



**ALSO PRESENT:**

SARAH FASHBAUGH, DC ABRA Staff  
ANTHONY ALIGO, Applicant  
NATHAN FISHER, Applicant  
NICK GUGLIETTA, Applicant  
DAN ORLASKEY, ANC 1B  
ALLEN CANNON, Group of 5  
ALAN COHAN, Protestant  
RYAN HEILING, Protestant  
KATHI HIGHFIELD, Protestant  
CERI LAWLEY, Protestant  
INVESTIGATOR DONNELL BUTLER

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

2 2:34 p.m.

3 CHAIRPERSON ANDERSON: The next case  
4 on our calendar is Case No. 21-PRO-00070, Barkada  
5 Wine Bar, License No. 115719. This is a protest  
6 hearing.

7 Ms. Fashbaugh, can you please elevate  
8 the rights of the parties in this case, please?

9 MS. FASHBAUGH: Please stand by. This  
10 is a long one, so it may take a moment.

11 CHAIRPERSON ANDERSON: Thank you.

12 MS. FASHBAUGH: Nathan Fisher, your  
13 rights have been elevated. Alan Cohan, your  
14 rights have been elevated. I do not see  
15 Commissioner James Turner. Dan Orlaskey, your  
16 rights have been elevated.

17 I do not see Commissioner Sabel  
18 Harris. Ceri Lawley, your rights have been  
19 elevated. Kathi Highfield, your rights have been  
20 elevated. Nick Mahon, your rights have been  
21 elevated.

22 Ryan Heiling, your rights have been  
23 elevated. Investigator Donnell Butler, your  
24 rights have been elevated. That is all,  
25 Mr. Chair.

1 CHAIRPERSON ANDERSON: Thank you very  
2 much.

3 (Audio interference.)

4 CHAIRPERSON ANDERSON: All right, hold  
5 on a minute. If you're not speaking, I need  
6 everyone to mute their phone. All right, who is  
7 speaking?

8 (Audio interference.)

9 CHAIRPERSON ANDERSON: Hold on a  
10 minute. I fear -- I mean, Ceri Lawley, it  
11 appears that there are several lines open where  
12 you are at and there is an echo. And so I can't  
13 hear what you're saying. So, it appears that you  
14 are signed in twice. So, you need to sign out of  
15 one -- either mute one of the lines, but you  
16 can't have both lines signed in at the same time,  
17 because there's an echo.

18 (Audio interference.)

19 CHAIRPERSON ANDERSON: I didn't hear  
20 what was being said, but whoever that is, you are  
21 here twice and you need to log out on the other  
22 line.

23 If everyone has a camera, can you  
24 please turn your camera on?

25 MR. CANNON: We have done that. Can

1 you hear us now?

2 CHAIRPERSON ANDERSON: Yes, I can  
3 hear. I'm just stating for everyone who has a  
4 camera, you can turn your camera on. Okay, is  
5 there someone from the ANC here?

6 MR. ORLASKEY: Yes, that would be me,  
7 Dan Orlaskey, Commissioner for ANC 1B02.

8 CHAIRPERSON ANDERSON: Okay, fine.  
9 Thank you. All right, if everyone who has a  
10 camera, can you please turn your camera on?

11 MR. CANNON: Mr. Chairman, we have the  
12 other two owners of Barkada Wine Bar have not  
13 been elevated yet and they are on the call.

14 CHAIRPERSON ANDERSON: All right, what  
15 are their names?

16 MR. CANNON: Yep, Anthony Aligo and  
17 Nick Guglietta.

18 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
19 can you please look for those names and elevate  
20 them, please?

21 MS. FASHBAUGH: Please stand by. Nick  
22 Guglietta, your rights have been elevated. And  
23 Anthony Aligo, your rights have been elevated.  
24 That is all, Mr. Chair.

25 CHAIRPERSON ANDERSON: Thank you.

1 MR. CANNON: Okay, Mr. Chair?

2 CHAIRPERSON ANDERSON: Who's speaking,  
3 please?

4 MR. CANNON: I'm speaking from the --

5 CHAIRPERSON ANDERSON: Hold on, sir.  
6 I don't know who's speaking, so please identify  
7 yourself. Who's speaking? That's right, who's  
8 speaking?

9 MR. CANNON: My name is Allen Cannon.  
10 I am the representative for the Group of Five.

11 CHAIRPERSON ANDERSON: Yes, sir.

12 MR. CANNON: I am using the same  
13 computer that Ms. Ceri Lawley is using. Is that  
14 okay with the Board?

15 CHAIRPERSON ANDERSON: Yeah, that is  
16 fine. The problem we're having before is because  
17 you are in the same location, and so there's a  
18 feedback. That's what that is. So, if you're in  
19 the same location, you have to mute one of the  
20 lines, because there is a feedback because of --  
21 but sir, if you're in the same location, you're  
22 fine. You don't need to be on another line.  
23 That's fine.

24 MR. CANNON: Okay, great. So, okay,  
25 so that means that I will be able to speak at the

1 meeting.

2 CHAIRPERSON ANDERSON: Yes.

3 MR. CANNON: Yes, great. Thank you.

4 CHAIRPERSON ANDERSON: That's fine.

5 All right. So, is anyone missing, before I have  
6 the parties identify themselves?

7 As far as for the applicant, are all  
8 your witnesses and parties, are they online for  
9 the applicant? For the ANC, is everyone online  
10 for the ANC? And for the Group of Five or more  
11 is there one online?

12 MR. CANNON: Okay, for the Group of  
13 501, we will have some witnesses --

14 CHAIRPERSON ANDERSON: Pardon?

15 MR. CANNON: We will have one person  
16 who will dive in later.

17 CHAIRPERSON ANDERSON: All right,  
18 fine. At that time, that's going to be later on  
19 this afternoon, because -- it's going to be later  
20 on this afternoon. So, at that time we will do  
21 that. All right, so let the --

22 MS. HIGHFIELD: Oh?

23 CHAIRPERSON ANDERSON: I'm sorry,  
24 who's speaking?

25 MS. HIGHFIELD: Can I say something?

1 I was elevated.

2 CHAIRPERSON ANDERSON: I'm sorry,  
3 who's that, ma'am?

4 MS. HIGHFIELD: This is Kathi  
5 Highfield.

6 CHAIRPERSON ANDERSON: Yes, ma'am.

7 MS. HIGHFIELD: I was elevated, but I  
8 do not see my space here, nor my picture.

9 CHAIRPERSON ANDERSON: Well, I can  
10 hear you. Ms. Fashbaugh --

11 MS. HIGHFIELD: Okay, there I am.  
12 Okay, thank you.

13 CHAIRPERSON ANDERSON: Well, I can  
14 hear you. I still can't see you. Ms. Highfield,  
15 I can hear you. Yes, okay, fine. All right.

16 MS. HIGHFIELD: Okay.

17 CHAIRPERSON ANDERSON: All right,  
18 well, it appears that you have missed -- the  
19 calls are in the same space.

20 MS. HIGHFIELD: Oh, okay.

21 CHAIRPERSON ANDERSON: I'm hoping that  
22 there's no -- you don't necessarily need to be on  
23 both, Mr. Cohan. You can --

24 MR. COHAN: No, don't worry about --  
25 if it comes up, I'll just turn mine off.



1 CHAIRPERSON ANDERSON: Okay, fine.  
2 All right. All right, so let me have the parties  
3 identify themselves. Let's start with the  
4 applicant.

5 MR. GUGLIETTA: From Barkada Wine Bar,  
6 this is Nick Guglietta. Full name, Nicholas  
7 Guglietta. Spelling, N-I-C-H-O-L-A-S, last name  
8 G-U-G-L-I-E-T-T-A.

9 CHAIRPERSON ANDERSON: And who else is  
10 here, sir, on your team?

11 MR. GUGLIETTA: Nathan Fisher.

12 CHAIRPERSON ANDERSON: Can we have  
13 Mr. Fisher identify himself for the record, with  
14 the spelling of their name?

15 MR. FISHER: This is Nathan Fisher.  
16 Spelling, N-A-T-H-A-N, F-I-S-H-E-R.

17 CHAIRPERSON ANDERSON: And you're also  
18 an owner, sir?

19 MR. FISHER: Yes. And then we also  
20 have our third owner on the line as well.

21 CHAIRPERSON ANDERSON: And who is  
22 that? Can that person identify themselves for the  
23 record?

24 MR. ALIGO: Anthony Aligo,  
25 A-N-T-H-O-N-Y, last name A-L-I-G-O.

1 CHAIRPERSON ANDERSON: Okay. Who's  
2 here from the ANC?

3 MR. ORLASKEY: That would be me,  
4 Commissioner Dan Orlaskey, 1B02. That's  
5 D-A-N-I-E-L, O-R-L-A-S-K-E-Y.

6 CHAIRPERSON ANDERSON: Who's the  
7 representative from the Group of Five or More?

8 MR. CANNON: Oh yes, this is Allen  
9 Cannon. I am the representative for the Group of  
10 Five or More. Actually, a group of ten.

11 CHAIRPERSON ANDERSON: Can you spell  
12 your name for the record, please?

13 MR. CANNON: Yes. It is A-L-L-E-N,  
14 C-A-N-N-O-N.

15 CHAIRPERSON ANDERSON: Now, does the  
16 ANC have any witnesses? Mr. Orlaskey, do you  
17 have any witnesses with the call?

18 MR. ORLASKEY: At this time I'm using  
19 the same witnesses as the Group of Five. We  
20 have --

21 (Simultaneous speaking.)

22 CHAIRPERSON ANDERSON: Oh, that's one  
23 of the reasons I was trying to find out. So, how  
24 many witnesses does the group intend to call  
25 today?

1 MR. ORLASKEY: I believe Mr. Cannon  
2 can probably give you the number. I think it's  
3 two or three, at least. And plus, some of the  
4 members of the group of ten. But Mr. Cannon can  
5 give you a better number.

6 CHAIRPERSON ANDERSON: Yeah, how many  
7 witnesses does the group intend to call today?  
8 Mr. Cannon, how many witnesses do you wish to  
9 call today?

10 MR. CANNON: Oh, I believe we wish to  
11 call six witnesses today.

12 CHAIRPERSON ANDERSON: Well, did you  
13 recall that when we had our protest status, I  
14 said that the hearing will be an hour, and each  
15 side can call no more than five witnesses?

16 MR. CANNON: No, but I think we can  
17 reduce it to five witnesses.

18 CHAIRPERSON ANDERSON: All right.  
19 This is a protest hearing status. And it's my  
20 understanding this is a substantial change that  
21 the licensee is requesting, requesting  
22 entertainment, an entertainment endorsement for  
23 the -- and an entertainment endorsement for --  
24 let me look at the document in front of me --  
25 that the licensee is requesting an entertainment

1 endorsement for indoors and under outside  
2 sidewalk caf,. Is that correct?

3 MR. GUGLIETTA: That is correct.

4 CHAIRPERSON ANDERSON: And that the  
5 licensee is requesting that entertainment inside  
6 will be from 11:00 a.m. Sunday through  
7 10:00 p.m., Monday through Thursday from  
8 5:00 p.m. to 10:00 p.m., on Friday from  
9 11:00 a.m. to 10:00 p.m. At least this is what  
10 was placard.

11 And on the sidewalk caf,, they're  
12 requesting an entertainment endorsement Sunday  
13 from 11:00 a.m. to 10:00 p.m., Monday through  
14 Saturday from 5:00 p.m. to 10:00 p.m. That's the  
15 issue. Is that correct?

16 MR. GUGLIETTA: That's correct.

17 CHAIRPERSON ANDERSON: All right. So,  
18 clearly, we're at a protest hearing, because the  
19 parties were unable to come to an agreement. And  
20 so, this is what I'm trying to find out. Are  
21 there any issues that there's agreement on? I  
22 thought, in preparing for this case, it appears  
23 that the parties, and tell me if I'm wrong, that  
24 there was agreement that there could be live  
25 entertainment inside, but that -- was there

1 agreement reached on this issue? Let me know.

2 I'm trying to see if we can streamline  
3 this hearing, to see that we only have a hearing  
4 on issues that are being contested. Did I read  
5 correctly to say that the parties are in  
6 agreement that there can be live entertainment in  
7 the inside of the establishment?

8 MR. ORLASKEY: I believe I can give  
9 you a little context on that. The Protestants  
10 here --

11 CHAIRPERSON ANDERSON: I'm sorry,  
12 who's speaking? Each time, please identify  
13 yourself, please.

14 MR. ORLASKEY: Commissioner Orlaskey.

15 CHAIRPERSON ANDERSON: Go ahead, sir.

16 MR. ORLASKEY: I was saying that I  
17 could maybe provide a little bit of context. The  
18 Protestants have made an offer to support a  
19 substantial change application for entertainment  
20 if it only is restricted to indoors.

21 CHAIRPERSON ANDERSON: All right.  
22 Okay, that's fine. So, hold on. So, both the  
23 ANC and the Group of Five or More, their position  
24 is that they would agree to entertainment inside?  
25 Is there agreement there?

1 MR. CANNON: Yes, there is.

2 CHAIRPERSON ANDERSON: I'm sorry,  
3 who's speaking?

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: Well, if  
6 there's entertainment -- both parties would agree  
7 to entertainment inside. Is that correct?

8 MR. CANNON: Yes. Yes, this is Allen  
9 Cannon. Yes, it is provided that the inside  
10 entertainment does not disturb the residents.

11 CHAIRPERSON ANDERSON: So, from what  
12 I saw on the placard notice, is that they were  
13 asking for entertainment indoors from until  
14 10:00 p.m., seven days a week.

15 So, if the parties are in agreement  
16 with that issue, then we could agree to that, and  
17 so therefore we could just move forward with a  
18 protest hearing on the entertainment on the  
19 outdoors.

20 That's what I'm trying to find out, if  
21 the parties are in agreement, so we could just  
22 streamline this hearing, and just talk about  
23 whether or not they should be granted a license  
24 for entertainment outside. That's what I'm  
25 trying to find out.

1                   MR. GUGLIETTA: This is Nick Guglietta  
2 with the applicant, Barkada Wine Bar. That is  
3 our understanding, that the Group of Five and the  
4 ANC is in agreement on the indoor, and the focus  
5 of the last several weeks of discussion has been  
6 exclusively on the outdoor caf, component of the  
7 entertainment endorsement.

8                   CHAIRPERSON ANDERSON: All right. So,  
9 can we then agree that whatever decision is made  
10 today, the ABC Board would grant an entertainment  
11 endorsement for indoor, for the hours proposed,  
12 for entertainment to cease as per placard,  
13 entertainment-endorsed, it's Sunday from  
14 11:00 a.m. to 10:00 p.m., Monday through Thursday  
15 5:00 p.m. to 10:00 p.m., and Saturday 11:00 a.m.  
16 to 10:00 p.m. Is there agreement on that issue,  
17 that live entertainment is allowed inside? And  
18 of course, as part of whatever decision, is that  
19 noise cannot be animated outside of the  
20 establishment. And that's for all establishment.

