laws, a restaurant, or  
19 tavern or nightclub cannot give you a six-pack of  
20 beer to walk out with. So you're saying most of  
21 -- you're saying since the pandemic it hasn't  
22 been as loud and noisy and congested.

23 So therefore, my impression is that  
24 the bottles and everything were before the  
25 pandemic as well and the noise and disruption.

1 And I have a hard time being able to take the  
2 allegations you raise and place them on this  
3 particular licensee because as you heard in the  
4 testimony, there are numerous licenses within  
5 1200 feet. And it's probably likely that other  
6 patrons of other establishments use that same  
7 alley and use that same 7th Street to go back to  
8 their cars or maybe some live in the  
9 neighborhood, which we hope.

10 So I just want you to know that it's  
11 helpful to me if you can tie the situations to  
12 the licensee that we're talking about. Also, you  
13 mentioned that -- excuse me. How many years have  
14 you lived in that location?

15 MR. ACKEMANN: We've been there since  
16 2008.

17 MEMBER GRANDIS: Okay. And it's my  
18 understanding that this establishment opened in  
19 2017, and you've stated in your testimony that  
20 you've never been there for a meal?

21 MR. ACKEMANN: Correct.

22 MEMBER GRANDIS: And I think I  
23 understand you say you've never really been in  
24 there.

25 MR. ACKEMANN: I have not.

1                   MEMBER GRANDIS: So you really don't  
2 know what's going on inside?

3                   MR. ACKEMANN: No. The only thing I  
4 understand is what I hear through the back wall  
5 and I do know where that back wall is, is where  
6 the noise is coming from.

7                   MEMBER GRANDIS: And they're the only  
8 establishment that is along that back wall?

9                   MR. ACKEMANN: No. We used to have  
10 Attis was back there, Po Boy Jim is there, but  
11 they all have different entries, and you can hear  
12 when you go to investigate, you can hear what's  
13 there.

14                  MEMBER GRANDIS: Well, I want to thank  
15 you again, because you're taking time out of your  
16 valuable day. And we appreciate your testimony.  
17 Thank you.

18                  MR. ACKEMANN: Thank you.

19                  MEMBER SHORT: Mr. Chair?

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

22                  MEMBER SHORT: Yes. Mr. Ackemann,  
23 again, you moved in there when? What date did  
24 you move into your 7th Street residence?

25                  MR. ACKEMANN: It was winter. It was



1 probably right around now in 2008.

2 MEMBER SHORT: Okay. Well, just to  
3 correct something that was just said, someone  
4 just mentioned that they apparently thought that  
5 this business opened in 2017, but the record  
6 reflects, and there was testimony today that this  
7 business opened in 2019, July 2019. I just  
8 wanted to correct the record. Thank you for your  
9 testimony today.

10 MR. ACKEMANN: You're welcome.

11 CHAIRPERSON ANDERSON: Any other  
12 questions from any other Board members? Let me  
13 see. Mr. Miskiri, do you have any questions of  
14 Mr. Ackemann, based on the questions that were  
15 asked by the Board?

16 MR. MISKIRI: No, sir.

17 CHAIRPERSON ANDERSON: You said, no,  
18 sir?

19 MR. MISKIRI: No, sir. Correct.

20 CHAIRPERSON ANDERSON: Mr. Kelty, do  
21 you have any questions of Mr. Ackemann based on  
22 the questions that were asked?

23 MR. KELTY: No, sir.

24 CHAIRPERSON ANDERSON: Ms. Baugh, do  
25 you have any other questions of Mr. Ackemann,

1 based on the questions that were asked by the  
2 Board?

3 MS. BAUGH: No, sir.

4 CHAIRPERSON ANDERSON: All right.  
5 Thank you. Mr. Ackemann, thank you very much for  
6 your testimony. You're excused. Thank you very  
7 much.

8 MR. ACKEMANN: Thanks for your time.

9 CHAIRPERSON ANDERSON: All right. Do  
10 you have another witness?

11 MS. BAUGH: Yes, sir. I'd like to --  
12 Mr. Jordan Baugh would like to be a witness. And  
13 I would say just as a technical matter, when we  
14 go through his, I would like to be able to share  
15 my screen to ask him about some exhibits.

16 CHAIRPERSON ANDERSON: All right,  
17 sure. Mr. Baugh, can you raise your right hand.  
18 WHEREUPON,

19 JORDAN BAUGH  
20 was called for examination by the Agency, and  
21 after having been first duly sworn, was examined  
22 and testified as follows:

23 CHAIRPERSON ANDERSON: All right. Ms.  
24 Andrews, can you give Ms. Baugh an opportunity to  
25 elevate her rights to share her screen, please.

1 MS. ANDREWS: Sure. Stand by. Ms.  
2 Baugh, your rights have been elevated.

3 MS. BAUGH: Great. Thank you. I'll  
4 go ahead and share it now so I can see if this is  
5 working. Can you all see my screen?

6 CHAIRPERSON ANDERSON: Yes, ma'am.

7 MS. BAUGH: Okay. Thank you so much.  
8 Do we want to swear -- you just swore him in.  
9 Thank you. So we, to refocus a bit, we're  
10 talking about the effect on order, peace, quiet,  
11 trash and littering. And in the Board order that  
12 was issued in 2019, which is shown here on my  
13 screen, a number of conditions were imposed by  
14 the Board to prevent noise and prevent the  
15 transformation of the premises into a nightclub.

16 And one of the conditions which is  
17 highlighted here, it says four, the establishment  
18 is not permitted to charge a cover charge. And  
19 that is something I know we have talked a little  
20 bit about. And so I would like to ask Mr. Baugh  
21 about that, but just some background questions to  
22 sort of establish him. Mr. Baugh, can you tell  
23 me where you live in relation to Felicity Lounge?

24 MR. BAUGH: Yes. I live on the 700  
25 block of 7th Street, 720 7th Street. Around the

1 corner from Felicity Lounge and catty-corner to  
2 the alley that's been discussed.

3 MS. BAUGH: Okay. And Mr. Baugh, what  
4 is your general sense regarding covers at  
5 Felicity Lounge?

6 MR. BAUGH: My general sense is that  
7 there have been a number of occasions in which  
8 event promoters have sold tickets for admission  
9 to Felicity Lounge when there have been bands or  
10 other entertainment playing.

11 MS. BAUGH: Mr. Baugh, I'd like to show  
12 you what we have on the screen, this is a  
13 screenshot from Instagram that is in the exhibits  
14 that we submitted to ABRA and as well as the  
15 other parties. Can you, first of all, who posted  
16 this post we have a screenshot of?

17 MR. BAUGH: The Felicity Lounge  
18 Instagram account posted this screenshot as you  
19 can see at the top.

20 MS. BAUGH: Okay. And what would you  
21 like to tell us about this screenshot?

22 MR. BAUGH: Well, the screenshot shows  
23 that it's advertising that everybody is free  
24 before 6:30 p.m. That certainly implies that  
25 after 6:30 p.m., everybody is not free to enter

1 the premises and it includes a link to an  
2 Eventbrite website where presumably people can  
3 purchase tickets to enter the premises.

4 MS. BAUGH: Okay. I'd like to show you  
5 another slide right here. This is another  
6 screenshot that was included in the exhibits  
7 provided both to ABRA and to the Applicant.  
8 Looking at it, this appears to be a screenshot  
9 taken from Eventbrite. What can you tell us?  
10 What do you see when you look at this screenshot?

11 MR. BAUGH: I see that they're selling  
12 tickets for admission to an event at Felicity,  
13 UCB performing live. They're selling tickets for  
14 admission for \$10 and \$15. The tickets grant  
15 admission. I'm also seeing that they are  
16 separately advertising for food and beverages in  
17 addition to that admission charge, which appears  
18 to be a de facto cover charge to enter the  
19 premises.

20 MS. BAUGH: And how often does this  
21 screenshot say that parties like this happen at  
22 Felicity Lounge?

23 MR. BAUGH: Every Sunday, 3:00 p.m. to  
24 9:30 p.m.

25 MS. BAUGH: And can you tell us, for

1 those who might be looking, where do you see that  
2 here on the list there?