21                   MS. LAWLEY: Mr. Anderson, this is  
22 Ceri Lawley speaking. And with that  
23 qualification that you have just made, it is  
24 acceptable to the group of Protestants, that the  
25 noise is not animated outside. Subject to that,

1 we are in agreement.

2 CHAIRPERSON ANDERSON: That's standard  
3 for all establishments, that you can have the  
4 noise, but outside of egress, and in terms of  
5 egress, that the noise cannot emanate outside the  
6 establishment, outside of egress or when someone  
7 is entering the establishment.

8 I'm just trying to find out if we can  
9 just bring some type of close to some issues, so  
10 therefore we can spend our time and have a  
11 hearing on the issues that are here in dispute.

12 MR. ORLASKEY: And part --

13 CHAIRPERSON ANDERSON: I'm sorry,  
14 who's speaking, please?

15 MR. ORLASKEY: Dan Orlaskey. That is  
16 also acceptable to the ANC. I did have one brief  
17 question. This is a combined protest. Do you  
18 need me to confirm for the ANC, or is it just  
19 okay if we go ahead and assume that Mr. Cannon --

20 CHAIRPERSON ANDERSON: Oh no, that's  
21 what I'm saying. So, yeah, that's I both asked  
22 the ANC, and I both asked the Group of Five or  
23 More if that -- I've asked the ANC and I've asked  
24 the Group of Five or More, and I've asked the  
25 licensee.



1           So, if everyone agrees, then we have  
2 an agreement at least on that one issue. And so  
3 therefore, we will move forward with the hearing  
4 on just whether or not we should grant an  
5 entertainment endorsement on the sidewalk caf,  
6 and what are the timing?

7           So, that's what we would have this  
8 hearing on. That's the part of it then we move  
9 forward with a hearing, so everyone's testimony  
10 would be whether or not the Board should grant an  
11 entertainment endorsement on the sidewalk caf,,  
12 and if one's granted, what would be the hours.  
13 Do we have agreement on that issue? I'm sorry.

14           MR. CANNON: Yes, we have agreement.  
15 Yes, we do have agreement. Yes.

16           CHAIRPERSON ANDERSON: And the owners?

17           MR. GUGLIETTA: Nick Guglietta on  
18 behalf of the owners. Agreement as well.

19           CHAIRPERSON ANDERSON: All right,  
20 fine. So, we will issue an order approving the  
21 entertainment endorsement for the interior of the  
22 establishment, and the hours for entertainment  
23 are Sunday from 11:00 a.m. to 10:00 p.m., Monday  
24 through Thursday from 5:00 p.m. to 10:00 p.m.,  
25 and Saturday from 11:00 a.m. to 10:00 p.m. Those

1 times were the times that were placarded on the  
2 notice. All right.

3 Okay, so this issue then, we're going  
4 to have testimony on whether or not entertainment  
5 could be allowed on the sidewalk caf,, and if  
6 it's going to be allowed on the sidewalk caf,,  
7 what are the hours.

8 Okay, so that's the only issue that  
9 we're now litigating. So, I believe this hearing  
10 hopefully should not take all night, because they  
11 have a lot of witnesses.

12 All right, so the way the protest  
13 hearing normally operates, is that the Board goes  
14 first, the Board calls its witness. Once the  
15 Board calls its witness, then the Board members  
16 would ask questions of this witness.

17 After the Board has asked questions of  
18 this witness, then the applicant will have an  
19 opportunity to ask questions of the Board's  
20 witness.

21 Once the licensee has asked questions  
22 of the Board's witness, then the protestant will  
23 have an opportunity of questioning the Board's  
24 witness.

25 And once the Board has presented its

1 case, then the licensee will put on its case.  
2 So, they'll call their witnesses. Once they call  
3 their witnesses, then the Protestants will have  
4 an opportunity to cross-examine those witnesses,  
5 and the Board will have an opportunity to cross-  
6 examine those witnesses.

7 Each side has an hour to present its  
8 case. What is more important for the Board is  
9 that you spend your time on direct exam. Not  
10 necessarily cross-examining witnesses, because  
11 that counts against your time, but I believe that  
12 it's more helpful if you can present direct  
13 testimony on the issues at hand.

14 Also, if you're going to call five  
15 witnesses, we do not want to hear redundant and  
16 repetitive testimony. So, I don't want every  
17 witness come and parrot the same thing.

18 Each person should come just to  
19 provide some semblance of different testimony.  
20 So, just to make sure that this moves forward in  
21 a logical manner. All right?

22 MR. CANNON: So, Mr. Chairman?

23 CHAIRPERSON ANDERSON: Who's speaking?  
24 I'm sorry.

25 MR. CANNON: Okay, this is Allen

1 Cannon. Yes, there's one more issue about the  
2 outdoor entertainment. You stated that it would  
3 just be on the patio, but we also want to include  
4 the streeterly.

5 CHAIRPERSON ANDERSON: That's not an  
6 issue here. I'm looking at the placard. The  
7 placard notice states that notice hereby given  
8 that this license requests a substantial change  
9 to their license under -- and the change is that  
10 they were trying to change their hours for  
11 entertainment for the sidewalk caf,, and for  
12 entertainment inside on the sidewalk caf,.

13 That's the only issue. There's no  
14 issue here regarding the streeterly. And I know  
15 that the streeterly came up during COVID, and so  
16 that's not covered under this hearing.

17 It's my understanding that the  
18 Department of Transportation is coming up with  
19 regulations for the streeterly. So, that was not  
20 whether or not they can operate a streeterly or  
21 not. That is not part of this hearing, because  
22 that was not placarded. So, we're only having a  
23 hearing on the issues that are placarded on the  
24 notice.

25 And the only issue, that the

1 substantial change was for entertainment inside  
2 and outside. That's the only issue that the  
3 Board will entertain today.

4 MR. CANNON: Okay, thank you, sir.

5 CHAIRPERSON ANDERSON: Okay.

6 MR. GUGLIETTA: This is Nick Guglietta  
7 with the applicants.

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. GUGLIETTA: Question about  
10 process. Is there an opportunity at which we  
11 will be able to present and discuss exhibits, in  
12 addition to witnesses?

13 CHAIRPERSON ANDERSON: Yes. Yeah,  
14 you're still going to present your case. We're  
15 going to move forward with the hearing. But the  
16 parties have already agreed that we will grant  
17 the substantial change as part of the  
18 entertainment for the interior of the license.

19 We're going to have a hearing today on  
20 whether or not we should grant a substantial  
21 change for the sidewalk caf,. So, that's why  
22 we're here. But I'm saying, so we're just  
23 talking about the sidewalk caf,. So, whatever  
24 testimony, whatever witnesses that will testify  
25 today, it should be whether or not entertainment

1 should be granted on the sidewalk caf,, and what  
2 hours.

3 I know that the hours that were  
4 placarded were Sunday from 11:00 a.m. to  
5 10:00 p.m., Monday through Saturday 5:00 p.m. to  
6 10:00 p.m., and what it is that the parties are  
7 seeking.

8 I know what you're seeking regarding  
9 entertainment on the sidewalk caf,. And I don't  
10 know if the other side, if they're saying none  
11 completely, or they could agree to some with some  
12 reduced hours, I don't know. But that's what  
13 this protest hearing will then be about.

14 MR. CANNON: Mr. Chairman?

15 CHAIRPERSON ANDERSON: I'm sorry.  
16 Please identify yourself when you're speaking.

17 MR. CANNON: Oh, okay. Yes, this is  
18 Allen Cannon. To be clear, if the endorsement is  
19 granted for indoor entertainment, will the  
20 applicants be able to have entertainment in their  
21 streetery?

22 CHAIRPERSON ANDERSON: Again, I hear  
23 what you're saying. Remember what I said.  
24 Streetery came up because of COVID. The  
25 Department of Transportation is in the process of

1 coming up with regulations regarding the  
2 operating of streeterly. Okay?

3 So, this hearing will not address  
4 streeterly. They will not be able to have  
5 entertainment in streeterly, because this  
6 endorsement is only for the indoor and the  
7 sidewalk caf,.

8 Once the Department of Transportation  
9 and the other agencies, once they have developed  
10 the regulations for streeterly, then if ABRA is  
11 going to allow entertainment in streeterly, then a  
12 request will have to be made to the agencies for  
13 whether or not they can have streeterly, whether  
14 or not they can have entertainment.

15 But that is for some future event. It  
16 is not for this hearing. And I just wanted to be  
17 clear that the licensee that has been granted  
18 today, the substantial change that we're talking  
19 about today, only consists of the indoor and the  
20 sidewalk caf,. That's all.

21 If there's any other structure that's  
22 affiliated to this business, this endorsement  
23 does not cover. It covers the indoors and the  
24 sidewalk caf,. Okay?

25 MR. CANNON: Thank you. Thank you,

1 Mr. Chairman. This is Allen Cannon. Yes.

2 CHAIRPERSON ANDERSON: Thank you. All  
3 right, so let's now go back to the hearing. The  
4 portions of this hearing that is narrow, is  
5 whether or not the ABC Board should grant the  
6 substantial change for them to have entertainment  
7 in the sidewalk caf,, and the hours that  
8 entertainment should be granted if the Board  
9 decides to grant hours in the sidewalk caf,. All  
10 right?

11 So, what I'm going to do is that --  
12 hold on one minute. So, how this is going to  
13 operate, I'm going to ask the applicant to make  
14 an opening statement, and then we'll have the  
15 Protestants make an opening statement.

16 Now, did the Protestants, did they  
17 combine their case, or is there one person's  
18 going to speak on behalf of the Protestants, in  
19 the sense of a representative. Is that the ANC,  
20 or is that Mr. Nolan? How's that going to go?

21 MR. ORLASKEY: This is Dan Orlaskey,  
22 Commissioner. Our understanding is that the  
23 protest has been combined into one.

24 I was hoping that -- so, Mr. Cannon is  
25 the representative for the Protestants, but I was



1 hoping that as the ANC representative, I will be  
2 able to give a statement at the beginning. Or,  
3 we can save it until our case-in-chief. It's up  
4 to you. I would just like to get that settled.

5 CHAIRPERSON ANDERSON: Yes, I'll give  
6 you an opportunity to make -- I just make sure  
7 that it's just one person calling witnesses. I  
8 will allow this ANC -- I'll allow the ANC to make  
9 an opening statement and a closing statement.  
10 But then we'll have the -- the protestant, and  
11 then they'll call the witness and they'll -- and  
12 they can cross-examine the witnesses.

13 But I'm not going to have both sides  
14 calling witnesses and so we have cross-  
15 examination by two different representatives.

16 MR. ORLASKEY: We understand that,  
17 thank you.

18 CHAIRPERSON ANDERSON: All right,  
19 fine. All right, so let's do -- so the Applicant  
20 will have an opportunity to make an opening  
21 statement, then the protestant then will have an  
22 opportunity to make an opening statement.

23 And what I'm going to do also, just to  
24 alert you, Mr. Butler, I will -- I'm going to ask  
25 people -- when you go to your report, I need you

1 to address portions of your report dealing with  
2 outside sidewalk caf,. In the sense that other  
3 establishments within the vicinity who have an --  
4 that -- oh. All right.

5 I -- all right. Before I just  
6 realized it, I went ahead of myself. On the --  
7 the protestant had raised a motion earlier --  
8 earlier in the week. The protestant had raised a  
9 motion stating that we should strike the -- we  
10 should strike the PIP by the licensee -- by the  
11 applicant because in their view it was not filed  
12 timely.

13 Is the -- does the protestant want to  
14 rule on that issue? Or do they want to drop that  
15 issue?

16 MR. CANNON: This is Allen Cannon.  
17 The protestant -- the protestant has decided that  
18 in the spirit of cooperation, that we will -- we  
19 will drop that issue.

20 CHAIRPERSON ANDERSON: All right,  
21 thank you, sir. All right, thank you. I was --  
22 I forgot that it was on our legal -- it was on  
23 our legal agenda. I got so excited that at least  
24 I got settlement of some issues that I forgot  
25 that preliminary issue that was raised. So thank

1 you for -- for doing that.

2 So the protestant has now dropped its  
3 preliminary motion that was filed earlier.

4 All right, so what I will -- so what  
5 I'll do now is that I'll ask the licensee to make  
6 an opening statement, and then I'll have the  
7 protestant make an opening statement. The Board  
8 after -- after that, the Board will call its  
9 witness then.

10 Again, the purpose of this hearing is  
11 whether or we should grant a substantial change  
12 for entertainment on the sidewalk caf,, okay.

13 All right, who's speaking for the  
14 owner?

15 MR. GUGLIETTA: This is Nick  
16 Guglietta, I will speak on behalf of the owners.

17 CHAIRPERSON ANDERSON: Go ahead, sir.

18 MR. GUGLIETTA: Barkada Wine Bar is  
19 seeking an outdoor and indoor entertainment  
20 license for the premises located at 1939 12th  
21 Street, NW, located in an ART-1 mixed-use zone.

22 We, through the settlement process,  
23 have heard and responded to the concerns of  
24 residents within the adjacent zones, many of whom  
25 are 130 feet or more removed from the premises,



1 address concerns as part of a community.

2 With that, we are going to review  
3 exhibits, including letters of support from not  
4 only the condo association of the building in  
5 which we reside at 1939 12th Street, the Moderno  
6 Condo Association, as well as a joint statement  
7 from several neighbors that live several doors  
8 down from us. As well as reviewing our  
9 correspondence and our desire to always work in  
10 collaboration with the protesters and all  
11 neighbors.

12 And finally, our proposals for how to  
13 ensure that all of our sound emanation, as it  
14 seems to be the primary and relevant concern,  
15 stay within legal compliance.

16 That is all.

17 CHAIRPERSON ANDERSON: All right,  
18 thank you.

19 Mr. Cannon, do you wish to make an  
20 opening statement, sir?

21 MR. CANNON: Yes, I do, Mr. Chairman.

22 Good afternoon. I am Allen Cannon,  
23 and I, together with nine other neighborhood  
24 residents, are protesting to oppose Wine Bar's  
25 application for an entertainment endorsement that

1 will permit Barkada to use amplified music,  
2 voice, and other sounds to hold outdoors bingo  
3 and trivia games, live jazz, and drag shows, and  
4 other unspecified cultural events.

5           During this hearing, Protestants will  
6 show that if Barkada's application is granted for  
7 outdoor entertainment, it would, first, represent  
8 an inappropriate and unprecedented encroachment  
9 of commercial entertainment activities into an  
10 overwhelmingly residential block of the U Street  
11 community.

12           Second, that it will have substantial  
13 adverse impacts on the peace, order, and quiet of  
14 the 1900 block of 12th Street, NW, including the  
15 impacts on residents of outdoor amplified music  
16 and voice broadcasts, to the impacts on  
17 pedestrian and vehicular safety and traffic  
18 caused by crowds of people spilling over onto the  
19 sidewalks and streets adjacent to Barkada and  
20 Barkada Streeterly.

21           And three, the impacts of increased  
22 litter strewn throughout our neighborhood.

23           Protestants will also show that based  
24 on Barkada's past conduct, we have good reason to  
25 believe that Barkada will be unlikely to comply

1 with the terms of endorsement or to work  
2 cooperatively with its neighbors to mitigate the  
3 adverse impacts of its proposed entertainment  
4 activities.

5 And finally, we will share our  
6 considered view that an approval of Barkada's  
7 entertainment endorsement may well set a  
8 precedent in the neighborhood that other nearby  
9 establishments will be likely to use to their  
10 advantage in the future.

11 That is the end of my opening  
12 statement, Mr. Chairman.

13 CHAIRPERSON ANDERSON: Thank you, sir.  
14 All right, the Board will call its first witness,  
15 and we'll call Mr. Donnell Butler.

16 Mr. Butler, can you please raise your  
17 right hand, please. Take yourself off mute, sir,  
18 please, thank you.

19 MR. ORLASKEY: This is Commissioner --

20 CHAIRPERSON ANDERSON: Oh, I'm sorry,  
21 I apologize, I apologize, Mr. Orlaskey. I did  
22 tell you I would give you an opportunity. I  
23 apologize, go ahead, sir.

24 MR. ORLASKEY: Okay. Thank you for  
25 taking the time today to hear this protest

1 hearing.

2 As ANC Commissioner for a mixed-use  
3 zone neighborhood, it is often very difficult for  
4 -- to balance the needs of residents with the  
5 needs of businesses. But it also takes a  
6 considerable level of understanding and  
7 compromise on both sides.

8 This is something that residents of U  
9 Street are very familiar with because we are  
10 often asked to accept intrusions and  
11 inconveniences into our lives that benefit  
12 businesses due to the fact that this is a night  
13 life destination.

14 Those intrusions are unfortunately  
15 increasing, not decreasing. While Barkada has  
16 been a welcome addition to the neighborhood, as  
17 all involved in this protest would agree, what  
18 they're asking to be allowed to do would be  
19 another intrusion into the neighbors' rights to  
20 quiet enjoyment of their homes, as well as  
21 potentially causing a public nuisance.

22 Barkada certainly has a right to  
23 operate their business and the Protestants do not  
24 begrudge them that right. They merely ask that  
25 they do so without the potential to causing



1 further inconveniences and disruptions to their  
2 lives and the lives of their neighbors.

3 To this end, the Protestants have  
4 offered to support substantial change application  
5 that would restrict entertainment to indoor only.  
6 ABRA, as you know, is responsible for enforcing  
7 DC Code Section 25-725, which deals with noise  
8 generated by ABRA-licensed establishments.

9 It reads, in relevant part, that of  
10 the licensee under an on-premises retailer's  
11 license shall not produce any sound, noise, or  
12 music of such intensity that it may be heard in  
13 any premises other than the licensed  
14 establishment by any use of mechanical devices,  
15 machines, apparatus or instruments of  
16 amplification of the human voice or any sound or  
17 noise.

18 It could not be clearer from this  
19 language. It prohibits ABRA-licensed  
20 establishment from producing amplified sound that  
21 can be heard in any residence no matter how close  
22 or far away that residence is from the location.  
23 What Barkada is proposing, even with mitigation  
24 measures they included in their PIP, would  
25 violation Section 25-725.

1                   You will soon hear testimony from Mr.  
2 Ryan Heiling, who resides just above Barkada in  
3 the Moderno complex. He will be testifying an  
4 unlicensed event held on June 29, 2021 by the  
5 applicant, an event that included amplified  
6 sound, was absolutely audible to a disruptive  
7 level inside his home. Why would anyone assume  
8 that this would not happen again if this was  
9 granted?

10                   I also think that it bears mentioning  
11 that an endorsement, once added to a license,  
12 will run with that license in perpetuity until it  
13 removes -- it is removed by ABRA. Meaning any  
14 subsequent operator of this space could take  
15 advantage of this and may not be as willing to  
16 work with their neighbors as Barkada's owners  
17 might be.

18                   Additionally, the DC Noise Control Act  
19 set legal limits for appropriate sound levels in  
20 residential and commercial zones that do not  
21 exceed 60 decibels. That is essentially a normal  
22 speaking voice between two people located a meter  
23 away from each other.

24                   What Barkada is asking to do is have  
25 amplified sound outside connected to the

1       streeterly, the purpose of which is to amplify  
2       that above normal speaking levels. Obviously  
3       this would violate the ostensible threshold.

4                 Frankly, ladies and gentlemen of the  
5       Board, I feel like allowing this endorsement is a  
6       bad idea. It would fly in the face of the DC  
7       Code and set a very bad precedent in this  
8       neighborhood and across the city.

9                 I ask you why is it -- what is to stop  
10       any other ABRA-licensed establishment from  
11       requesting a similar endorsement allowing them to  
12       have amplified sound outside their establishment  
13       if this one was granted? Keep in mind this is  
14       not a summer garden we're talking about. It's  
15       not an enclosed area of this business. It is  
16       essentially a public sidewalk.

17                There are several other issues with  
18       crowd control, but I'm going to skip over that  
19       part. So frankly, I would like to address the  
20       applicant exhibit, is that a letter of support  
21       from the president of the Moderno Condominium  
22       Board.

23                Mr. Heiling, also a resident of the  
24       Moderno Condos, will be testifying that he never  
25       received any notice from Barkada or his condo

1 board about this proposal. And he will also go  
2 on to testify that Barkada actually holds a seat  
3 on that condo board.

4 Additionally, the letter that was in  
5 evidence actually only refers to the president of  
6 the condo board's personal opinion. It does not  
7 say anything about the residents of the  
8 condominium building agreeing on this. Not does  
9 it show any vote taken by the condo board. It is  
10 simply a personal letter with her own opinion  
11 about it.

12 For these reasons and in light of the  
13 evidence presented in the testimony you have  
14 heard and are about to hear, I respectfully  
15 request that Barkada's request for a substantial  
16 change be denied.

17 CHAIRPERSON ANDERSON: Thank you, Mr.  
18 Allen. All right. And again, I apologize. I  
19 know it appears you spent a lot of time in  
20 writing your opening statement and it appears  
21 that I was about to take away that from you. So  
22 I do apologize, sir.

23 MR. CANNON: That's all good. Thanks  
24 for the opportunity.

25 CHAIRPERSON ANDERSON: All right,

1 thank you. All right, so the Board now will its  
2 first witness, then, Mr. Donnell Butler.

3 Mr. Butler, can you raise your right  
4 hand, please. Do you swear or affirm to tell the  
5 truth and nothing but the truth?

6 INVESTIGATOR BUTLER: I do.

7 CHAIRPERSON ANDERSON: Mr. Butler, can  
8 you please state your name for the record,  
9 please.

10 INVESTIGATOR BUTLER: My name is  
11 Donnell Butler, spelled D-O-N-N-E-L-L last name  
12 Butler, B-U-T-L-E-R.

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

15 INVESTIGATOR BUTLER: I'm employed for  
16 Alcoholic Beverage and Regulation Administration.

17 CHAIRPERSON ANDERSON: And how long  
18 you've been employed with the Agency?

19 INVESTIGATOR BUTLER: Approximately 24  
20 years.

21 CHAIRPERSON ANDERSON: And what are  
22 your duties, your duties, sir, working for the  
23 Agency?

24 INVESTIGATOR BUTLER: My duties are  
25 mainly to conduct investigations and conduct

1 regulatory inspections of ABC licensed  
2 establishment within the DC area.

3 CHAIRPERSON ANDERSON: And are you  
4 familiar with this establishment, sir?

5 INVESTIGATOR BUTLER: Yes, I am.

6 CHAIRPERSON ANDERSON: How -- how did  
7 you become familiar with this establishment?

8 INVESTIGATOR BUTLER: I was assigned  
9 a protest investigation of Barkada to do a  
10 protest investigation.

11 CHAIRPERSON ANDERSON: Did there --  
12 did there come a time that you wrote a report?

13 INVESTIGATOR BUTLER: Yes, sir.

14 CHAIRPERSON ANDERSON: Do you want me  
15 to -- do you want me to -- are you able to share  
16 your -- share the report with us?

17 INVESTIGATOR BUTLER: Yes, let me try.  
18 Give me a second.

19 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
20 can you please give him the ability to share his  
21 screen, please.

22 INVESTIGATOR BUTLER: One second.  
23 Give me one second more. Having to bring up the  
24 report. Give me one second, Mr. Chairman.

25 CHAIRPERSON ANDERSON: Sure. All

1 right, so Mr. Butler, can you identify the  
2 document that's on the screen, please.

3 INVESTIGATOR BUTLER: This is the  
4 report written by -- prepared by myself, protest  
5 Barkada Wine and -- Wine and Bar.

6 CHAIRPERSON ANDERSON: Now, what type  
7 of -- can you just describe the area that this  
8 establishment is located in, sir.

9 INVESTIGATOR BUTLER: Can you repeat  
10 that please.

11 CHAIRPERSON ANDERSON: Can you please  
12 describe the area. What type of -- how the area  
13 that this -- the area of this establishment,  
14 describe the area for us, please.

15 INVESTIGATOR BUTLER: Oh, the Barkada  
16 is located on the multi-building complex located  
17 on 12th Street on the bottom level, first floor.  
18 It has apartment units to the -- to the right of  
19 the establishment, and to the left of the  
20 establishment is a ABC store, ABC establishment.

21 CHAIRPERSON ANDERSON: So what type of  
22 -- what -- are you aware what type of zone area  
23 is this place, this establishment located in,  
24 sir?

25 INVESTIGATOR BUTLER: It's zoned in a

1 ARTS-1, ARTS-1 zone, a general permit to permit  
2 moderate density compact mixed-use development.

3 CHAIRPERSON ANDERSON: And within --  
4 within this -- within this area, approximately  
5 how many other establishment -- ABC-licensed  
6 establishment are in -- are in this area, sir?

7 INVESTIGATOR BUTLER: There are  
8 approximately 50 Board-approved ABC license in  
9 the area within 1200 feet of that establishment.

10 CHAIRPERSON ANDERSON: All right,  
11 within -- within this area, do you know how many  
12 other -- how many establishments within this --  
13 within 1200 of this facility has a summer garden?

14 INVESTIGATOR BUTLER: There are  
15 approximately ten, approximately CTs that have  
16 summer gardens and entertainment endorsement.

17 CHAIRPERSON ANDERSON: Now, for the  
18 ten, what are the ten establishment? Can you  
19 tell us -- can you identify the ten establishment  
20 that have summer gardens and just, and if you  
21 know where they're located. I know they're  
22 within the 1200 feet, but do you know -- can you  
23 tell us -- tell us the addresses where they're  
24 located.

25 INVESTIGATOR BUTLER: Yeah, one is



1 Dodge City. It's located at 917 U Street. The  
2 Dirty Goose is 913 U Street. El Rey is 919-921 U  
3 Street. There's also Mirror Lounge. It's at  
4 1920 9th Street. There's also Lulu's Wine Garden  
5 is 1940 11th Street.

6 There's also The Wet Dog -- The Wet  
7 Dog Tavern, 2100 Vermont Avenue. Dukem, which is  
8 a CR, 1114 U Street. Brixton, which is 901 U  
9 Street. And Sudhouse, which is 1340 U Street.  
10 The Gibson, which is 2009 14th Street. The Red  
11 Lounge Hoover is 2013 14th Street. And they have  
12 entertainment endorsement and summer garden.

13 CHAIRPERSON ANDERSON: Now what -- so  
14 what street is -- what street is Barkada Lounge  
15 located on?

16 INVESTIGATOR BUTLER: Barkada Lounge  
17 is located on 12th Street.

18 CHAIRPERSON ANDERSON: So are there  
19 any -- you have given -- the other establishments  
20 you have given, they're on -- I think they're on  
21 U Street, and they're on, I think, yeah, and 14th  
22 Street.

23 INVESTIGATOR BUTLER: Vermont Avenue.

24 CHAIRPERSON ANDERSON: So how close  
25 are these? I know it's within the 1200 feet.

1 INVESTIGATOR BUTLER: Right.

2 CHAIRPERSON ANDERSON: But are there  
3 any -- are there any other establishments on 12th  
4 Street that's beside or across from -- on 12th  
5 Street that you're aware of?

6 INVESTIGATOR BUTLER: No, there's  
7 none. The only close establishment with Dukem  
8 Ethiopian Restaurant. That's on the corner about  
9 three doors to the left of Barkada.

10 CHAIRPERSON ANDERSON: So you're  
11 saying then this is the -- this is the only -- to  
12 the best of your knowledge this is the only ABC  
13 establishment that's on 12th Street where this is  
14 located, is that correct?

15 INVESTIGATOR BUTLER: Correct.

16 CHAIRPERSON ANDERSON: Now, for all  
17 the establishments on U Street that have a summer  
18 garden, how many of these establishments have an  
19 entertainment endorsement under summer garden?

20 INVESTIGATOR BUTLER: All ten, all ten  
21 have -- all ten have entertainment endorsement,  
22 the ones that I mentioned.

23 CHAIRPERSON ANDERSON: They all have  
24 entertainment endorsement on their summer garden.

25 INVESTIGATOR BUTLER: Yes.

1                   CHAIRPERSON ANDERSON: Do you when the  
2 hours of the entertainment on the summer garden -  
3 - on the summer gardens for these establishments?

4                   INVESTIGATOR BUTLER: Yes, yes, I can  
5 through it. I can go through all ten if you want  
6 me to, but.

7                   CHAIRPERSON ANDERSON: Yeah.

8                   INVESTIGATOR BUTLER: I have the hours  
9 on the summer garden -- vary from establishment  
10 to establishment. They vary but --

11                  CHAIRPERSON ANDERSON: Yes, I need you  
12 to go tell me for all ten establishments, what  
13 are the hours on their summer gardens.

14                  INVESTIGATOR BUTLER: Okay. For Dodge  
15 City, the hours Sunday 11 a.m. to 2 a.m. Monday  
16 through Thursday, 5 p.m. to 2 a.m. Friday and  
17 Saturday, 5 p.m. to 3 a.m. on Friday. Saturday  
18 is 11 a.m. to 3 a.m. That's Dodge City.