3 MR. BAUGH: At the upper right-hand  
4 corner.

5 MS. BAUGH: And was there an attempt --  
6 does this screenshot show that you were actually  
7 able to add tickets to your cart to check out?

8 MR. BAUGH: Yes, it does.

9 MS. BAUGH: And what were those tickets  
10 giving you access to?

11 MR. BAUGH: Admission.

12 MS. BAUGH: Admission to where?

13 MR. BAUGH: To Felicity.

14 MS. BAUGH: And do you think, in your  
15 opinion, is that a cover to enter Felicity  
16 Lounge?

17 MR. BAUGH: In my opinion, that is a  
18 cover to enter Felicity Lounge. The dictionary  
19 defines a cover as a charge made by a restaurant  
20 or a nightclub in addition to a charge for food  
21 and drink. This is clearly a charge for  
22 admission and food and drink are advertised as a  
23 separate charge on this advertising.

24 MS. BAUGH: Thank you. I'd like to  
25 show you one more screenshot from Eventbrite.

1 Can you tell us what you see here in this  
2 screenshot?

3 MR. BAUGH: Yes. I see a list of all  
4 of the happy hour specials and beverages and bar  
5 food that is being advertised for sale for this  
6 event.

7 MS. BAUGH: And what is this event that  
8 you can buy tickets to on Eventbrite?

9 MR. BAUGH: It is an after party  
10 DayParty UCB experience. Sunday, March 15th,  
11 3:00 p.m. to 10:00 p.m.

12 MS. BAUGH: Is it your understanding  
13 that this is also something you'd have to pay a  
14 cover charge to attend?

15 MR. BAUGH: Yes. There is an RSVP link  
16 on the top.

17 MS. BAUGH: And when was this party?

18 MR. BAUGH: It was Sunday, March 15th.

19 MS. BAUGH: And Sunday, March 15th was  
20 almost exactly a year ago. What do you remember  
21 happening in the world in the District of  
22 Columbia during the weekend of Sunday, March  
23 15th?

24 MR. BAUGH: The beginning of the  
25 pandemic, when the Mayor's COVID restrictions

1 were beginning to go into effect.

2 MS. BAUGH: And so you're saying that  
3 this was-- this party was held at the beginning  
4 of the pandemic when we were staying home?

5 MR. BAUGH: Correct.

6 MS. BAUGH: Mr. Baugh, are you a  
7 parent?

8 MR. BAUGH: I am.

9 MS. BAUGH: Do you have children  
10 enrolled in DCPS Public School?

11 MR. BAUGH: I do.

12 MS. BAUGH: So this was on Sunday,  
13 March 15th. Do you remember when the Mayor  
14 announced that school would be canceled going  
15 forward?

16 MR. BAUGH: Yes. Immediately after.

17 MS. BAUGH: That was on Friday --

18 MR. BAUGH: On Friday, March 13th.

19 MS. BAUGH: And so was this party after  
20 the Mayor had already announced that schools at  
21 DCPS would be canceled?

22 MR. BAUGH: It was.

23 MS. BAUGH: And yet, here we are, we  
24 have an event with a band at Felicity Lounge?

25 MR. BAUGH: Correct.



1 MS. BAUGH: Mr. Baugh, I'd like to show  
2 you one more thing. You know, this next slide is  
3 a Washington Post article that was submitted as  
4 one of our exhibits. Can you tell us what you  
5 see? Can you read what it says regarding  
6 Felicity Lounge in the Washington Post?

7 MR. BAUGH: Yes. In this article in  
8 the Washington Post, there is a paragraph that  
9 says that, Felicity Lounge on H Street,  
10 Northeast, Police said they saw a go-go band  
11 playing for more than two dozen patrons. All of  
12 whom departed through the rear exit as officers  
13 went in. The club's manager and owner could not  
14 be reached on Friday. And this was published --  
15 the context of this article is issues with  
16 establishments in the District of Columbia  
17 complying with the Mayor's order, and failure to  
18 do so.

19 MS. BAUGH: Thank you. Now, Mr. Baugh,  
20 you are my husband so I'm familiar with your  
21 eating habits. So I'd like to know, do you  
22 regularly dine at or order from establishments on  
23 H Street?

24 MR. BAUGH: I do.

25 MS. BAUGH: Have you ever dined at

1 Felicity Lounge?

2 MR. BAUGH: I have not.

3 MS. BAUGH: Why haven't you dined at  
4 Felicity Lounge?

5 MR. BAUGH: It has never appeared to me  
6 to be a restaurant where I would go and take my  
7 children to dine.

8 MS. BAUGH: When you are standing  
9 outside of Felicity Lounge, can you see inside to  
10 see tables suggesting it is a restaurant?

11 MR. BAUGH: No, in fact, it's darkened  
12 in the front windows.

13 MS. BAUGH: So can you see in?

14 MR. BAUGH: I don't recall being able  
15 to clearly see in, no.

16 MS. BAUGH: Have you ever seen any sort  
17 of advertisement suggesting that Felicity Lounge  
18 is a restaurant where you'd want to go to eat?

19 MR. BAUGH: I have not.

20 MS. BAUGH: Do you go to other  
21 establishments to eat on this block?

22 MR. BAUGH: I do.

23 MS. BAUGH: Have you ever been to  
24 Taqueria Fresca?

25 MR. BAUGH: I have.

1 MS. BAUGH: Have you ever been to Po  
2 Boy Jim --

3 MR. BAUGH: I have.

4 MS. BAUGH: -- owned by Mr. Miskiri?

5 MR. BAUGH: I have on a number of  
6 occasions.

7 MS. BAUGH: But you have not been to  
8 Felicity Lounge?

9 MR. BAUGH: Correct.

10 MS. BAUGH: Okay. Now, just sort of  
11 taking a step back from that and thinking about  
12 the effect on our neighborhood. What can you  
13 tell us about the effect that you have seen on  
14 pedestrian safety in particular safety on our  
15 block since Felicity Lounge has opened?

16 MR. BAUGH: I've seen an increase since  
17 Felicity Lounge opened. I've been awakened in  
18 the middle of the night on a much more frequent  
19 basis. Since then, we will often get woken up in  
20 the middle of the night because there are groups  
21 of people making loud noises, having arguments,  
22 altercations on occasion. People -- there's been  
23 a lot of increase in parking, increase in idling  
24 of cars. So there has been an absolute increase  
25 in what we have witnessed and witness on

1 occasion, MPD having to disburse crowds of people  
2 and groups of people.

3 And I will say, you know, getting  
4 woken up at 2:00 in the morning because there are  
5 people loudly meeting outside of my window is a  
6 really jarring experiencing and really difficult  
7 and really unsustainable. And I do recall  
8 particularly one really egregious example after  
9 Felicity opened, where essentially we saw what  
10 was a dance party occurring in the street outside  
11 of our window. Individuals were climbing on top  
12 of parked cars. There was loud music blasting  
13 out of those cars. People were clearly  
14 intoxicated, it was a really loud experienced.

15 And while I say I can't say for  
16 certain that every single person that I witnessed  
17 on our block is directly related to Felicity, I  
18 know we live off of commercial street, but what I  
19 can say unequivocally, is that the instances of  
20 this occurring increased exponentially after  
21 Felicity opened. Prior to Felicity's opening, we  
22 did not have to call the ABRA hotline as much.  
23 We did not -- we were not woken up in the middle  
24 of the night as much. It has contributed to an  
25 increase in this type of activity, in this type

1 of disruptive activity on our block.

2 MS. BAUGH: Mr. Baugh, thinking  
3 specifically about cars and the safety of where  
4 these cars are parked. Have you seen -- where  
5 have you seen these cars parked? Have you seen  
6 them blocking the ingress and egress of the  
7 alley?

8 MR. BAUGH: I have seen them blocking  
9 the ingress and egress to the alley. I've seen  
10 them parked in front of the fire hydrant in front  
11 of our house. And I will say we did notice and  
12 started paying attention that on the nights that  
13 Felicity is open, there are more cars parked on  
14 our block than the nights when Felicity is not  
15 open.