19                  CHAIRPERSON ANDERSON: Okay.

20                  INVESTIGATOR BUTLER: The Dirty Goose.  
21 The Dirty Goose hours are Sunday 10 a.m. to 2:30  
22 a.m. That runs through Thursday. Friday, 10  
23 a.m. to 2:30. And Saturday also 10 a.m. to 2:30  
24 a.m.

25                  CHAIRPERSON ANDERSON: Okay.

1                   INVESTIGATOR BUTLER: El Rey, it also  
2 goes from Sunday through Thursday, 11 a.m. to 3  
3 a.m. Friday, 11 a.m. to 4 a.m. Saturday, 11  
4 a.m. to 4 a.m.

5                   CHAIRPERSON ANDERSON: Okay.

6                   INVESTIGATOR BUTLER: Mirror Lounge.  
7 It opens at 10, 10 a.m. It runs to 2 a.m. Sunday  
8 through Thursday. Friday and Saturday it closes  
9 at 3 a.m., Friday and Saturday 3 a.m. That's  
10 Mirror Lounge.

11                  CHAIRPERSON ANDERSON: Okay.

12                  INVESTIGATOR BUTLER: The Wet Dog  
13 Tavern, the operation hours for summer garden are  
14 7 a.m. start, and it runs to 2 a.m., all the way  
15 to Thursday 2 a.m. And then Friday-Saturday, 7  
16 a.m. to 3 a.m., Saturday 7 a.m. to 3 a.m. That's  
17 the Wet Dog Tavern.

18                  CHAIRPERSON ANDERSON: Okay.

19                  INVESTIGATOR BUTLER: There was  
20 another one. Ice Company, American Ice Company,  
21 which is 917 V Street. The hours are 11 a.m. to  
22 open till 2 a.m. For Friday and Saturday, 3 a.m.  
23 Saturday 3 a.m. close.

24                  CHAIRPERSON ANDERSON: Okay.

25                  INVESTIGATOR BUTLER: The Brixton. It

1 opens on Sunday 10 a.m. to 2 a.m. Monday through  
2 -- Monday through Wednesday -- Monday through  
3 Thursday, 11 a.m. to 2 a.m. Friday, 11 a.m. to 3  
4 a.m. Saturday, 11 a.m. to 3 a.m. That's the  
5 Brixton.

6 The Sudhouse, again, it opens at 11  
7 o'clock on Sunday till 2 o'clock a.m. 11:30 on  
8 Monday, Monday through Saturday. They close  
9 Monday -- they close Friday at 3 o'clock -- 3  
10 a.m., and Saturday 3 o'clock a.m.

11 You got that one?

12 CHAIRPERSON ANDERSON: Yeah.

13 INVESTIGATOR BUTLER: Okay. The  
14 Gibson is 5:30 a.m. -- 5:30 p.m. to 2 a.m.  
15 That's Sunday through Thursday. Friday and  
16 Saturday 5:30 to 3, Saturday 5:30 to 3.

17 The Lounge Hoover, they open at 10  
18 a.m. to 12 a.m. That's Sunday, 10 a.m. to 2 a.m.  
19 Monday through Thursday. Friday and Saturday, 10  
20 a.m. to 3 a.m.

21 And the last one I think is Lulu's,  
22 which is a restaurant located at 1940 11th  
23 Street. The hours of operation of 11 a.m. to 2  
24 a.m. Sunday through Thursday. Friday and  
25 Saturday, 11 a.m. to 3 a.m.

1                   And that concludes.

2                   CHAIRPERSON ANDERSON: Now, Mr.  
3 Butler, have you -- have you had a chance to  
4 visit this establishment?

5                   INVESTIGATOR BUTLER: Yes, sir.

6                   CHAIRPERSON ANDERSON: Now, can you  
7 describe for us the area? What type -- what type  
8 -- tell me the surrounding area in this  
9 establishment where -- when you went to visit  
10 this.

11                   INVESTIGATOR BUTLER: The established  
12 is mostly residential on the side of Barkada,  
13 with exception of the ABC store that's next door  
14 on the left. On the corner --

15                   CHAIRPERSON ANDERSON: What store is  
16 next door on the left, what's that?

17                   INVESTIGATOR BUTLER: That's a ABC  
18 store. I think it's Gallagher's, let me see.

19                   MR. GUGLIETTA: It's Gallagher and  
20 Graham.

21                   CHAIRPERSON ANDERSON: I'm sorry, I  
22 only -- I only need the investigator. Thanks for  
23 your help but only need the investigator to  
24 speak, sir. Thank you very much.

25                   So what, you said Gallagher. What

1 type of establishment is that?

2 INVESTIGATOR BUTLER: It's an ABC  
3 store, alcohol.

4 CHAIRPERSON ANDERSON: No, I'm sorry,  
5 but what -- what type of license do they have?

6 INVESTIGATOR BUTLER: Oh, they have an  
7 A license, I'm sorry.

8 CHAIRPERSON ANDERSON: It's a liquor  
9 store.

10 INVESTIGATOR BUTLER: Yeah, a liquor  
11 store.

12 CHAIRPERSON ANDERSON: Okay, all  
13 right. All right, so you were describing for us  
14 the block, so go ahead.

15 INVESTIGATOR BUTLER: Yeah. The block  
16 is mainly residential from U Street all the way  
17 through the other end of the block on both sides  
18 on the street, on both sides. It's mainly  
19 residential.

20 CHAIRPERSON ANDERSON: So with the  
21 exception of an A store. So your -- it's your  
22 representation this is the only other alcohol  
23 establishment on that --

24 INVESTIGATOR BUTLER: It's the only --

25 CHAIRPERSON ANDERSON: On that street.

1                   INVESTIGATOR BUTLER: That's the only  
2 alcohol establishment there.

3                   CHAIRPERSON ANDERSON: Now, you --  
4 given then -- have you -- you gave -- you gave --  
5 you told us the summer garden, you gave us the --  
6 I'm sorry, the licensed establishment that has a  
7 summer garden. And it appears that the majority  
8 of the establishments were on U Street, is that  
9 correct?

10                  INVESTIGATOR BUTLER: Correct.

11                  CHAIRPERSON ANDERSON: But can you  
12 just, for the record, can you describe the U  
13 Street corridor where these -- where these other  
14 establishments are in comparison to 12th Street  
15 where Barkada Bar. Tell me, can you describe the  
16 difference, if any, between these two areas?

17                  INVESTIGATOR BUTLER: It's a -- where  
18 Barkada is on 12th Street, it sits almost by  
19 itself as a restaurant. On U Street, within the  
20 900 block up to the 1400 block, is restaurants  
21 and taverns, numerous restaurants and taverns.

22                  CHAIRPERSON ANDERSON: All right.

23                  INVESTIGATOR BUTLER: The closest one  
24 off of 12th Street is Amsterdam, and that's a  
25 nightclub, I do believe. And then further down



1 you have Ben's next door and so forth.

2 CHAIRPERSON ANDERSON: All right. Now  
3 all right, you also stated that you went to visit  
4 the establishment. Can you tell us when did you  
5 go and visit the establishment and what did you -  
6 - what did you see when you visited?

7 INVESTIGATOR BUTLER: I visited the  
8 establishment, I took a walk-through just to see  
9 the makeup and the dynamics of how, you know,  
10 it's located. It's very small in stature. It  
11 has a few tables inside it the bar.

12 You walk in and there's a bar to the  
13 -- to the right-hand side towards the rear of the  
14 establishment. It's a very small, quaint  
15 establishment.

16 CHAIRPERSON ANDERSON: But I'm saying,  
17 no, I'd ask you when you went to visit, you said  
18 you went to visit the establishment. So tell me  
19 when you went to visit it and what did you  
20 observe when you went to visit.

21 INVESTIGATOR BUTLER: I visited the  
22 establishment and I was at one point  
23 approximately six or seven patrons indulging in  
24 wines and eating, eating various dishes.

25 CHAIRPERSON ANDERSON: So how many

1 times did you -- how many times did you visit the  
2 establishment?

3 INVESTIGATOR BUTLER: I visited  
4 approximately five -- five times.

5 CHAIRPERSON ANDERSON: And what hours  
6 of the day did you visit the establishment?

7 INVESTIGATOR BUTLER: Various times  
8 because mainly it was during the winter months,  
9 and during the winter months it was, you know,  
10 kind of cold out. So I visited these five times  
11 between 11 a.m. and 12 a.m. And then Fridays and  
12 Saturdays 11 a.m. to 1 a.m. Different various  
13 times.

14 I couldn't really adjust my time  
15 because of the weather. There wasn't a lot of  
16 people out on the patio. So most of the people  
17 inside was indulging in conversation and food.

18 CHAIRPERSON ANDERSON: But did you  
19 observe any ABRA violations any of the times you  
20 went to visit?

21 INVESTIGATOR BUTLER: No, I observed  
22 no ABRA violations at the time I visited, no.

23 CHAIRPERSON ANDERSON: All right. I  
24 don't have any -- you can close your screen, sir.  
25 I don't have any other questions. Do any other

1 Board members have any questions that they wish  
2 to ask?

3 You can close your screen, Mr. Butler.

4 INVESTIGATOR BUTLER: Okay.

5 MEMBER SHORT: Yes, Mr. Chair, I'd  
6 like to ask Investigator Butler some questions.

7 CHAIRPERSON ANDERSON: Go ahead, Mr.  
8 Short.

9 MEMBER SHORT: Good afternoon,  
10 Investigator Butler.

11 INVESTIGATOR BUTLER: Good afternoon,  
12 sir.

13 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
14 Butler, do you know how to close your screen?

15 INVESTIGATOR BUTLER: Yeah.

16 CHAIRPERSON ANDERSON: Okay, thank  
17 you. Go ahead, Mr. --

18 INVESTIGATOR BUTLER: There we go.

19 MEMBER SHORT: Mr. Butler, the place  
20 where their summer garden --

21 INVESTIGATOR BUTLER: Yes, sir.

22 MEMBER SHORT: Barkada's summer garden  
23 is located, is that any public space involved?

24 INVESTIGATOR BUTLER: There were a  
25 couple of public spaces involved if you want to

1 say. You mean sidewalk cafes?

2 MEMBER SHORT: Well, no, I'm asking  
3 you are there any public properties -- any public  
4 property involved in the logistics for this  
5 application for a summer garden?

6 INVESTIGATOR BUTLER: None that I can  
7 understand, no.

8 MEMBER SHORT: It's all private -- all  
9 private property.

10 INVESTIGATOR BUTLER: All private  
11 property that I understand, yeah.

12 MEMBER SHORT: Okay. Now can you, 24  
13 years, I mean, you have a pretty good grasp of  
14 that area. Can you give a vicinity on 12th  
15 Street between U Street and I guess that would be  
16 S at the other end?

17 What is the percentage of private  
18 residences, homes, versus businesses? Give me  
19 percentages for the homes first and then the  
20 percentage of business on that block. Just the  
21 1900 block of 12th.

22 INVESTIGATOR BUTLER: Twelfth Street.  
23 I would say there's at least three businesses  
24 there, other than the -- the museum that's on the  
25 left-hand side of 12th Street, 12th and U. The

1 rest contains apartment buildings and housing.

2 MEMBER SHORT: So -- so you would it's  
3 more than 90% housing?

4 INVESTIGATOR BUTLER: Correct, yes.

5 MEMBER SHORT: And what you described  
6 as a museum used to be the YMCA, is that correct?

7 INVESTIGATOR BUTLER: I'm not certain.  
8 That's going back before me, but.

9 MEMBER SHORT: Okay, not a problem.  
10 But at any rate, over 90% of the properties there  
11 are residential.

12 INVESTIGATOR BUTLER: Residential,  
13 yes, sir.

14 MEMBER SHORT: And so what is the --  
15 on the interior of Barkada, what is the number of  
16 occupancy? How many people can they have inside  
17 that, inside of their -- what's on their  
18 certificate of occupancy, the number?

19 INVESTIGATOR BUTLER: Let me see. Got  
20 a lot of numbers in my head, give me a second.

21 MEMBER SHORT: Take your time.

22 INVESTIGATOR BUTLER: Oh, there's 90  
23 -- 49, occupancy load of 49, sir.

24 MEMBER SHORT: Forty-nine. Okay, so  
25 that's just below -- just below the 50 there

1 would make it part of the -- part of 70. But at  
2 any rate, how many would they have on the summer  
3 garden? What's the occupancy proposal --

4 INVESTIGATOR BUTLER: I do believe  
5 it's 12, 12 seating.

6 MEMBER SHORT: So it's not much of a  
7 big space.

8 INVESTIGATOR BUTLER: No, it's very  
9 small, very tiny. Very tiny.

10 MEMBER SHORT: So -- okay. You know  
11 the business very well, you've been an  
12 investigator for 24 years.

13 INVESTIGATOR BUTLER: Twenty-four.

14 MEMBER SHORT: So where would a band  
15 or a DJ set up out there with that small space?

16 INVESTIGATOR BUTLER: It would be  
17 very, very tight. If they talked about the  
18 eatery, which is not included in the protest, I  
19 would say there's very room for any band or  
20 three-piece band, maybe a guitar and --

21 MEMBER SHORT: Okay, that -- that  
22 sounds kind of small. But any rate, what is the  
23 distance between the eatery, distance between the  
24 eatery, which is on the strip of 12th Street  
25 itself, correct?

1 INVESTIGATOR BUTLER: Right.

2 MEMBER SHORT: And the establishment?  
3 How much -- how much footage is between them?

4 INVESTIGATOR BUTLER: I would say  
5 approximately maybe 15 from the eatery from the  
6 curb to the -- about 15, 20 feet.

7 MEMBER SHORT: Not much.

8 INVESTIGATOR BUTLER: That much, if  
9 not that. Yeah.

10 MEMBER SHORT: Okay, and you mentioned  
11 Ben's After Dark or Ben's next door, and you  
12 mentioned a couple of others. And you say all of  
13 those don't -- all those other addresses you gave  
14 us on 14th Street and -- or was it Vermont Avenue  
15 --

16 INVESTIGATOR BUTLER: Vermont Avenue.

17 MEMBER SHORT: Ninth Street, are they  
18 within that 1200 feet that we were talking about?

19 INVESTIGATOR BUTLER: Yes, sir.

20 MEMBER SHORT: Twelve hundred from  
21 12th feet from 12th Street to 9th Street?

22 INVESTIGATOR BUTLER: Yes, sir. It  
23 surprised me too, but according to --

24 MEMBER SHORT: The map.

25 INVESTIGATOR BUTLER: The map, that's

1 within 1200 feet, yes, sir.

2 MEMBER SHORT: So, and you mentioned  
3 14th Street. So from 12th Street -- from 12th  
4 and U to 14th and U, that's within 1200 feet?