16 MS. BAUGH: Mr. Baugh, other than just  
17 saying since Felicity Lounge has opened, the  
18 incidences of vehicular issues, as well as noise  
19 have increased, do you have anything to support  
20 your suggestion that the noise and the loitering  
21 is actually coming from patrons of Felicity  
22 Lounge?

23 MR. BAUGH: I do. In fact, on  
24 occasions where there have been incidents, we  
25 have recognized individuals who have featured in

1 videos and photos that have been posted on social  
2 media from inside Felicity Lounge. I do remember  
3 one instance where there was some sort of  
4 argument or altercation happening on the block.  
5 We looked outside to investigate what was  
6 happening and we recognized that one of the  
7 people involved was either the DJ or one of the -  
8 - somebody involved with the entertainment at  
9 Felicity that evening.

10 MS. BAUGH: Thank you. Is there  
11 anything else you'd like to say about the  
12 character of our neighborhood as it relates to  
13 the appropriateness of Felicity Lounge?

14 MR. BAUGH: Yeah. We specifically  
15 chose this portion of H Street, the H Street  
16 Corridor living because it is zoned as a  
17 residential and as a retail business area and not  
18 as part of the arts and entertainment district of  
19 H Street, which is further to the east of us.  
20 This is a genuinely quiet residential  
21 neighborhood. Certainly there is commercial  
22 activity on H Street during the day as would be  
23 expected. And there's some foot traffic in the  
24 evening as well.

25 Most of the other establishments in

1 our immediate vicinity close before midnight and  
2 that foot traffic is not as much of a nuisance.  
3 And I would say we're really concerned that  
4 having essentially a business that's operating as  
5 a nightclub in this section of the H Street  
6 Corridor really extends that arts and  
7 entertainment district further down to an area  
8 where it was not intended, it was not zoned for,  
9 and we were not expecting when we moved here.

10 MS. BAUGH: Mr. Baugh, have you ever  
11 filed a formal complaint to ABRA?

12 MR. BAUGH: I have.

13 MS. BAUGH: Can you tell me what it was  
14 for?

15 MR. BAUGH: I did file a complaint to  
16 ABRA that Felicity was operating as a nightclub  
17 in violation of its restaurant license.

18 MS. BAUGH: And when did you file this?

19 MR. BAUGH: I filed that I believe it  
20 was January 29, 2020.

21 MS. BAUGH: And did ABRA confirm  
22 receipt of this complaint?

23 MR. BAUGH: ABRA did confirm receipt of  
24 this complaint.

25 MS. BAUGH: Have you reached out to

1 ABRA since filing that complaint?

2 MR. BAUGH: I have reached out to ABRA  
3 recently to check on the status of that  
4 complaint.

5 MS. BAUGH: And what did ABRA tell you?

6 MR. BAUGH: I did not receive a  
7 response.

8 MS. BAUGH: Okay. So you're still  
9 waiting to hear a response from ABRA?

10 MR. BAUGH: I am.

11 MS. BAUGH: So you're hoping that the  
12 ABRA Board and that ABRA will look into this?

13 MR. BAUGH: I certainly do hope so.

14 MS. BAUGH: Okay, thank you. Is there  
15 anything else that you'd like to share in  
16 conclusion regarding Felicity Lounge with us?

17 MR. BAUGH: No.

18 MS. BAUGH: Thank you.

19 CHAIRPERSON ANDERSON: You can close  
20 your screen, please.

21 MS. BAUGH: We are trying to figure  
22 out how to do this. I'm not seeing a button that  
23 says stop sharing. I don't know if you want to.

24 MR. BAUGH: Maybe up here.

25 MS. BAUGH: Here we go.



1 CHAIRPERSON ANDERSON: All right. Mr.  
2 Miskiri, do you have any questions for Mr. Baugh?

3 MR. MISKIRI: No, sir.

4 CHAIRPERSON ANDERSON: Mr. Kelty, do  
5 you have any questions for Mr. Baugh?

6 MR. KELTY: No, sir.

7 CHAIRPERSON ANDERSON: Okay. Any  
8 board members have any questions for Mr. Baugh?  
9 Hearing none. Thank you very much, Mr. Baugh,  
10 for your testimony. Ms. Baugh, do you have  
11 another witness?

12 MS. BAUGH: Yes, sir. I would like to  
13 speak, to testify, sir.

14 CHAIRPERSON ANDERSON: So you're the  
15 last witness?

16 MS. BAUGH: Yes. Although we do have  
17 two additional witnesses on the phone or two  
18 additional Protestants. They were put on the  
19 witness list. I was not planning to ask them  
20 questions, but if they have anything that they'd  
21 like to say, I'm happy to give them an  
22 opportunity.

23 CHAIRPERSON ANDERSON: No. You'd have  
24 to ask them questions. If you don't plan to ask  
25 questions, then you're not calling them. You'd

1 have to call them and if you're not calling them,  
2 then you'd be the last witness.

3 MS. BAUGH: That's fine.

4 CHAIRPERSON ANDERSON: I'm sorry. Go  
5 ahead. What were you saying?

6 MS. BAUGH: I would like to share my  
7 screen again.

8 CHAIRPERSON ANDERSON: Well, before  
9 you do that, can you raise your right hand,  
10 please?

11 WHEREUPON,

12 ANGELLE BAUGH

13 was called for examination by the Agency, and  
14 after having been first duly sworn, was examined  
15 and testified as follows:

16 CHAIRPERSON ANDERSON: All right. Ms.  
17 Andrews, can you elevate her profile again,  
18 please? Ms. Andrews?

19 MS. ANDREWS: My apologies.

20 CHAIRPERSON ANDERSON: Okay.

21 MS. BAUGH: Can you see my screen now?

22 CHAIRPERSON ANDERSON: Yes, ma'am. Go  
23 ahead.

24 MS. BAUGH: Okay. Great. So I live  
25 catty-corner to the alley on which Felicity

1 Lounge is on. Mr. Ackemann and Mr. Knobbe, who  
2 spoke, live directly across the street from me.  
3 I can see their windows right now as I'm sitting  
4 in the bay window of our home. I can also see  
5 that alley going into the back of Felicity  
6 Lounge. I would like to say that on the nights  
7 Felicity Lounge is open, it's not unusual for  
8 residents to be able to hear amplified music from  
9 the establishment in their home. As both Mr.  
10 Knobbe, and Mr. Ackemann have said. And that  
11 prevents us from enjoying the ability to sleep  
12 and enjoy peace and quiet. We hear the sounds of  
13 the loud bass noise coming from the DJs and from  
14 the live bands when we're in are beds and trying  
15 to sleep. And for me personally, that's also  
16 included when I've sat in the rocking chair in my  
17 window trying to rock my then at the time infant  
18 and toddler twins to sleep. And this has  
19 resulted in a number of noise complaints to the  
20 ABRA hotline.

21 I'd like to show you what's on my  
22 screen. Way to take a moment to show this to  
23 you. What this is and this was included in our  
24 exhibits. This is a sampling of ABRA and 9-1-1  
25 complaints that we believe are associated with

1 the Applicant. This list was made by two members  
2 of our protest group. I will say that I am one  
3 of the members. I am one of the two individuals  
4 whose call logs we looked at, as well as one  
5 other person who would strongly prefer not to be  
6 identified. We went through our call records, we  
7 went through our phone bills and our call logs  
8 from June 2019 until January of 2020 when we  
9 filed the protest.

10 If you look at the chart, you'll see  
11 that starting at the end of July, there are  
12 regularly calls to ABRA and 9-1-1 regarding noise  
13 and disturbances of the peace. There are calls  
14 in July, August, October, November, December, and  
15 January. What you don't see are calls in June.  
16 There are no calls to the ABRA hotline or 9-1-1  
17 by these two individuals, myself and one other  
18 person in June 2019, or even in early July. The  
19 calls didn't start until Felicity Lounge received  
20 their license in July of 2019.