5 INVESTIGATOR BUTLER: Within 1200  
6 feet, yes, sir.

7 MEMBER SHORT: It is? Okay, if that's  
8 what your report says, I can go along with it.  
9 But any rate, again, I just wanted to get those  
10 numbers. So 49 for the interior.

11 INVESTIGATOR BUTLER: Mm hm. And 12  
12 on the outside.

13 MEMBER SHORT: Twelve outside.

14 INVESTIGATOR BUTLER: Yes, and 12  
15 seating outside.

16 MEMBER SHORT: And 90% of the building  
17 on the 1900 block of 12th Street are residential.

18 INVESTIGATOR BUTLER: Are residential,  
19 correct.

20 MEMBER SHORT: Okay. That's all I  
21 have, Mr. Chair. Thank you very much. Thank you  
22 very much for your excellent report, sir. Thank  
23 you.

24 INVESTIGATOR BUTLER: Thank you.

25 CHAIRPERSON ANDERSON: Thank you, Mr.



1 Short. Any other questions by any of the Board  
2 members? All right, okay, so Mr. -- I'm sorry.  
3 Who was speaking, Mr. Guglietta, you're the one  
4 who was speaking? So do you have any questions  
5 of the investigator, sir?

6 MR. GUGLIETTA: This Nick Guglietta  
7 from the applicant, and yes, I do.

8 Following along in order of how we  
9 discussed some of these -- these issues, during  
10 any of your visits or in any of your reports,  
11 have you found any noise violations reported  
12 against Barkada Wine Bar?

13 INVESTIGATOR BUTLER: No, there was no  
14 noise violations, no.

15 MR. GUGLIETTA: Thank you. And then  
16 looking at regulations 25-725, regardless of live  
17 amplification or not, would all of the  
18 Protestants and nearby residents be protected  
19 from the noise regulations described within?

20 INVESTIGATOR BUTLER: It depends on if  
21 the noise is outside, you know, egress. Provided  
22 that the entertainment is confined to inside,  
23 they wouldn't be a lout volume of noise.

24 MR. GUGLIETTA: And if it was non-  
25 live?

1                   INVESTIGATOR BUTLER: It would be --  
2 it would be audible to some of the residents  
3 outside, yes.

4                   MR. GUGLIETTA: Okay. And then  
5 Commissioner Orlaskey mentioned at 60-decibel  
6 general noise limit. That also applies  
7 regardless of the passage of this outdoor caf,  
8 live entertainment license?

9                   INVESTIGATOR BUTLER: Is that a  
10 question?

11                  MR. GUGLIETTA: Yes, it is. Is that  
12 true or false?

13                  INVESTIGATOR BUTLER: That's -- it's  
14 true. Sixty, if you're talking and you're  
15 playing, as music is playing and your volume,  
16 from my experience, seems to go up so they can  
17 hear each other talk. So as the music plays, the  
18 volume of voices will go up and will probably  
19 resonate into some of the apartments or other  
20 units.

21                  MR. GUGLIETTA: And they'll still be  
22 able to seek recourse from -- from that  
23 legislation to -- if they ever should have any  
24 concerns or violations?

25                  INVESTIGATOR BUTLER: Correct.

1           MR. GUGLIETTA: And then also is there  
2 a general noise ordinance across all of DC that  
3 in general ends at about 10 p.m.?

4           INVESTIGATOR BUTLER: Correct.

5           MR. GUGLIETTA: Correct. And then  
6 that also coincides with the applicant's  
7 submission for ending at 10 p.m.?

8           INVESTIGATOR BUTLER: From what I  
9 understand, yes.

10          MR. GUGLIETTA: And then moving on to  
11 some of the other establishments that we went  
12 through, I didn't -- I wasn't able to take notes  
13 quick enough to capture all of them, but it  
14 sounded like the majority of them ended between 2  
15 a.m. or 3 a.m. in the area?

16          INVESTIGATOR BUTLER: Correct, Friday  
17 and Saturday, yes.

18          MR. GUGLIETTA: And would that include  
19 several establishments along 11th Street as well  
20 as V Street?

21          INVESTIGATOR BUTLER: Correct.

22          MR. GUGLIETTA: And in your  
23 experience, can you describe some of the  
24 neighborhoods on 11th Street, NW, in the 1900  
25 block?

1 INVESTIGATOR BUTLER: Eleventh Street?

2 MR. GUGLIETTA: I believe from your  
3 report that includes Lulu's Wine Garden.

4 INVESTIGATOR BUTLER: Yeah, you have  
5 a, oh, you have maybe a couple --

6 MR. GUGLIETTA: Zoey's --

7 INVESTIGATOR BUTLER: Yeah, Zoey's,  
8 and you have maybe two or three off the top of my  
9 head that I can think of, I can see, not knowing  
10 the names of them.

11 MR. GUGLIETTA: Got you. And then how  
12 would you describe the rest of that street if you  
13 continue south?

14 INVESTIGATOR BUTLER: Very quiet,  
15 residential.

16 MR. GUGLIETTA: So that would be a  
17 similar description to 12th Street, NW?

18 INVESTIGATOR BUTLER: Correct.

19 MR. GUGLIETTA: Where Barkada is  
20 located? Great. And then while I personally do  
21 not, are you familiar with the location along V  
22 Street, in either the 900 block, potentially  
23 where on your exhibit, American Ice Company is  
24 located?

25 INVESTIGATOR BUTLER: Yeah, somewhat.

1 MR. GUGLIETTA: Would that also be  
2 generally residential?

3 INVESTIGATOR BUTLER: Yes, it's mixed,  
4 yes.

5 MR. GUGLIETTA: And would you -- and  
6 maybe referencing one of the maps, would you be  
7 able to describe how -- approximately how close  
8 the outdoor caf, area of Barkada Wine Bar is to U  
9 Street itself?

10 INVESTIGATOR BUTLER: Given the fact  
11 that you have one, two, three -- two other  
12 establishments going towards U Street, I would  
13 approximately in footage would say maybe 100 feet  
14 up.

15 MR. GUGLIETTA: Okay.

16 INVESTIGATOR BUTLER: That's  
17 approximate. I haven't walked it, you know.

18 MR. GUGLIETTA: Fair enough, I  
19 appreciate it. I was looking for just a rough  
20 characterization from your -- from your  
21 description of the neighborhood. From the  
22 applicant's side no further questions. Thank you  
23 for your report.

24 INVESTIGATOR BUTLER: Thank you.

25 CHAIRPERSON ANDERSON: Thank you. Mr.

1 Cannon, do you have any questions you want to ask  
2 the investigator?

3 MR. CANNON: Okay, yes. This is Allen  
4 Cannon, Mr. Chairman. Before I begin, I think we  
5 might have a bit of a technical issue. I am  
6 using Ms. Lawley's computer, but I would, at some  
7 point, I know I would like to bring up exhibits.

8 Is there a way that one of your  
9 technicians at ABRA could bring up exhibits that  
10 I have, you know, that I have numbered and share  
11 them with the group?

12 CHAIRPERSON ANDERSON: Unfortunately,  
13 sir, there's no one -- there's no one here to do  
14 that. Remember, we're all remote. And so  
15 there's -- we're all remote, so no one has access  
16 to bring -- none of us have, independently, have  
17 that to do.

18 Maybe if you can -- one of your other  
19 witness. You could maybe ask one of your other  
20 witness and we could -- they could bring the  
21 document up.

22 MR. CANNON: Chair Anderson?

23 CHAIRPERSON ANDERSON: Yeah.

24 MR. CANNON: If I have access to my  
25 screen.

1 CHAIRPERSON ANDERSON: All right,  
2 yeah. And Mr. Orlaskey, there's something with  
3 your volume. I'm not quite sure.

4 MR. ORLASKEY: If I sit too close here  
5 beside my microphone, it's not that great.

6 CHAIRPERSON ANDERSON: Well, yeah, and  
7 it -- yeah. We're aware that your microphone is  
8 off. You sound like you are a far distance away.  
9 But you would have to work with your witnesses,  
10 sir, to see if they can do that.

11 So if you're -- if you want -- if you  
12 want documents, then if Mr. Orlaskey, if he's  
13 going to bring them up, then I can have him have  
14 -- I can have him have the ability to share his  
15 screen. And he can go from there, okay?

16 MR. CANNON: This is Allen Cannon.  
17 Yes, yes, Chairman, that is great.

18 CHAIRPERSON ANDERSON: Fine.

19 MR. CANNON: Great, okay. Well, now,  
20 I guess I refer my questions to Mr. Butler?

21 CHAIRPERSON ANDERSON: Yes, if you  
22 have any questions for Mr. Butler.

23 MR. CANNON: Yes, okay. Well, Mr.  
24 Butler, I have some questions.

25 CHAIRPERSON ANDERSON: Hold on one

1 minute. I need everyone to mute their phone with  
2 the exception of Mr. Butler and you, Mr. Cannon.  
3 Go ahead, sir.

4 MR. CANNON: Good afternoon, Mr.  
5 Butler.

6 INVESTIGATOR BUTLER: Good afternoon.

7 MR. CANNON: Yeah, I have a few  
8 questions about your investigator's report. I  
9 guess it's dated February 22.

10 So what I would like to do is refer to  
11 your report page -- page 11. Now, I wonder if  
12 Mr. Orlaskey can bring up that page.

13 CHAIRPERSON ANDERSON: Well, I think  
14 -- I think Mr. Butler can bring -- he can bring  
15 his report back up, sir.

16 MR. CANNON: Okay, that would be  
17 great. That would be great.

18 CHAIRPERSON ANDERSON: Mr. Butler, I  
19 believe it's just to have the ability to share  
20 your screen. And so if you can bring -- bring  
21 your report back up and go to page 11.

22 INVESTIGATOR BUTLER: Okay, page 11.  
23 Got it.

24 MR. CANNON: Yes, Mr. Butler, now this  
25 is a record of your visits to Barkada during your



1 investigation, is that correct?

2 INVESTIGATOR BUTLER: Correct.

3 MR. CANNON: Okay. And it indicates  
4 that you visited the premises on various dates,  
5 both daytime and nighttime hours, from the period  
6 of Friday, January 1 through Friday -- through  
7 Friday, February 18. Is that correct?

8 INVESTIGATOR BUTLER: Sixteenth, yes,  
9 sir.

10 MR. CANNON: Sixteenth, okay, pardon  
11 me, sir. All right. Mr. Butler, are you aware  
12 that -- no, no, strike that question.

13 Mr. Butler, during your visits to  
14 Barkada, did Barkada ever broadcast amplified  
15 music and voices outdoors on its patio or in its  
16 streeterly or host any outdoor entertainment such  
17 as bingo, trivia games, and unspecified cultural  
18 events on its patio or in its streeterly?

19 INVESTIGATOR BUTLER: Not that I'm  
20 aware of during the time of my visit, no, I  
21 didn't observe any of that.

22 MR. CANNON: Okay, so would it be fair  
23 to say that during your visits, you didn't really  
24 get an opportunity to assess the impact of such  
25 outdoor entertainment activities, particularly in

1 the evenings, might have on the residential  
2 properties nearby the Barkada?

3 INVESTIGATOR BUTLER: That's correct.  
4 And as I stated before, it was during the winter  
5 months when I was assigned this protest  
6 investigation. And I would doubt during a winter  
7 storm that people would be sitting outside.

8 MR. CANNON: That's great, Mr. Butler.  
9 Now, also, Mr. Butler, during your visits to  
10 Barkada, did you get a chance to assess the  
11 neighborhood street on which Barkada is located?

12 INVESTIGATOR BUTLER: Yes.

13 MR. CANNON: Okay, good. Now, based  
14 on your assessment, would you agree that the 1900  
15 block of North Street -- of 12th Street, NW, is a  
16 two-lane street this is approximately 30 feet  
17 wide?

18 INVESTIGATOR BUTLER: It is a tight  
19 street, yes, two lanes.

20 MR. CANNON: Okay. Would you also  
21 agree that this block is overwhelmingly  
22 residential in nature, featuring mostly ground-  
23 or basement-level residential dwellings?

24 INVESTIGATOR BUTLER: I'm not certain  
25 what you mean by that. I think they're mostly

1 all residential. Whether or not they're basement  
2 or not, I didn't take notice of it.

3 MR. CANNON: Okay. All right, so  
4 would you like to take a look at an exhibit?  
5 Let's put it this way: Mr. Butler, okay, would  
6 you dispute the statement that it's  
7 overwhelmingly, that this part of the street is  
8 overwhelmingly residential in nature, with most -  
9 - with a ground or basement-level residential  
10 dwellings?

11 INVESTIGATOR BUTLER: I wouldn't  
12 dispute it, no.

13 MR. CANNON: Okay, good. Now, would  
14 you disagree with the statement that the front  
15 porch of one of the residential units across the  
16 street from Barkada is located less than 100 feet  
17 from Barkada's streeterly?

18 INVESTIGATOR BUTLER: I wouldn't  
19 dispute it, but without me going out doing the  
20 actual measurement, you know, I couldn't be  
21 certain.

22 MR. CANNON: Okay, but you, like you  
23 said, you couldn't dispute that, is that correct?

24 INVESTIGATOR BUTLER: Yeah, that's  
25 right.

1                   MR. CANNON: Okay, good. Mr. Butler,  
2 now I'd like to ask you some questions regarding  
3 the nearby, Board-approved ABC licensed  
4 establishments located within 1200 yards of  
5 Barkada, as listed on pages 5 through 8 of your  
6 investigation report. Could you pull up pages 5  
7 through 8, please?

8                   INVESTIGATOR BUTLER: Okay, starting  
9 at 5?

10                  MR. CANNON: Yes, that's good.

11                  INVESTIGATOR BUTLER: Okay.

12                  MR. CANNON: Now, Mr. Butler, I heard  
13 your testimony earlier, I think maybe you made a  
14 bit of a mistake. You were saying that a lot of  
15 these places are located within 1200 feet of  
16 Barkada. Actually, that's 1200 yards of Barkada,  
17 is that correct?

18                  INVESTIGATOR BUTLER: According to the  
19 chart that we use?

20                  MR. CANNON: Yes.

21                  INVESTIGATOR BUTLER: It's 1200 --  
22 1200 feet, 1200 feet. Not yards, feet.

23                  MR. CANNON: It's 1200 feet.

24                  INVESTIGATOR BUTLER: Yeah.

25                  MR. CANNON: Okay, all right, I'll go

1 with that, all right. Mr. Butler, are you  
2 familiar with the areas of U Street, 14th Street,  
3 and 9th Street within 1200 feet of Barkada?

4 INVESTIGATOR BUTLER: Somewhat.

5 MR. CANNON: You know, where the AB --  
6 where the ABRA-approved establishments are  
7 located?

8 INVESTIGATOR BUTLER: Yes, somewhat.

9 MR. CANNON: Okay, good.

10 INVESTIGATOR BUTLER: A lot of things  
11 have changed in 20 years.

12 MR. CANNON: Okay. Okay, okay, Mr.  
13 Butler. Okay, based on your familiarization with  
14 these areas, would you agree that the streets in  
15 these areas, let's call them -- let's call those  
16 streets U Street, 14th Street, and 9th Street, as  
17 major streets, okay?

18 INVESTIGATOR BUTLER: Okay.

19 MR. CANNON: Okay? Would you agree  
20 that these major streets are significantly wider  
21 than 12th Street?

22 INVESTIGATOR BUTLER: Yes.

23 MR. CANNON: Okay, that they are  
24 heavily trafficked, four-lane thoroughfares?

25 INVESTIGATOR BUTLER: Yes.

1 MR. CANNON: Okay, that they are  
2 predominantly populated with commercial or  
3 entertainment establishments?

4 INVESTIGATOR BUTLER: Correct.

5 MR. CANNON: And they are populated  
6 with few ground or basement-level residential  
7 dwelling units.

8 INVESTIGATOR BUTLER: I would say yes.

9 MR. CANNON: Okay, thank you, Mr.  
10 Butler. Next I would like to ask about the  
11 establishments on -- there's 50 establishments on  
12 your list. And first I'd like to ask you about a  
13 couple of them. One is The Lincoln. That should  
14 be listed at number 28.

15 INVESTIGATOR BUTLER: Okay.

16 MR. CANNON: And the Compass Rose,  
17 which it appears is listed at both numbers 30 and  
18 39, is that correct?

19 INVESTIGATOR BUTLER: Thirty, yes,  
20 Compass Rose is at 39.

21 MR. CANNON: At both 30 and 39.

22 INVESTIGATOR BUTLER: The Compass Rose  
23 is 30 and 39, yes.

24 MR. CANNON: Yes, okay. So now,  
25 regarding The Lincoln, it appears that that

1 establishment inadvertently appears on the list  
2 because its location, 1100 Vermont Avenue, is  
3 actually in the block of Vermont Avenue just  
4 north of K Street, NW, and thus is not located  
5 within 1200 feet of Barkada. Would that be  
6 correct?

7 INVESTIGATOR BUTLER: I would assume  
8 so.

9 MR. CANNON: Yes, okay. And then  
10 turning to the establishment Compass Rose, would  
11 you agree that this establishment was --  
12 inadvertently appears twice on the list?

13 INVESTIGATOR BUTLER: Yes, I see it,  
14 yes. It must have been an error on my part.

15 MR. CANNON: Okay, okay, that's fine,  
16 that's fine, Mr. Butler.

17 INVESTIGATOR BUTLER: Okay.

18 MR. CANNON: Now, next, regarding the  
19 48 remaining establishments on the list, would  
20 you disagree with a finding that 16 of them do  
21 not appear to have entertainment endorsements?  
22 And if you'd like me to do it, and I can list out  
23 the numbers if you want.

24 INVESTIGATOR BUTLER: Yeah, other than  
25 that I'll have to count them myself.

1 MR. CANNON: Okay. Do you mind -- do  
2 you want me to count them out?

3 INVESTIGATOR BUTLER: Yeah, would you  
4 please?

5 MR. CANNON: Okay, great. Okay, they  
6 would be No. 6, No. 11, No. 12, No. 13, No. 15,  
7 No. 17, No. 19, No. 22, No. 30 -- 24, No. 31, No.  
8 36, No. 41, No. 44, No. 45, No. 46, and No. 47.

9 INVESTIGATOR BUTLER: Okay.

10 MR. CANNON: Okay, you -- I mean, we  
11 can all check later, you know, as you're looking  
12 over the case.

13 INVESTIGATOR BUTLER: Yeah.

14 MR. CANNON: But I just represent to  
15 you that that's correct.

16 INVESTIGATOR BUTLER: Oh, okay.

17 MR. CANNON: Okay, all right. Now,  
18 Mr. Butler, regarding the remaining 32  
19 establishments with entertainment endorsements on  
20 this list, would you disagree with the finding  
21 that 28 of them are located either on or on the  
22 corner of one of the major streets we referenced  
23 earlier?

24 INVESTIGATOR BUTLER: Yes.

25 MR. CANNON: I can count those out if



1 you'd like me to.

2 INVESTIGATOR BUTLER: The ones that  
3 you mentioned are on the major streets, yes.

4 MR. CANNON: Okay, good. Well, just  
5 for the record's sake I'll just count them out.  
6 Those are No. 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16,  
7 18, 20, 21, 23, 26, 27, 33, 34, 35, 37, 38, 40,  
8 42, 43, 48, 49, and 50.

9 So now getting back to questioning,  
10 Mr. Butler. We now have four remaining  
11 establishments on the list because we've  
12 eliminated those -- we now should have four  
13 remaining establishments on your list, is that  
14 okay?

15 INVESTIGATOR BUTLER: Okay.

16 MR. CANNON: All right, now, would you  
17 disagree with the finding that these  
18 establishments are Compass Rose, which is No. 30;  
19 Lulu's Wine Garden, No. 25; American Ice Company,  
20 No. 32; and Wet Dog Tavern, No. 29?

21 INVESTIGATOR BUTLER: Okay.

22 MR. CANNON: I mean, you can go back  
23 and check again, but it's --

24 INVESTIGATOR BUTLER: Yeah.

25 MR. CANNON: You're sure I've got it

1 right.

2 INVESTIGATOR BUTLER: Ain't no  
3 question.

4 MR. CANNON: Okay, okay, good. Now,  
5 Mr. Butler, to the best of your knowledge or  
6 recollection, do any of these establishments  
7 broadcast amplified music and voices outdoors on  
8 its sidewalk, patio, and host outdoor  
9 entertainment activities such as bingo, trivia  
10 games, and unspecified cultural events on its  
11 sidewalk, patio, or its streeterly?

12 INVESTIGATOR BUTLER: I would honestly  
13 have to say that unless I visit each one of them  
14 personally, I can't say for certain. Because  
15 between the COVID and today's date, most of them  
16 has -- their situations has changed. So most  
17 likely they, if any they probably do. If they  
18 have an endorsement for entertainment, they  
19 probably will, or they probably do.

20 MR. CANNON: Okay, but you can't say  
21 for sure, is that correct?

22 INVESTIGATOR BUTLER: Can't say for  
23 sure at this time, no.

24 MR. CANNON: Okay, that's fine. So  
25 you couldn't dispute that, you couldn't dispute

1 an assertion that they do not host those sorts of  
2 entertainments on the sidewalk in front of their  
3 establishments.

4 INVESTIGATOR BUTLER: Correct.

5 MR. CANNON: Okay, good. Okay. I  
6 have a question that's sort of within your report  
7 but not quite all the way there. But I'm just  
8 curious. Are you familiar with ABRA's rules  
9 regarding seating capacity at eight ABRA-approved  
10 establishments?

11 INVESTIGATOR BUTLER: At eight?

12 MR. CANNON: At eight ABRA-approved  
13 establishments?

14 INVESTIGATOR BUTLER: Seating  
15 capacity?

16 MR. CANNON: Yes.

17 INVESTIGATOR BUTLER: I'm familiar  
18 with seating capacity, yes.

19 MR. CANNON: Okay. Can you explain  
20 how ABRA might handle a situation when an  
21 establishment may want to exceed its capacity  
22 limits?

23 INVESTIGATOR BUTLER: They first have  
24 to get approval from DCRA for an extension and  
25 resubmit diagrams as to how they want to improve

1 their seating capacity and submit it to ABRA  
2 after that with documents and charts.

3 MR. CANNON: Okay. Now, Mr. Butler,  
4 a little bit earlier, I guess the applicant, you  
5 know, questioned you about how far Barkada is  
6 located from the corner of U Street. Do you  
7 recall that?

8 INVESTIGATOR BUTLER: Yes.

9 MR. CANNON: Yes. And he suggested  
10 that maybe it was 100 feet, is that correct?

11 INVESTIGATOR BUTLER: That's my  
12 estimate, you know, probably 100 feet from  
13 Barkada to the corner of U Street, give or take.

14 MR. CANNON: Okay, yes, that's  
15 correct, that's what you said, Mr. Butler, thank  
16 you. Mr. Butler, did you dispute a finding that  
17 it's actually 130 feet from the corner of U  
18 Street?

19 INVESTIGATOR BUTLER: I wouldn't  
20 dispute it, because like I say, I haven't  
21 physically walked it and counted those steps  
22 from, you know. So if it's 130 give or plus or  
23 take.

24 MR. CANNON: Okay. Okay, that's the  
25 end of my questioning, Mr. Butler. Thank you

1 very much.

2 INVESTIGATOR BUTLER: Thank you.

3 CHAIRPERSON ANDERSON: I think you can  
4 reduce your screen, Mr. Butler.

5 INVESTIGATOR BUTLER: I'm sorry, say  
6 it again.

7 CHAIRPERSON ANDERSON: Reduce your  
8 screen, sir. Close your screen, please.

9 INVESTIGATOR BUTLER: Okay.

10 CHAIRPERSON ANDERSON: All right. Any  
11 follow-up questions, any -- does any other Board  
12 member have any questions before I dismiss Mr.  
13 Butler?

14 MR. ORLASKEY: This is Commissioner  
15 Orlaskey, I did have one clarifying question I'd  
16 like to ask.

17 CHAIRPERSON ANDERSON: It's the only  
18 -- it's the only question I'm going to have you  
19 ask, Mr. Orlaskey. The agreement was that you're  
20 going to make an opening and closing. But as the  
21 ANC, I would allow you to ask a question.

22 MR. ORLASKEY: And we've been  
23 discussing summer gardens a lot, but it's my  
24 impression that Barkada is licensed for a  
25 sidewalk caf,. Now, I know that might be a

1 subtle distinction, but it's quite a different  
2 structure we're talking about.

3 CHAIRPERSON ANDERSON: Are you asking  
4 a question or are you asking a clarification?

5 MR. ORLASKEY: That's true. For Mr.  
6 Butler.

7 INVESTIGATOR BUTLER: You're asking me  
8 if Barkada has a summer garden or a sidewalk caf,  
9 or if they're applying for it, sidewalk cafe?

10 MR. ORLASKEY: Specify one or the  
11 other.

12 INVESTIGATOR BUTLER: I can't very --  
13 I can't hear you too clearly.

14 MR. ORLASKEY: Sorry, just their  
15 license specifies sidewalk caf,. I was wondering  
16 if you were --

17 INVESTIGATOR BUTLER: Sidewalk caf,.

18 MR. ORLASKEY: Yes.

19 INVESTIGATOR BUTLER: Yeah, sidewalk  
20 caf,, I do believe.

21 MR. ORLASKEY: Not a summer garden.

22 INVESTIGATOR BUTLER: Not a summer  
23 garden.

24 MR. ORLASKEY: Yes, okay, thank you.  
25 That's all I have.

1 CHAIRPERSON ANDERSON: All right,  
2 thank you. All right.

3 Thank you, Mr. Butler, for your  
4 testimony. You are free to go.

5 INVESTIGATOR BUTLER: Thank you.

6 CHAIRPERSON ANDERSON: We've been  
7 going at this for a minute. I'm going to take a  
8 ten-minute break. So we're going to take a ten-  
9 minute break, so you don't need to log off.  
10 We're off the record, it's four minutes after  
11 four.

12 (Whereupon, the above-entitled matter  
13 went off the record at 4:04 p.m. and resumed at  
14 4:15 p.m.)

15 CHAIRPERSON ANDERSON: We are back on  
16 the record. I just want to remind everyone,  
17 remember we streamlined the hearing, so the only  
18 issue that we need to elicit testimony on is the  
19 appropriateness of granting an entertainment  
20 endorsement on the sidewalk caf,, all right, just  
21 testimony on the appropriateness of providing an  
22 endorsement for the sidewalk caf,. That's the  
23 only issue that's here.

24 If this hearing goes for another two  
25 hours, we would have another scheduled break, so

1 one of the things I'll try to do is to have,  
2 every two hours, to have a scheduled break just  
3 to be mindful of each other.

4 So, I'm just letting you know that if  
5 this hearing goes another two hours, we'll have  
6 another scheduled break at the appropriate time.  
7 Of course, if you're not speaking and you need to  
8 take care of a personal emergency, you're welcome  
9 to do that. I personally don't have that option  
10 to do that. I always have to be here, but you  
11 have that opportunity to do that.

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

14 MR. GUGLIETTA: I do not have any  
15 witnesses I'd like to call, but I do have a  
16 process question about when to review exhibits.

17 CHAIRPERSON ANDERSON: So, there are  
18 exhibits that you wish to -- there. Well, one of  
19 the things, if you have exhibits, then you need  
20 to have someone identify what the exhibits are if  
21 you want me to move them into evidence.

22 So, if you have, say if you have  
23 exhibits, then why don't you call a witness and  
24 have them talk about what the documents are and  
25 then you can ask to move them into evidence?



1                   So, you have no evidence? You have no  
2 testimony you're going to present?

3                   MR. GUGLIETTA: I will call on Nathan  
4 Fisher.

5                   CHAIRPERSON ANDERSON: I know, but I'm  
6 just asking are you -- do you not plan to call  
7 any witnesses?

8                   MR. GUGLIETTA: That's correct. We  
9 feel that the witness of Investigator Butler as  
10 well as the exhibits would be sufficient.

11                   CHAIRPERSON ANDERSON: Okay, all  
12 right, so why don't you -- so you're going to  
13 call on Mr. Fisher to identify -- so you're going  
14 to ask him about the documents, and so he can  
15 identify the documents, and then you'll ask to  
16 move them into evidence. Is that what you're  
17 trying to do?

18                   MR. GUGLIETTA: Yes, and these are all  
19 documents included in the PIP.

20                   CHAIRPERSON ANDERSON: All right, so  
21 who has the documents, you or Mr. Fisher?

22                   MR. GUGLIETTA: I have them.

23                   CHAIRPERSON ANDERSON: All right, so  
24 then you want to share your screen? Is that what  
25 you're trying to do?

1 MR. GUGLIETTA: Yes, please.

2 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
3 can you please allow Mr. Guglietta to share his  
4 screen, please?

5 MR. GUGLIETTA: Thank you. I confirm  
6 that I have permission. I am pulling up the  
7 documents now.

8 CHAIRPERSON ANDERSON: And, well, let  
9 me -- so you want to call Mr. Fisher. So, Mr.  
10 Fisher, can you raise your right hand? I'm not  
11 sure if you're going to testify, but at least let  
12 me swear you in. Can you raise your right hand,  
13 please? Do you swear or affirm to tell the truth  
14 and nothing but the truth? You need to take  
15 yourself off mute, Mr. Fisher.