21 Now, it is true, as Mr. Grandis was  
22 saying, I cannot state with certainty that every  
23 call on this log is related to the Applicant.  
24 However, I can state with certainty that I was  
25 not routinely calling ABRA or 9-1-1 for noise

1 complaints before Felicity Lounge was open.  
2 Something changed and the clear and obvious  
3 explanation is that Felicity Lounge opened. One  
4 other thing I'd like to point out here to help  
5 tie the two together. When there's noise, right,  
6 when I go into my bedroom and try to go to bed  
7 and there's noise, you know, of course, I look  
8 out of the window, what can I see? What can I  
9 pick up on? I have now gotten in this history of  
10 going to social media. I can go to Instagram and  
11 almost without fail on those instances, Felicity  
12 Lounge is hosting a promoted event with either a  
13 DJ or a live band.

14 And those are the nights that I find  
15 that I'm having these issues and I'm calling ABRA  
16 or I'm calling 9-1-1 because of these issues that  
17 we're hearing and the disturbances of the peace  
18 that are happening when patrons are leaving the  
19 establishment. So I do -- sorry, we've gone a  
20 little out of order. Because I didn't realize I  
21 had to actually ask people questions. So it's  
22 important to note again, these changes were not  
23 happening regularly on our block in the years  
24 proceeding Felicity. And today they're happening  
25 now as, you know, as the Board noted, and I'm

1 showing here on my screen. Sorry, wrong part.  
2 But the Board has noted and we've established  
3 today that Felicity did not, in 2019, and does  
4 not now have a plan to address the burdens on the  
5 community from late night drinking and  
6 entertainment.

7 To see that Felicity Lounge is a  
8 business of late night drinking and  
9 entertainment, rather than selling food, you  
10 don't have to look further than Felicity's  
11 website, which I'll bring up now. Right here on  
12 the website when you go to the About section, it  
13 says Felicity Bar and Lounge is your go-to night  
14 life destination in historic H Street Corridor.  
15 There it is. Publicly. On their website.  
16 Felicity Lounge is a quote, night life  
17 destination. And of course goes on to say that  
18 they have hookah. I know that was asked about  
19 earlier, so I did want to show everyone that  
20 right there on the Felicity Lounge website, in  
21 the very next sentence, it says that we offer  
22 hookah.

23 So, you know, this night life  
24 destination is operating as a residential area,  
25 which the ABRA report by investigator Mitchell

1 described as being zoned as a neighborhood  
2 serving retail shopping district. We all know  
3 that H Street Corridor and there is a designated  
4 arts and entertainment zone on H Street, but that  
5 is not here at this block. That starts four  
6 blocks down more east, where honestly, Mr.  
7 Miskiri has another establishment. It's not here  
8 on the 700 block of H Street. So in addition to  
9 Felicity's website for claiming that it's a go-to  
10 night life destination, Felicity's advertisements  
11 on social media, as well as the posts of their  
12 promoters, made clear that they are in the  
13 business of what the Board referred to as late  
14 night drinking and entertainment, not food.

15           Before we look at Felicity's own  
16 marketing, I'd like to acknowledge again that Mr.  
17 Miskiri, who owns Po Boy Jim's, he knows how to  
18 properly market a genuine restaurant. Here, this  
19 is one of our exhibits. This is the screenshot  
20 of Mr. Miskiri's website Po Boy Jim's, which is  
21 literally next door to Felicity Lounge. This is  
22 a screenshot of their Instagram account. When  
23 you look at the screenshot of Po Boy Jim's  
24 Instagram page, you see exactly what you'd expect  
25 to find in a restaurant. You see food, and I've

1 eaten there, I've had their shrimp po boys.

2 They're great. I'm from Louisiana.

3 But in contrast, I'd like to show you  
4 some of Felicity Lounge's posts on Instagram,  
5 marketing their business. This is a screenshot  
6 of Felicity's Instagram account  
7 @FelicityLoungeDC, from October 19, 2019. So  
8 just months after Felicity opened, less than four  
9 months, that timeline was talked about earlier.  
10 They opened at the end of July. Here we are in  
11 October. Just what, three months later. Hear  
12 you see, if you look at the text, Felicity is  
13 marketing hookah and drink specials only. The  
14 only place to be on Saturday. Sounds by DJ  
15 Problem. No food was there.

16 We go to our next post, again in  
17 October of 2019, Felicity Lounge Posts, That's  
18 right. You heard it. Best place to be.  
19 Felicity Saturdays. Come out ladies and enjoy  
20 free shots of flavored Kettle One, bottle  
21 specials, hookah, and lots more. Pull up early  
22 and avoid a long line. Sounds by the one and  
23 only, DJ Problem. I see it posted about vodka  
24 shots, hookah, and a DJ, none of which are  
25 inherently bad, but this is supposed to be a



1 restaurant. And I don't see a post about a  
2 restaurant here. Again, another slide, another  
3 Instagram post from Felicity Lounge. This time  
4 in November 2019. I see hookah, I see alcohol, I  
5 see a DJ. I don't see a restaurant.

6 I'd then like to fast-forward. Fast-  
7 forward to December 13, 2021. This is during the  
8 pandemic. Not only that, it's in December,  
9 December 13th is when this party is. This is  
10 really important because it is just days after  
11 the Board reached an order in compromise with  
12 Felicity for violations of the Mayor's emergency  
13 order. And here what we have is an  
14 advertisement. This is posted by Hollywood  
15 Redds, who I believe is a DJ and seems to be a  
16 promoter, based on his Instagram page, but can't  
17 really speak to that. And its advertisement is  
18 telling you to go to Felicity Lounge for this  
19 event, for Moet Rose, Henny, and drink specials  
20 and music by Hollywood Redds at a #DayParty.  
21 This is in December of 2021. Days, literally  
22 days after the Board reached its order in  
23 compromise with Felicity Lounge.

24 Then I'd like to take you -- you can  
25 see this was posted by Hollywood Redds. This

1 very same, on December 13th during this party,  
2 I'm going to show you this next video. This  
3 video is a screen grab that I took of Hollywood  
4 Redds Instagram stories account. This video was  
5 posted on December 13th. You can tell by the  
6 timestamp at the top that I took the screenshot  
7 at -- I started it at 1:21 a.m., but it was  
8 complete at 1:23 a.m. on December 14th. You can  
9 see that the video was posted six hours  
10 beforehand. And for those not familiar with  
11 Instagram video, with each snippet, it's going to  
12 show you the amount of time since it's been since  
13 that was posted. And what you can tell if you  
14 look at the times is that these videos were  
15 posted online from inside Felicity Lounge on  
16 December 13th at 7:00 p.m., 8:00 p.m., and 10:00  
17 p.m.

18 I'm going to go ahead and press play  
19 on let the video play through. I will tell you  
20 there's no sound on the video. And the reason  
21 for that is my error in recording. This is the  
22 first time I recorded a video on my phone. So  
23 you have the video but there's no sound. So I'll  
24 press play now for everyone to see. Uh-oh. The  
25 video is playing. And that's Hollywood Redds

1 who's promoting this event. And so I'll let  
2 Everyone else finish watching. So everyone can  
3 make their own conclusions about what they see in  
4 this video. But I want to tell you what I see.  
5 I see people without masks, I see a lack of  
6 social distancing, I see dancing, I see hookah, I  
7 see alcohol, but what I don't see is food. I do  
8 not see a restaurant.

9 Now, I'd like to return to Instagram.  
10 What I'm showing you now are screenshots. This  
11 is a side-by-side of screenshots of the Po Boy  
12 Jim Instagram account and the Felicity Lounge  
13 Instagram account. The Po Boy Jim account,  
14 undeniably is marketing food. I look at this and  
15 I see a restaurant. I see a restaurant owned by  
16 Mr. Miskiri. But on the picture on the right, I  
17 see a screenshot. That's a screenshot of  
18 Felicity Lounge. I don't see food. I don't see  
19 a restaurant. Instead, I see an account  
20 promoting late night drinking and entertainment  
21 that's permitted as a restaurant.