16 MR. FISHER: I do.

17 CHAIRPERSON ANDERSON: You do, all  
18 right, fine. Go ahead, Mr. Guglietta.

19 MR. GUGLIETTA: Thank you. I'll begin  
20 sharing my screen, and the first exhibit I'd like  
21 to call is from our packet, Exhibit No. 7, which  
22 is distance measurements within the area.

23 CHAIRPERSON ANDERSON: Can you ask him  
24 to identify what this document is, sir?

25 MR. GUGLIETTA: Yes. Mr. Fisher, can

1 you please identify this document that I have on  
2 my screen?

3 MR. FISHER: Yes.

4 MR. GUGLIETTA: And I'll run through  
5 the, from top to start, from top to finish real  
6 quick. Are you familiar with this document?

7 MR. FISHER: Yes, that is Exhibit No.  
8 7 in our PIP.

9 CHAIRPERSON ANDERSON: And what is  
10 exhibit -- I know you're not a lawyer, sir. I'm  
11 assuming you're not a lawyer, but one of the --

12 MR. GUGLIETTA: Correct.

13 CHAIRPERSON ANDERSON: I need you to  
14 ask the person for the record to tell us what it  
15 is that we're looking at, sir.

16 MR. GUGLIETTA: And Mr. Fisher, can  
17 you just tell us what we're looking at?

18 MR. FISHER: We are looking at  
19 distance measurements between Barkada Wine Bar  
20 and the homes of those in the protestant group.

21 MR. GUGLIETTA: Thank you, and can you  
22 read out the approximate measurement between the  
23 farthest south corner of the establishment named  
24 Barkada Wine Bar and 1920 12th Street?

25 MR. FISHER: That would be 131.8 feet.

1 MR. GUGLIETTA: Thank you. Moving  
2 onto Exhibit 2, can you tell us what you see  
3 directly across the street and slightly to the  
4 south from Barkada Wine Bar?

5 MR. FISHER: Directly across the  
6 street, there is a large office building as well  
7 as an alley street, and then right now, it's just  
8 a field, not a parking lot.

9 MR. GUGLIETTA: And can you describe  
10 some of the establishments highlighted with  
11 yellow pins along the south side of U Street?

12 MR. FISHER: Along the south side of  
13 U Street in this, we also have Brooklyn on U,  
14 Amsterdam Lounge, and then Dukem Ethiopian  
15 Restaurant.

16 MR. GUGLIETTA: Do you recognize any  
17 of these establishments from Mr. Butler's  
18 testimony as being ABRA licensed establishments?

19 MR. FISHER: Yes.

20 MR. GUGLIETTA: Can you also state for  
21 the record this exhibit that we previously looked  
22 at as well for reference?

23 MR. FISHER: Yes, this exhibit appears  
24 to be the investigator's report.

25 MR. GUGLIETTA: And if I move to --

1 I'm locating the page here. Can you identify  
2 establishment number 25?

3 MR. FISHER: Number 25 is Lulu's Wine  
4 Garden.

5 MR. GUGLIETTA: And do they have  
6 entertainment indoors as well as sidewalk caf,  
7 and summer garden?

8 MR. FISHER: With this and with the  
9 testimony from the investigator, yes, they do.

10 MR. GUGLIETTA: Have you visited  
11 Lulu's Wine Garden?

12 MR. FISHER: I have.

13 MR. GUGLIETTA: Can you describe the  
14 street on which Lulu's Wine Garden is located?

15 MR. FISHER: Lulu's Wine Garden is  
16 located right behind us on 11th Street. They  
17 have a streeterly, an outdoor sidewalk caf,, as  
18 well as an outdoor area in the back. We also  
19 share a back with them where we our trash goes.

20 MR. GUGLIETTA: Did I hear you  
21 correctly in saying that we are so close that we  
22 look across the alley behind our establishment to  
23 the back of theirs?

24 MR. FISHER: Correct.

25 MR. GUGLIETTA: Thank you. And one

1 moment while I pull up the appropriate document.  
2 Do you recognize this exhibit and can you  
3 describe to us what it is?

4 MR. FISHER: Yes, this is, I don't  
5 know exactly what number exhibit this is, but  
6 this is the exhibit in which, a conversation that  
7 I had between myself and the ANC commissioner  
8 discussing next steps after the mitigation  
9 hearing that we had that everyone was included in  
10 with ABRA.

11 MR. GUGLIETTA: And with this full  
12 exhibit in the hands of all involved in the ABRA,  
13 how would you characterize the discussions taking  
14 place between Barkada Wine Bar and Commissioner  
15 Orlaskey?

16 MR. FISHER: I would characterize --  
17 (Simultaneous speaking.)

18 MR. GUGLIETTA: -- jog your memory?

19 MR. FISHER: Yes, since we had our  
20 mediation, our first mediation with everyone in  
21 October through the end of the calendar year, so  
22 December, we all came to some sort of an  
23 agreement on next steps being that we agreed to  
24 reduce the hours of outdoor --

25 CHAIRPERSON ANDERSON: Hold on, hold

1 on. I don't -- a settlement agreement, we can't  
2 discuss settlement discussions at hearing, so I'm  
3 not going to allow you to discuss what was  
4 discussed. You could talk about that you've had  
5 meetings, but we cannot discuss the substance of  
6 settlement discussions at these hearings, okay?

7 MR. GUGLIETTA: Right, so Mr. Fisher,  
8 through the --

9 MR. FISHER: I would say we had  
10 ongoing conversations about next steps that also  
11 included us moving our hearing date from December  
12 1 to March that we are now because of those next  
13 steps.

14 MR. GUGLIETTA: During any of these  
15 discussions, did the owners of Barkada Wine Bar  
16 make themselves available in person to discuss  
17 opportunities to mitigate the concerns of the  
18 residents?

19 MR. FISHER: Back when we applied for  
20 this in July of 2021, we did make available us  
21 for any neighbors to come to the bar to speak  
22 with us, as well as email.

23 MR. GUGLIETTA: And did anyone attend  
24 those meetings?

25 MR. FISHER: No one attended those

1 meetings in person. The first time we all spoke  
2 together was during the mediation.

3 MR. GUGLIETTA: Thank you. No further  
4 questions.

5 CHAIRPERSON ANDERSON: All right,  
6 thank you. You can close your screen, please.  
7 Mr. Cannon, do you wish to ask him any questions  
8 based on his testimony, sir? You're on mute,  
9 sir.

10 MR. CANNON: Okay, this is Allen  
11 Cannon. No, I don't have any questions based on  
12 the testimony, but I do have some questions based  
13 on the documents they have presented to ABRA.

14 CHAIRPERSON ANDERSON: You can ask  
15 some questions, sir, but remember, as I said  
16 before, I prefer you spend most of your time on  
17 direct questions and cross examination, but you  
18 can go ahead and ask some questions on a  
19 document, sir.

20 MR. CANNON: Okay, thank you. Thank  
21 you, Mr. Chairman. And I would be willing to  
22 address these to any of the Barkada  
23 representatives. Is there one they would like to  
24 answer the question?

25 CHAIRPERSON ANDERSON: No, sir, the



1 only person you can ask questions to is Mr.  
2 Fisher. Mr. Fisher is the only person who will  
3 testify.

4 MR. CANNON: Ah, okay.

5 CHAIRPERSON ANDERSON: Your questions  
6 are directed to Mr. Fisher. If they're not for  
7 Mr. Fisher, then you can't ask the questions.

8 MR. CANNON: Okay, that's fine, Mr.  
9 Chairman. Okay, well, I'd like to begin. Well,  
10 good afternoon, Mr. Fisher.

11 MR. FISHER: Good afternoon.

12 MR. CANNON: Yes, you know, I'd like  
13 to start with some questions raised by  
14 Applicant's Exhibit 1. Do you have a copy of  
15 that exhibit that you can share with the Board?

16 MR. FISHER: I would need to have  
17 permission to share my screen.

18 CHAIRPERSON ANDERSON: All right, hold  
19 on. Mr. Guglietta, do you still have the  
20 opportunity to share your screen?

21 MR. GUGLIETTA: I do.

22 CHAIRPERSON ANDERSON: Can you -- all  
23 right, do you have Applicant's Exhibit No. 1,  
24 your exhibit number one?

25 MR. GUGLIETTA: Yes, I will pull that

1 up.

2 CHAIRPERSON ANDERSON: Can you,  
3 please? Yeah.

4 MR. CANNON: Okay, and could we go to  
5 page two of this exhibit, starting at the bottom  
6 of the page and then moving to page three? Okay,  
7 that's fine, I guess. Okay, now, Mr. Fisher, you  
8 know, this exhibit lists ten events that have  
9 been held by Barkada, is that correct?

10 MR. FISHER: That is correct.

11 MR. CANNON: Okay, now regarding the  
12 events listed as held on June 2021, was one of  
13 them an entertainment event held on the evening  
14 of June 29, 2021?

15 MR. FISHER: On the evening of June  
16 29, 2021, Barkada had a celebration event for  
17 pride month.

18 MR. CANNON: Okay, great, okay, now  
19 regarding this June 29 event, was Barkada  
20 authorized to hold this event under its existing  
21 license?

22 MR. FISHER: During part of the  
23 celebratory event, invited friends of Barkada, as  
24 well as those in our neighborhood, to celebrate  
25 the end of pride month. That included some

1 people that were dressed as drag did come to that  
2 event.

3 MR. CANNON: No, my question, Mr.  
4 Fisher, was Barkada authorized by ABRA or any  
5 other D.C. governmental agency to hold an  
6 entertainment -- or even better than that, was  
7 Barkada authorized under its license at that time  
8 to hold that event?

9 MR. FISHER: My understanding with the  
10 license is that entertainment license is only  
11 including of live entertainment and not those  
12 that are prerecorded.

13 MR. CANNON: Okay, and it allowed you  
14 to have amplified -- okay, strike that question.  
15 Now, regarding this June 29 event, was that event  
16 held partially or wholly outdoors on Barkada's  
17 patio and on Barkada's patio area?

18 MR. FISHER: It was.

19 MR. CANNON: Okay, can you tell us  
20 approximate hours in the evening that this event  
21 was held?

22 MR. FISHER: It was 7:30 p.m. to 9:30  
23 p.m., as we close at 10:00 p.m.

24 MR. CANNON: Did this June 29 event  
25 feature Barkada's use of amplified sounds or

1 music on Barkada's patio?

2 MR. FISHER: There was one speaker  
3 that was added on the patio.

4 MR. CANNON: It was amplified, is that  
5 correct?

6 MR. FISHER: There was one speaker  
7 that was added on the patio.

8 MR. CANNON: Did this June 29 event  
9 features some of the persons at the event loudly  
10 shouting the word bingo?

11 MR. FISHER: No, there was no bingo.

12 MR. CANNON: Do you have evidence to  
13 dispute that that actually didn't happen?

14 MR. FISHER: Not on me right now, but  
15 I can tell you that, from all the times I've been  
16 at my bar, we have not played bingo.

17 MR. CANNON: During this June --

18 CHAIRPERSON ANDERSON: Move on, Mr.  
19 Cannon, all right.

20 MR. CANNON: I'm moving on. I'm  
21 moving on. Thank you, Mr. Chairman. During this  
22 June 29 event, did any of the people gathered at  
23 Barkada's outdoor portion of the event spill over  
24 westward from Barkada's patio area onto the  
25 sidewalk between Barkada's patio area and its

1 street area?

2 MR. FISHER: During that event,  
3 because we had people sitting on the street area  
4 as well as those in our sidewalk garden, we did  
5 see that there were a few people that were  
6 looking, coming to our area to see what was  
7 happening, and because of the celebratory  
8 atmosphere, we did have two people on our staff  
9 make sure that there was a clear way for people  
10 to walk.

11 MR. CANNON: Okay, at this same June  
12 29 event, did any of the people gathered at  
13 Barkada's outdoor portion of the event spill  
14 northward from Barkada's patio area to the  
15 sidewalk in front of the neighboring  
16 establishment, Gallagher & Graham?

17 MR. FISHER: So, northward, we have  
18 Gallagher & Graham and Dukem and Dukem's side  
19 garden. I know that people were eating in  
20 Dukem's outdoor side garden as well, and the area  
21 in front of -- there were a couple of people in  
22 the area in front of Gallagher & Graham --

23 MR. CANNON: Would you --

24 MR. FISHER: -- but that's not on a  
25 sidewalk.

1 MR. CANNON: So, in front of Gallagher  
2 & Graham, but not on the sidewalk?

3 MR. FISHER: Correct, not on the main  
4 -- as you can see in photos, not in the main  
5 sidewalk area, but right in front of their  
6 window.

7 MR. CANNON: Okay, well, do you have  
8 evidence to dispute that this actually happened?

9 MR. FISHER: I do not have evidence to  
10 dispute that this actually happened.

11 MR. CANNON: Okay, now during this  
12 June 29 event, did pedestrians walking north on  
13 12th Street attempt to bypass the crowds gathered  
14 on the sidewalk in front of and adjacent to  
15 Barkada by diverting around Barkada's streetery  
16 into the vehicular traffic on 12th Street?

17 MR. FISHER: I do not know.

18 MR. CANNON: Okay, so in other words,  
19 you couldn't dispute that this actually happened?

20 MR. FISHER: Unless there is evidence  
21 to show that it did happen, I can't say it did or  
22 didn't.

23 MR. CANNON: That's fine, Mr. Fisher.  
24 Okay, during this June 29 event, did any  
25 passersby who were not actually patrons of

1 Barkada's outdoor event stop to investigate what  
2 was going on at that event?

3 MR. FISHER: What do you mean by  
4 investigate?

5 MR. CANNON: Just stop to see what was  
6 going on?

7 MR. FISHER: I'm sure that because we  
8 are close to U Street and on 12th Street, that  
9 people walking on the sidewalk could see what was  
10 -- and were probably wondering what was going on,  
11 sure.

12 MR. CANNON: Okay, thank you, Mr.  
13 Fisher. Again regarding this June 29 event, can  
14 you provide an estimate of the average number of  
15 persons who were standing and seated on the  
16 sidewalk in front of or adjacent to Barkada at  
17 any given time during the period from 8:30 p.m.  
18 to 9:00 p.m.?

19 MR. FISHER: We had about 60 people in  
20 attendance either seated on our sidewalk caf, or  
21 in our streetery.

22 MR. CANNON: Now, were people  
23 standing?

24 MR. FISHER: There were some people  
25 that were standing in the streetery.

1 MR. CANNON: Were there people  
2 standing on the sidewalk?

3 MR. FISHER: Anyone who is standing on  
4 the sidewalk, we did have staff say you can't  
5 stand just right in the middle of the sidewalk.  
6 You would have to move to the side or keep on  
7 walking.

8 MR. CANNON: Okay, under that same  
9 question, do you have evidence to dispute that  
10 this number of persons may have been greater than  
11 70?