22 Because Mr. Miskiri brought up Bar  
23 Elena and the Big Board, which just for reference  
24 are several blocks down the street, I certainly  
25 cannot hear noise from those establishments in my

1 home on the 700 block of 7th Street. I wanted to  
2 go ahead and show you all of those Instagram  
3 accounts right next to each other. I'm now  
4 showing you screenshots of Po Boy Jim next to  
5 Felicity Lounge, the Big Board's Instagram  
6 account, and Bar Elena's Instagram account. My  
7 eyes tell me that one of these things is not like  
8 the others. Three of these accounts are  
9 promoting food. One of them is not.

10 Now, one other thing I'd like to touch  
11 on is property values. That I know we've talked  
12 about today and it's certainly a prong of the  
13 appropriateness standard. In the Board's order  
14 in 2019 to Aroma/Brothers Burgers Bar, it does  
15 say that one of the things you would look at  
16 would be whether there was evidence of blight or  
17 poor management on the property. In there, you  
18 said there is no evidence of blight or poor  
19 management of the property. However, today,  
20 you've heard Mr. Kelty walk you through that  
21 Department of Health complaint. I was planning  
22 to go through it in detail, but in the interest  
23 of time, I won't. If you were to read it, you  
24 know, he's talked about, there were rodent  
25 droppings. The Department of Health said there

1 were not plans to handle vomiting incidents and  
2 diarrhea incidents. Some of the complaints Mr.  
3 Kelty submitted as evidence talked about public  
4 urination and defecation in the alley. And I  
5 would like to add one thing there. Let me get  
6 back to it.

7           That night, Sunday, March 15, 2020,  
8 the night of this party at Felicity where UCB the  
9 band was performing, that was written up in the  
10 Washington Post. I believe this was an incident  
11 that night. I sent an e-mail to Mr. Kelty. You  
12 can see it was Sunday, March 15th.

13 Unfortunately, the screenshot on the timestamp  
14 was not right because I took it on the account  
15 where it was received, not where it was sent.  
16 What you can see is I wrote to Mr. Kelty in real  
17 time, The Felicity patrons were exceptionally  
18 rowdy tonight. I think we heard four or five  
19 fights. MPD was there multiple times. Around  
20 closing time, there were probably 20 to 30 people  
21 yelling at the corner of 7th and H for about ten  
22 to 15 minutes. The crowd started to disburse  
23 though when another MPD patrol car showed up.  
24 And pardon my language here, but not to be crude,  
25 at the same time a nice young man decided to just

1 piss on the sidewalk and on my neighbor's  
2 property.

3 And what was attached to that e-mail  
4 that I've chosen not to submit for decency  
5 reasons, there was actually a video of a man who  
6 was in this crowd relieving himself on my  
7 neighbor's front steps, the same night that this  
8 band was performing there. And the point of that  
9 is just to show that yeah, there have been some  
10 issues with blight here. I'm not saying there  
11 necessarily is blight, but there certainly are  
12 conditions that could lead to it. The other  
13 issue here is the poor management of the  
14 property. You know, we've talked about all of  
15 these citations by the Department of Health,  
16 multiple violations from ABRA for violating the  
17 Mayor's order during the pandemic, as well as  
18 other violations for capacity and other issues  
19 even before then. And just given that, I do  
20 think it sort of defies credulity to think that  
21 this establishment is being run poorly.

22 Solely just based on that, I do think  
23 there's evidence to support the property value  
24 issue. But look, real talk here. Everyone knows  
25 that the value of real estate in the District of

1 Columbia and certainly in this neighborhood is  
2 going up. But the value of a home that is next  
3 to a restaurant certainly is very different than  
4 the value of a home that is next to a nightclub  
5 or a bar, even, or even a restaurant, whatever we  
6 want to call Felicity right now. If your home is  
7 next to an establishment that has DJs and that  
8 has live bands performing until 2:00 in the  
9 morning and their patrons spilling out into the  
10 street, that has an effect on your property. It  
11 is not the same as living next to a restaurant  
12 which all these other establishments, we live by.

13 I will say with that, I think I can  
14 stop sharing my screen. And I do have some  
15 closing remarks. But Mr. Donovan, I'm not sure  
16 if it's appropriate for me to do that now or at a  
17 later time. You're on mute, Mr. Donovan.

18 CHAIRPERSON ANDERSON: Yeah, if you  
19 have closing remarks, I'll give you an  
20 opportunity to do closing, so this is just your -  
21 - oh, oops. I think I know how much time you  
22 had. Hold on. I'd have to keep track of time  
23 because I just messed up my timer, but that's  
24 fine. All right, before I ask questions, you had  
25 exhibits that you want to be in the record. I'm

1 just going to -- what are the documents? What  
2 are the exhibits that you had disclosed?

3 MS. BAUGH: So we disclosed a total of  
4 29 exhibits. However, I will say the key ones  
5 are actually the ones that I just showed on the  
6 screen.

7 CHAIRPERSON ANDERSON: All right. All  
8 right. Okay. All right. Mr. Miskiri?

9 MR. MISKIRI: No remarks, sir.

10 CHAIRPERSON ANDERSON: No. I was just  
11 saying, do you have any questions you want to ask  
12 her?

13 MR. MISKIRI: No questions at the  
14 time.

15 CHAIRPERSON ANDERSON: All right.

16 MR. MISKIRI: The only thing I can say  
17 is the pandemic has caused a lot of, you know,  
18 changes, and like I said --

19 CHAIRPERSON ANDERSON: But Mr.  
20 Miskiri, you're going to -- I'm going to give you  
21 -- I'm still going to give you an opportunity --

22 MR. MISKIRI: Okay. No questions.

23 CHAIRPERSON ANDERSON: I'm going to  
24 give you an opportunity to make some closing  
25 statements, sir. So this is just an opportunity



1 -- she just testified and this is was if you want  
2 to ask her questions based on her testimony. But  
3 you will have an opportunity to make some closing  
4 remarks.

5 MR. MISKIRI: Okay. Yeah, okay.

6 CHAIRPERSON ANDERSON: Mr. Kelty, do  
7 you have any questions of Ms. Baugh?

8 MR. KELTY: Just one. I wanted to  
9 clarify. You made references -- two  
10 clarifications. You made references to December  
11 2021. Did you mean December 2020?

12 MS. BAUGH: Yes, sir. I did. December  
13 2020.

14 MR. KELTY: Just for the record.

15 MS. BAUGH: Just that eager to get rid  
16 of this pandemic. Thank you.

17 MR. KELTY: The other thing I wanted to  
18 clarify is there were a couple of times when you,  
19 I think said, night life when you actually meant  
20 Night Club. Is your objection to any night life  
21 whatsoever or is the objection really to the  
22 operation of the illegal nightclub, in either a  
23 tavern or a restaurant?

24 MS. BAUGH: The latter. My objection  
25 is certainly to the operation of this

1 establishment as it's been operating seeming to  
2 be a de facto nightclub. I certainly absolutely  
3 am not opposed to night life in general. I'm not  
4 saying there shouldn't be that at all. I mean, I  
5 like to participate in it. I live off H Street  
6 right, but the truth of the matter is I feel  
7 strongly that this particular establishment,  
8 Felicity Lounge, this request for Substantial  
9 Change is not appropriate for reasons specific to  
10 the location, as well as reasons specific to the  
11 Applicant.

12 MR. KELTY: Thank you. That's all my  
13 questions.

14 MS. BAUGH: Thank you.

15 CHAIRPERSON ANDERSON: Any questions  
16 by any Board members? All right. Hearing none.  
17 Thank you very much, Ms. Baugh, for your  
18 testimony. All right. Okay. So do you rest?  
19 Or do you have any more witnesses?

20 MS. BAUGH: Yes, sir. I rest. Thank  
21 you.

22 CHAIRPERSON ANDERSON: All right. All  
23 right. So we are at the stage in this case where  
24 -- Mr. Miskiri? Mr. Miskiri?

25 MR. MISKIRI: Yes, sir.

1                   CHAIRPERSON ANDERSON: All right. I  
2 was going to ask you if you have any rebuttal  
3 witness you want to call, but I mean, that's not  
4 necessary in this case, so I'm not going to. All  
5 right. All right. So what I want to do at this  
6 stage, I'm going to give you five minutes, sir.  
7 So you'll have five minutes, Mr. Kelty will have  
8 five-minutes, and Ms. Baugh will have five-  
9 minutes. Your five-minutes is to wrap up your  
10 case and tell me what it is that you want the  
11 Board to do. So this is basically, you have  
12 requested, you Mr. Miskiri, has requested a  
13 change in your license category. So this is  
14 basically your -- this is for you to wrap up the  
15 case to say, this is what the evidence shows.  
16 And then you're going to say what it is that you  
17 want the board to do. So you have five-minutes  
18 to do that, sir.

19                   MR. MISKIRI: Okay. So good  
20 afternoon. Thanks again, everyone, for taking  
21 the time out and listening to both parties  
22 arguments. I just wanted to say on behalf of --

23                   CHAIRPERSON ANDERSON: Lift up your  
24 voice, sir. Raise your voice, please.

25                   MR. MISKIRI: I would like to say on

1       behalf of Felicity Lounge that we've been --  
2       being a small business and only been in business  
3       for a year and some change that we haven't been  
4       perfect. But unfortunately and fortunately due  
5       to COVID, we know that we have to make some  
6       changes to be able to have a profitable business  
7       and a blossoming business, such as Po Boys and so  
8       on and so forth. But that being said, we do know  
9       that we are responsible for a lease, and we want  
10      to make sure that we're not tied down to the  
11      lease with restrictions, that's in our control.

12                   So like I said before, what we've done  
13      before, we already talked about making  
14      improvements and adjustments and occupying at a  
15      level that's more restaurant friendly. But we  
16      also want to have the entertainment to be tied  
17      into what we're doing. When I say entertainment,  
18      I mean entertainment that goes along with the  
19      food and entertainment that we feel we can bring  
20      that -- we can draw in some money because at the  
21      end of the day, we want to be in business to make  
22      money. I mean, say what you want. Anybody can  
23      say what they want. Everyone, they want to go to  
24      work, put the hours in. I work 16 hours a day  
25      just to make a better living for yourself and

1 your family.

2 With that being said, I know the Board  
3 has come of all this supposed evidence about  
4 crime in the area or disturbance of peace. I can  
5 only reflect off myself and my partners. We  
6 don't participate, we don't hang out on the  
7 corner on 7th and H. We don't leave trash. We  
8 don't promote violence. We're trying to move  
9 into a direction where we can, you know, self-  
10 promote ourselves and push our -- and come up  
11 with that mission and our brand, but some  
12 businesses it takes a couple of months, a couple  
13 of years. Some businesses it takes forever.

14 Even with Po Boy Jim's. You know, Po  
15 Boy Jim's was just a middle business and then  
16 unfortunately due to unfortunate circumstances,  
17 you know, police brutality and social injustice,  
18 then it really took people to really know what  
19 strong of a Black-owned business Po Boy Jim's was  
20 and I would like to do that with all of my  
21 brands. So this is just to make sure that we're  
22 not tied down to anything because it might, you  
23 know, in the future, it might not even be  
24 Felicity, it might shut down, it might be a whole  
25 new different type of restaurant that we're

1 trying to experience -- experiment with, and  
2 that's basically the main thing.

3 And like I said before, you guys never  
4 came to actually support the business. You just,  
5 you know, judge, convict, and tried, you know,  
6 the business from afar on what you've seen,  
7 looking on Instagram and all that stuff, you took  
8 time off to do that. But no one took the time  
9 out to say, hey, like, let's really nail this out  
10 and come together and make this happen. It's  
11 like you come up with all of a sudden, I'm  
12 depreciating the neighborhood, the value. That's  
13 not what we're in it for. We're in it to make  
14 good money and longevity.

15 So all I can say as a business owner  
16 and the direction I'm trying to grow and get  
17 better, that we will make changes for the better.  
18 But like I said, we just don't want to be  
19 obligated and tied down and have the neighborhood  
20 decide what we do because at the end of the day,  
21 we are the ones who have invested hundreds of  
22 thousands of dollars. I mean, I pay my tax  
23 dollars as well. I pay a lot of money in taxes.  
24 I do my part. So that's pretty much it.

25 CHAIRPERSON ANDERSON: Thank you, Mr.

1 Miskiri.

2 MR. MISKIRI: No problem.

3 CHAIRPERSON ANDERSON: Mr. Kelty? You  
4 have five minutes.

5 MR. KELTY: Thank you. The ANC  
6 requests that the Board deny the Applicant's  
7 request for Substantial Change from a CR to a CT  
8 license. We also are asking that you, if in  
9 either case, whether it's a CT or a CR license,  
10 that you reduce the hours of operation. And I  
11 made some suggestions, but hope that you'll  
12 consider doing that.

13 CHAIRPERSON ANDERSON: Can you be  
14 specific? What does it -- this is --

15 MR. KELTY: Yes. I can be specific.

16 CHAIRPERSON ANDERSON: -- what they  
17 recommended. Yeah.

18 MR. KELTY: We're requesting you  
19 reduce the licensed hours of operation by two  
20 hours, limiting operation to 11:00 p.m. Monday  
21 through Thursday, and midnight Friday and  
22 Saturday. We're asking that you rescind the  
23 summer garden endorsement, which they cannot use  
24 and are not using and previously testified they  
25 didn't need. We ask that you rescind the

1 Applicant's entertainment endorsement, which is  
2 really the proximate cause of the adverse impacts  
3 on the neighborhood, in which the Applicant in  
4 2019 testified they did not need.

5 We're asking that you further  
6 strengthen the Board order that prohibits  
7 charging a cover charge to ensure that they're  
8 not using other online means to circumvent your  
9 Board order. We're asking that you incorporate  
10 the existing prohibition on the smoking of  
11 tobacco products to provide an additional  
12 enforcement tool for the community. And we're  
13 asking that you require all loading to occur in a  
14 D-DOT loading zone on 7th Street. Additionally,  
15 were I on the board, I would consider, and I  
16 guess I'm asking you to consider, investigating  
17 the ownership issues regarding the questions  
18 about who actually owns the business and whether  
19 those people are really suitable for licensure.  
20 And I would also ask that you consider issuing a  
21 cease and desist order for the Department of  
22 Health summary suspension.

23 I will conclude by saying that we  
24 actually did try to work things out with the  
25 Applicant by within the original 2019 protest and



1 recently, we spent well over I think it was close  
2 to two hours in the mediation with the Applicant  
3 and Ms. Fletcher. I made multiple overtures and  
4 ideas and things to try to work together and they  
5 were all summarily rejected. As I alluded to  
6 earlier, we sent a settlement agreement to try to  
7 get something on paper before this, so we didn't  
8 have to be here. It was ignored. So I think  
9 it's really unfair to say that the community did  
10 not try to work with the Applicant, and I'll  
11 conclude with that. Those are our requests.  
12 Thank you.

13 CHAIRPERSON ANDERSON: Thank you, Mr.  
14 Kelty. Ms. Baugh?

15 MS. BAUGH: Thank you, Mr. Donovan.  
16 So again, you know, the Protestants, we do ask  
17 you not to grant this Substantial Change license.  
18 We think it's wholly inappropriate. As the Board  
19 said in this 2019 order, a restaurant was  
20 appropriate for the area, but an entertainment  
21 and nightclub type establishment was not  
22 appropriate for the area. And in furtherance to  
23 that, you issued a number of conditions and a  
24 number of these conditions we just don't think  
25 have been met. We've shown, you know, for

1 example, I think they're clearly charging a cover  
2 charge for entrance, they're selling tickets and  
3 charging general admission to the property. And  
4 just on a bigger picture, they're simply not  
5 operating as a restaurant.

6 There's a reason none of us have ever  
7 eaten at Felicity Lounge, and it's because it's  
8 not operating as a restaurant. We heard  
9 testimony from Felicity Lounge that in less than  
10 four months in, they were already talking to ABRA  
11 to operate as a tavern instead of a restaurant.  
12 The advertisements that I showed you, of the  
13 blatantly operated -- advertising hookah and  
14 drinking and not food. Those were in October of  
15 2019. And there were certainly several of them  
16 before I started taking screenshots when I heard  
17 noise disturbances on occasion.

18 And you know, Felicity also testified  
19 that they have a security person with a counter  
20 when you walk into their supposed restaurant.  
21 And I -- maybe there are restaurants with  
22 security people and counters at the front, but I  
23 don't know that I've ever been to a restaurant  
24 with a security guard and a counter at the front  
25 door. You know, this establishment simply is not

1 acting as a restaurant. The reason they want to  
2 become a tavern is because they can't sell the  
3 food to meet the requirements of a restaurant.  
4 They don't want the fines for violating those  
5 requirements on food sales. And ABRA itself, the  
6 Board, already issued an order that said a  
7 restaurant was established, was appropriate for  
8 this area, not a nightclub. That, you know,  
9 that's what's in the order.

10 Also like what Mr. Kelty was saying,  
11 we tried to have settlement negotiations. We've  
12 heard a lot of platitudes. We want to be a part  
13 of your community. We want to get along, we want  
14 to do things, we don't want you to hear sound in  
15 your home. But what we're not having is any  
16 follow-up after that general platitude. We were  
17 promised that Felicity would submit a  
18 soundproofing plan. I have not received one.  
19 Mr. Jones says he didn't send one to the ANC.  
20 There's not one on file with ABRA. There's never  
21 been any soundproofing plan submitted. There's  
22 never been any security plan submitted.

23 We've sent this settlement agreement.  
24 We heard nothing. We contacted them saying we  
25 would like to talk about it, and was told, oh,

1 I'm busy this week. We can talk this weekend.  
2 We said, great, we've got all weekend open, we'd  
3 be happy to talk. Never heard back. And here we  
4 are today. We did not want to be here today. We  
5 genuinely wanted a settlement agreement, but you  
6 can't have a settlement agreement with someone  
7 who refuses to engage with you and just offers  
8 platitudes and refused to actually dig in and do  
9 the work to reach an agreement.

10 Other establishments, as Mr. Ackemann  
11 was saying, have reached an agreement with the  
12 neighbors and we've gone on to have really  
13 fruitful relationships. We go to the other  
14 establishments very regularly. During the  
15 pandemic, it's been a priority for us to support  
16 those local businesses. You can go to the  
17 Taqueria for lunch. You can go to the Taqueria  
18 for breakfast. Felicity Lounge isn't open  
19 because it's not a restaurant. They're not  
20 selling food. You can't do a takeout order from  
21 Felicity Lounge because it's not a restaurant.

22 So as I said at the end when Mr. Kelty  
23 asked me questions. We don't think the  
24 Substantial Change is appropriate for reasons  
25 that are specific to this Applicant, this

1 location, the management of Felicity Lounge  
2 itself. We gladly welcome businesses that  
3 provide economic diversity and growth for the  
4 area. But taverns with entertainment  
5 endorsements that operate as de facto nightclubs  
6 are not appropriate for this residential  
7 neighborhood that's comprised primarily of  
8 single-family townhouses and DC Public Elementary  
9 School.

10 If you want to be in the entertainment  
11 and arts district, there's one down the road, but  
12 it's not here on this block where this location  
13 is. I counted last night. There are more than  
14 17 elementary age and younger children that live  
15 on the 700 block of 7th Street alone. That  
16 doesn't include the ones that are on the way, and  
17 that doesn't include any on 8th Street. That is  
18 just on my block. 17 children. These children  
19 deserve the ability to go to sleep in their homes  
20 without regular late night disturbances related  
21 to Felicity Lounge. Mr. Ackemann told you that  
22 his 11 year-old son could hear the sounds coming  
23 from Felicity and the late night loiterers. I  
24 also have told you that when I'm rocking my  
25 children, they could hear the noise. We could

1 feel the bass while I was in the rocking chair on  
2 nights that live bands were performing at  
3 Felicity.

4 DC law provides these children and it  
5 provides all of us a reasonable expectation to be  
6 free from disturbances and other nuisances and we  
7 simply do not have that when Felicity Lounge is  
8 open. And we are asking for your assistance to  
9 restore this reasonable expectation. Should the  
10 Board nevertheless grant Felicity Lounge's  
11 application for Substantial Change to operate as  
12 a tavern, we very humbly ask the Board to impose  
13 restrictions on that license, going beyond --  
14 including, but certainly going beyond the current  
15 restrictions that have been in place on the  
16 license since July 2019, because those very  
17 clearly are not working in the opinions of all of  
18 the 24 people who signed that letter. Which  
19 represents the diversity of people in terms of  
20 gender, in terms of race, in terms of socio-  
21 economic class. This is a big swath of people  
22 who signed that letter, right? And We all  
23 strongly agree that this has been a problem for  
24 us.

25 And so some specific steps I just want

1 to quickly outline. Most of them, many of them  
2 are duplicative of what Mr. Kelty said. But we  
3 do strongly encourage you to rescind the  
4 entertainment endorsement. The noise that  
5 accompanies the Felicity's entertainment with the  
6 DJs and the live band performances absolutely can  
7 be heard in our homes as three or four of us have  
8 said here today. Given this, as well as candidly  
9 in 2019 in that Board order, there was a  
10 statement from Mr. Jones that he had no objection  
11 to the issuance of a license without an  
12 entertainment endorsement. We seriously ask that  
13 you impose those conditions on their operations.

14 We also seek reduced hours. We ask,  
15 given the current -- given what we've lived  
16 through, given their past history, that hours be  
17 further reduced by two further hours. We'd ask  
18 that you reduce capacity. We've heard a number  
19 of issues regarding capacity and safety in DCRA  
20 and it seemed like the Felicity Lounge didn't  
21 even know what the capacity was of their  
22 establishment. And that's at a time when during  
23 the Board orders they should be keenly aware of  
24 exactly, I'm sorry, the emergency orders, exactly  
25 how many people are allowed in their

1 establishment. They didn't even seem to know  
2 that.

3 We ask you to continue prohibiting the  
4 cover charge. And that would include to make  
5 clear that the cover charge includes prohibiting  
6 charging for all forms of entry fees, including  
7 charged fees at the door, and an advance through  
8 ticket sales or event promotion, whether in-  
9 person, online, Eventbrite, whatever. You're  
10 charging a fee to get in the door and that is a  
11 cover. Along those same lines, we'd like to ask  
12 you to prohibit the use of night life promoters  
13 who advertise events with live entertainment at  
14 this establishment. We also ask that you make  
15 clear the tobacco restrictions. This place  
16 should not be serving hookah. It doesn't have a  
17 license to do so, and it's currently shut down  
18 because of those violations.

19 And also one last thing, there was a  
20 complaint. We filed a valid ABRA complaint in  
21 January of 2020, that this establishment was  
22 acting as a de facto nightclub. We received  
23 confirmation from ABRA of the complaint. We have  
24 followed up asking for the status of it and we  
25 heard nothing. My husband and I both followed up



1 in the months leading up to this protest and our  
2 e-mails to ABRA have received no response. Those  
3 went directly to ABRA Enforcement and ABRA Legal.  
4 And we would really ask that you look at that  
5 complaint and consider whether that complaint is  
6 worthy of taking action. With that, just to sum  
7 up again, we do ask you to deny this request for  
8 a Substantial Change. Thank you.

9 CHAIRPERSON ANDERSON: Thank you, Ms.  
10 Baugh. All right. So we have come to the end of  
11 this hearing. A question I'll ask the parties  
12 since this is something that normally doesn't  
13 necessarily happen in a Protest Hearing. Do the  
14 parties wish to file proposed findings of fact  
15 and conclusion of law, or waive their right to do  
16 so? Basically, what that is is to say that you  
17 would write up basically a legal brief to say  
18 this is what the law states, this is what was  
19 proven today. And we wouldn't issue a decision  
20 until we received that, but that's basically  
21 asking the parties to write some legal brief.  
22 This is not asking for new information so you  
23 can't bring in new information. This is  
24 basically, this is what the evidence showed  
25 today.

1 MR. KELTY: Sir, I have the legal  
2 brief already drafted and I'd be happy to send it  
3 to you in the next 24 hours.

4 CHAIRPERSON ANDERSON: Ms. Baugh?

5 MS. BAUGH: What is the timeline for  
6 submitting such a brief?

7 CHAIRPERSON ANDERSON: If the parties  
8 decided to do that, it would be, well, it can be  
9 -- Mr. Kelty, you can't have the legal brief  
10 because you'd have to wait until the transcripts  
11 are issued, so normally what happens -- hold on.

12 MR. KELTY: Sorry, I'm not a lawyer.

13 CHAIRPERSON ANDERSON: Normally, what  
14 happens is that you would request the transcript,  
15 you would listen to the transcript, and you will  
16 say this is what was stated in the hearing. And  
17 this is what the law says. And you would request  
18 a transcript and it would be due 30 days after  
19 receipt of the transcript and the transcript  
20 would probably take about three weeks. The  
21 transcript probably wouldn't be available for  
22 three weeks and it would be 30 days after you  
23 receive the transcript, that would be available.  
24 So the long and short of it is, you would request  
25 a transcript, listen to the transcript and

1 summarize what the evidence that was presented in  
2 the transcript and then apply the facts to the  
3 law. It would not be bringing any new  
4 information. Normally, this is not something  
5 that we do in Protest Hearings. I'm not sure why  
6 I'm told that I need to ask the parties. It's  
7 more in show cause hearing and when there's more  
8 lawyers involved and that's more legal.

9 So it's not necessarily a disservice  
10 to you if you waive doing this. It's because as  
11 I said before, this is not, it's not giving you a  
12 second bite at the apple. This is not your  
13 bringing in new information. This is based on  
14 what was stated today.

15 MR. KELTY: I'm inclined to waive that  
16 and just get it done.

17 CHAIRPERSON ANDERSON: All right.

18 MR. KELTY: Ms. Baugh?

19 MS. BAUGH: I'm also happy to waive.  
20 However, I do want to point out when the  
21 Protestants filed their protest, their protest is  
22 actually written as if it is a legal brief. It's  
23 very lengthy in nature. It goes through the  
24 application of the facts we've discussed here to  
25 the law. And I would submit that perhaps that

1 complaint in and of itself --

2 CHAIRPERSON ANDERSON: Well, your  
3 protest filing is a part of the record because  
4 it's a part of -- it is included in the report  
5 that was put together by Mr. Mitchell.

6 MS. BAUGH: Great.

7 CHAIRPERSON ANDERSON: And yes, I have  
8 read it, although it was single spaced, I had to  
9 put bifocals on to read it. But I did. I did  
10 read it. That's why I'm making a point that,  
11 please change the font next time. Not to tell  
12 you what to do, but please, use a different font,  
13 okay?

14 MS. BAUGH: Well, I hope to never be  
15 in this position again. I promise you if I am  
16 for some reason that I will change the font.

17 CHAIRPERSON ANDERSON: I'm just, I'm  
18 letting you know that I looked at it, I read it.  
19 So I just want to let you know that.

20 MS. BAUGH: We appreciate it.

21 CHAIRPERSON ANDERSON: All right.

22 MS. BAUGH: So we do waive.

23 CHAIRPERSON ANDERSON: All right. Mr.  
24 Miskiri?

25 MR. MISKIRI: Yes, sir.

1                   CHAIRPERSON ANDERSON: The question  
2 I'd ask, do you waive? Both of the other parties  
3 waived filing proposed findings of fact and  
4 conclusion of law. Just want to make.

5                   MR. MISKIRI: Yes, I do too, sir.

6                   CHAIRPERSON ANDERSON: All right.  
7 Thank you. All right. Hold on a minute, please.  
8 I want to thank everyone for their participation  
9 today. We've been here since 10:00. I didn't  
10 realize that -- I thought this would have gone  
11 through lunch. I didn't think it would've have  
12 gone to 2:48 and I apologize that nobody -- we  
13 didn't have a lunch break for people to go get a  
14 refreshment. I did go off camera to get some  
15 water. But whenever you see me with off camera  
16 because I was trying to munch on something so you  
17 can still have my undivided attention, so but I  
18 want to thank everyone for their participation at  
19 this hearing today.

20                   All right. As Chairperson of the  
21 Alcoholic Beverage Control Board for the District  
22 of Columbia, in accordance with DC Official Code  
23 Section 2-574(b), of the Open Meetings Act, I  
24 move that ABC Board hold a closed meeting for the  
25 purpose of seeking legal advice from our counsel

1 on case number 20-PRO-00006 Felicity Lounge.  
2 Pursuant to DC Official Code Section 2-574(b)(4)  
3 of the Open Meetings Act, and deliberating upon  
4 20-PRO-00006 Felicity Lounge, for the reasons  
5 cited in DC Official Code Section 2-574(b)(13) of  
6 the Open Meetings Act. Is there a second?

7 MEMBER SHORT: Mr. Short, I second.

8 CHAIRPERSON ANDERSON: Mr. Short has  
9 seconded the motion. We will now have a roll  
10 call voting the motion seconded by Mr. Short.  
11 Mr. Short?

12 MEMBER SHORT: Mr. Short. I agree.

13 CHAIRPERSON ANDERSON: Mr. Cato?

14 MEMBER CATO: Bobby Cato. I agree.

15 CHAIRPERSON ANDERSON: Ms. Hansen.

16 MEMBER HANSEN: Jeni Hansen. I agree.

17 CHAIRPERSON ANDERSON: Mr. Grandis?

18 MEMBER GRANDIS: Edward Grandis. I  
19 agree.

20 CHAIRPERSON ANDERSON: And Mr.  
21 Anderson, I agree. As it appears that the motion  
22 has passed, I hereby give notice that the ABC  
23 Board will recess these proceedings to hold a  
24 closed meeting in the ABC Board -- well, in the  
25 ABC Board conference room pursuant to Section

1 2574 b of the Open Meetings Act. Normally we  
2 would do it in our conference room, but yes,  
3 we're going to do it via Zoom so I need to change  
4 that over. Again, I'd like to thank everyone for  
5 their participation today. Give me a couple of  
6 minutes so I can officially close the record for  
7 the day.

8 All right. As chairperson of the  
9 Alcoholic Beverage Control Board for the District  
10 of Columbia in accordance with Title 3, Chapter  
11 405, Office of Open Government, I move that ABC  
12 Board hold a closed meeting on March 17th, 2021,  
13 for the purpose of discussing and hearing reports  
14 concerning ongoing or planned investigations of  
15 alleged criminal or civil misconduct or  
16 violations of law or regulations and seeking  
17 legal advice from our legal counsel on the  
18 Board's investigative agenda, legal agenda, and  
19 licensing agenda for March 17, 2021, as published  
20 in the DC register on March 12, 2021. Is there a  
21 second?

22 MEMBER CATO: Bobby Cato. Second.

23 CHAIRPERSON ANDERSON: Mr. Cato  
24 seconded the motion. We'll now have a roll call  
25 vote on the motion that has been properly

1 seconded by Mr. Cato. Mr. Short?

2 MEMBER SHORT: Mr. Short. I agree.

3 CHAIRPERSON ANDERSON: Mr. Cato?

4 MEMBER CATO: Bobby Cato. I agree.

5 CHAIRPERSON ANDERSON: Ms. Hansen?

6 MEMBER HANSEN: Jeni Hansen. I agree.

7 CHAIRPERSON ANDERSON: Mr. Grandis?

8 MEMBER GRANDIS: Edward Grandis. I  
9 agree.

10 CHAIRPERSON ANDERSON: And Mr.

11 Anderson, I agree. As it appears that the motion

12 has passed, I hereby give notice that the ABC

13 Board will hold this aforementioned closed

14 meeting pursuant to the Open Meetings Act.

15 Notice will also be posted on the ABC Board

16 hearing room bulletin board, placed on electronic

17 calendar on ABRA's website and published in DC

18 Register in as timely manner as practical.

19 Again, thank you very much for your

20 participation today. And we are formally

21 adjourned for the day.

22 (Whereupon, the above-entitled matter

23 went off the record at 2:51 p.m.)

24

25



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