12 MR. FISHER: Again, I don't have  
13 evidence to say that it was more than 70. We do  
14 have our receipts from how much, the tables and  
15 how much we made that night, as we had five  
16 tables up in our sidewalk caf, and six tables in  
17 our streeterly, and that capacity was 60.

18 MR. CANNON: Okay, and this doesn't  
19 include the people who stopped to take a look,  
20 does it?

21 MR. FISHER: Those people would not be  
22 patrons of our establishment.

23 MR. CANNON: But they were there at  
24 your establishment, is that correct?

25 MR. FISHER: I'm sure -- not on our



1 property.

2 MR. CANNON: And -- not on your  
3 property. You mean not on the --

4 MR. FISHER: We would not have anyone  
5 who is not a paying guest on our property.

6 MR. CANNON: All right, but  
7 nevertheless, there were people there who weren't  
8 your patrons?

9 MR. FISHER: I'm sure in the vicinity,  
10 there was people that might have stopped to look  
11 to see what's happening. If they are not on our  
12 property, I can't tell them, or not blocking the  
13 sidewalk, we don't have the authority to tell  
14 them to walk away.

15 MR. CANNON: Now, before holding this  
16 June 29 event, did Barkada reach out to its  
17 neighbors and give them prior notice that it  
18 planned to hold this event?

19 MR. FISHER: We did not. We  
20 advertised that we were going to have a pride  
21 celebratory event on that day and that is how  
22 people knew about it.

23 MR. CANNON: Okay, but you didn't  
24 reach out to any of your neighbors? You sent no  
25 notices to your neighbors, is that correct?

1                   MR. FISHER: We did not send any -- I  
2 don't believe we sent any -- I did not personally  
3 send any notice to a neighbor.

4                   MR. CANNON: Okay, and before holding  
5 this event on June 29, did you seek your  
6 neighbors' counsel on whether holding this event  
7 would be appropriate in the neighborhood?

8                   MR. FISHER: I personally did not. I  
9 can't contest that other owners have or not.

10                  MR. CANNON: Okay, so in other words,  
11 you can't dispute that actually the neighbors  
12 were not contacted or reached out to?

13                  MR. FISHER: I cannot dispute that --  
14 I did not reach out to any neighbors.

15                  MR. CANNON: All right, now I want to  
16 turn your attention to Applicant's Exhibit 6. Do  
17 you have a copy of this exhibit available?

18                  CHAIRPERSON ANDERSON: Did he testify  
19 to six?

20                  MR. FISHER: I have not testified for  
21 Exhibit 6.

22                  CHAIRPERSON ANDERSON: That's beyond  
23 -- I'm not going to have testimony on six.  
24 That's beyond the scope of what he testified to.

25                  MR. GUGLIETTA: To be clear, I didn't

1 pull up exhibit, the one that we were just  
2 reviewing either. That was --

3 CHAIRPERSON ANDERSON: I thought -- I  
4 apologize, that was my -- I thought you did one  
5 and two. So, what were the documents? I  
6 apologize. I took notes and I thought -- you did  
7 number two and which one?

8 MR. GUGLIETTA: I pulled up Exhibit 7  
9 and Investigator Butler's report.

10 CHAIRPERSON ANDERSON: Okay, all  
11 right, that was my error in taking notes. All  
12 right, so Mr. Cannon, you are supposed to ask  
13 questions on his testimony and seven, and I  
14 apologize. I thought -- when I wrote my notes, I  
15 wrote the wrong number down, so that was my  
16 apology.

17 MR. CANNON: Okay, that's fine.  
18 That's fine, Mr. Chairman.

19 MR. GUGLIETTA: Nick Guglietta here.  
20 Is it appropriate for us to make a motion to  
21 dismiss the testimony that Mr. Fisher just gave  
22 relevant to the exhibit not previously discussed?

23 CHAIRPERSON ANDERSON: I'm not going  
24 to consider that motion. I mean, bottom line,  
25 we'll take it for what it's worth, so I'm not

1 going to consider that --

2 MR. GUGLIETTA: Perfect.

3 CHAIRPERSON ANDERSON: -- at the  
4 moment. I mean, this is more -- these hearings  
5 are formal, but they're not as formal as a court  
6 of law, and so I'll dismiss that at this time.

7 MR. GUGLIETTA: Okay, if there is  
8 opportunity to further discuss that same exhibit  
9 --

10 CHAIRPERSON ANDERSON: Yes, I'm going  
11 to give you -- because he brought it up and that  
12 was my error, I'm going to give you an  
13 opportunity to discuss that.

14 MR. GUGLIETTA: Thank you.

15 CHAIRPERSON ANDERSON: But I just want  
16 to remind folks the purpose of this hearing is  
17 whether or not we should grant a hearing on the -  
18 - I'm sorry, we should grant the substantial  
19 change for a summer garden.

20 I know that I don't want to hear  
21 testimony about a streeterly. A streeterly,  
22 remember, as I stated before, a streeterly is a  
23 creation that came about because of COVID-19.

24 I am not sure how long -- the city is  
25 currently working on regulations for streeterly,

1 so I don't want to have any testimony on  
2 streeterly, what occurred in the streeterly, what's  
3 appropriate for a streeterly. That is not the  
4 issue in this hearing.

5 The purpose of the hearing is whether  
6 or not we should grant a substantial change for  
7 an entertainment endorsement for the summer  
8 garden, I'm sorry, for the sidewalk caf,, on the  
9 sidewalk caf,. That's what this is about.

10 So, I just want to remind the parties  
11 it is not relevant for us to have any testimony  
12 about streeterly because that is not the purpose  
13 of this hearing. Do you have another question  
14 you want to ask, Mr. Cannon?

15 MR. CANNON: Yes.

16 CHAIRPERSON ANDERSON: What's the  
17 question, sir?

18 MR. CANNON: Okay, great. Does  
19 Barkada's existing license authorize it to seek  
20 greater than 15 persons in its patio seating  
21 area?

22 MR. FISHER: Our license for our  
23 sidewalk garden is for 15 people.

24 MR. CANNON: Okay, you call that a  
25 sidewalk garden, but isn't that actually --

1 MR. FISHER: Sidewalk caf,.

2 MR. CANNON: -- a sidewalk patio?

3 MR. FISHER: Sidewalk caf,, I think,  
4 is the legal term.

5 MR. CANNON: Sidewalk caf,, so it's  
6 actually on the sidewalk, is it not?

7 MR. FISHER: It is -- the sidewalk  
8 caf, designated for -- just like all of the other  
9 bars and restaurants that have it.

10 MR. CANNON: So, it is on the  
11 sidewalk, is it?

12 MR. FISHER: It is on the -- it is in  
13 front of our -- I don't know if it's legally  
14 technically on what you would consider a  
15 walkthrough sidewalk, or because we have the  
16 license to be able to have it, it is right in  
17 front of our building and we are able to have 15  
18 people seated there.

19 MR. CANNON: Okay, I have no further  
20 questions, Mr. Fisher.

21 CHAIRPERSON ANDERSON: Any questions  
22 from any Board member to Mr. Fisher? All right,  
23 Mr. Guglietta? I'm sorry, Mr. Cannon?

24 MR. CANNON: Pardon me, I do have one  
25 more question.

1                   CHAIRPERSON ANDERSON: No, I'm sorry.  
2                   You said you had no more questions, so I moved  
3                   on. No, I've asked. You said you had no more  
4                   questions and I move onto the Board. Now I'm  
5                   going to give Mr. Guglietta an opportunity to  
6                   redirect, for redirect questions, sir.

7                   MR. CANNON: Yes.

8                   CHAIRPERSON ANDERSON: Short redirect  
9                   questions, please.

10                  MR. GUGLIETTA: Yes, I only have one  
11                  for Mr. Fisher referring to Exhibit 1 that Mr.  
12                  Cannon brought up.

13                  CHAIRPERSON ANDERSON: Go ahead, sir.

14                  MR. GUGLIETTA: About how many times  
15                  has Barkada Wine Bar had outdoor people seated  
16                  and during -- well, that's two questions. One,  
17                  about how many times since they've been open has  
18                  Barkada Wine Bar had people sitting on the patio  
19                  in groups larger than approximately 30?

20                  MR. FISHER: On this list or besides  
21                  this list? Because in the summer, we can have --  
22                  oh, on the sidewalk patio, zero, because only 15  
23                  can sit there.

24                  MR. GUGLIETTA: Sorry, I meant  
25                  collectively in the outdoor space.

1 MR. FISHER: So, if --

2 (Simultaneous speaking.)

3 MR. GUGLIETTA: Combined streeterly  
4 plus sidewalk caf,.

5 CHAIRPERSON ANDERSON: I do not want  
6 any evidence on streeterly. We're talking about  
7 the sidewalk caf,. As I stated, we're having  
8 evidence, I'm interested in evidence on the  
9 sidewalk caf,, not about the streeterly.

10 MR. GUGLIETTA: Understood.

11 MR. FISHER: On the sidewalk caf,, we  
12 had hit our capacity limit of 15 many times,  
13 especially in the summer months because it's  
14 popular to sit out there, but only 15 are allowed  
15 to sit out there.

16 MR. GUGLIETTA: And how many times, as  
17 a result of people sitting on the outdoor patio,  
18 whether it was part of a larger group or by  
19 themselves, have we either received an in-person  
20 or formal complaint due to noise?

21 MR. FISHER: Zero.

22 MR. GUGLIETTA: Thank you. No further  
23 questions.

24 CHAIRPERSON ANDERSON: Thank you. One  
25 reason I always remind people to close their



1 screens, because I prefer when we're doing this  
2 hearing, I can see, all right. Is that the only  
3 witness that you plan to call, sir? You have no  
4 other witness to call?

5 MR. GUGLIETTA: That is correct.

6 CHAIRPERSON ANDERSON: And that is  
7 your case in chief? You have rested?

8 MR. GUGLIETTA: Yes, I believe the  
9 only other cases I would like to make would be  
10 the redirect on witnesses called by the  
11 Protestants.

12 CHAIRPERSON ANDERSON: Okay, I just  
13 want to make sure that you know, since you're  
14 resting, you cannot call any witnesses. You can  
15 only cross examine witnesses moving forward.

16 MR. GUGLIETTA: Understood.

17 CHAIRPERSON ANDERSON: All right,  
18 fine. Mr. Cannon, do you have a witness you wish  
19 to call, sir?

20 MR. CANNON: Yes, I do. As a matter  
21 of fact, I will be the first witness. Is that  
22 proper, Mr. Chairman?

23 CHAIRPERSON ANDERSON: Well, I'll  
24 swear you in. You'll present your case, sir, the  
25 best way you believe you can. So, if you're

1 going to be the witness, I'm going to swear you  
2 in and then Mr. Guglietta is going to ask you  
3 questions and the Board is going to ask you  
4 questions. So, can you raise your right hand,  
5 sir, please?

6 MR. CANNON: Yes.

7 CHAIRPERSON ANDERSON: Do you swear or  
8 affirm to tell the truth and nothing but the  
9 truth?

10 MR. CANNON: I do.

11 CHAIRPERSON ANDERSON: Now, because  
12 you're the witness, is someone going to ask you  
13 questions or are you going to make a statement?  
14 I'm just trying to get some clarification how you  
15 plan to do this.

16 MR. CANNON: Yes, Mr. Chairman, I plan  
17 to make a statement, sir.

18 CHAIRPERSON ANDERSON: So, why don't  
19 you -- well, all right, fine.

20 MR. CANNON: Okay, thank you, Mr.  
21 Chairman. My name is Allen Cannon and I own and  
22 live in the condominium at 1922 12th Street and  
23 my dwelling unit is Apartment 2 located in the  
24 upper three floors of the condominium. I have  
25 lived at that address for over 11 years now.

1 I believe that I can fairly  
2 characterize the 1900 block of 12th Street as a  
3 narrow two-lane street that is overwhelmingly  
4 residential, featuring 50 individual residential  
5 units, most of which have ground or basement-  
6 level dwelling units.

7 To the best of my knowledge, the only  
8 two commercial establishments currently addressed  
9 on this block are Gallagher & Graham, which is a  
10 quiet, well-managed, boutique liquor store, and  
11 the applicant, Barkada Wine Bar, both of which  
12 are located at 1939 12th Street.

13 During the time I've lived here, I've  
14 never been disturbed by noise or crowds  
15 associated with Gallagher & Graham. After  
16 Barkada moved in around August 2020, the noise  
17 and crowd levels in the evenings increased  
18 somewhat, but this was by no means bothersome  
19 even though Barkada's streeterly is located less  
20 than 100 feet from my front porch.

21 And I might say in an aside here, in  
22 the, I think it was Barkada's Exhibit 7 where  
23 they had the measurement, I believe it was 7, if  
24 you look closely at that exhibit, he's measuring  
25 the distance from 1920 12th Street, not 1922 12th

1 Street, okay.

2 Now, on June 29, everything changed.  
3 On that evening, I was watching television behind  
4 closed doors in the first floor bedroom of my  
5 unit. This bedroom is located on the far eastern  
6 side of my unit, which is the furthestmost side  
7 from 12th Street.

8 At around 8:30, while the television  
9 was playing at a normal volume, I heard a loud  
10 commotion coming all the way from the 12th Street  
11 side of my unit, so I walked to my unit's window  
12 facing 12th Street and saw that the commotion was  
13 coming from an event behind held at Barkada.

14 To get a better view of the event, I  
15 went to the third floor of my unit and went  
16 outside to watch the event from a small balcony  
17 that overlooks Barkada.

18 Now, I wonder if Mr. Orlaskey can  
19 bring up Plaintiff's Exhibit 3 and share it with  
20 us?

21 MR. ORLASKEY: As long as I have the  
22 right to do it.

23 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
24 can you please allow Mr. Orlaskey to share his  
25 screen, please?

1 MR. ORLASKEY: Give me one second to  
2 find it. Is that Exhibit 3?

3 CHAIRPERSON ANDERSON: What exhibit,  
4 Mr. Cannon?

5 MR. CANNON: What it is, is it shows  
6 that I have a --

7 CHAIRPERSON ANDERSON: What exhibit?  
8 He needs to know what exhibit.

9 MR. CANNON: Oh, Exhibit 3.

10 MR. ORLASKEY: Just a second.

11 (Pause.)

12 MR. ORLASKEY: It should be coming up  
13 now.

14 CHAIRPERSON ANDERSON: Are you able to  
15 find Exhibit 3, sir?

16 MR. ORLASKEY: Can you see it now?

17 CHAIRPERSON ANDERSON: No, sir, you're  
18 sharing your screen, but not Exhibit 3. Yes, go  
19 ahead. Is this what -- yes, is this Exhibit 3?  
20 What happened, Mr. Orlaskey?

21 MR. ORLASKEY: That's the wrong one,  
22 sorry. I turned it off. Let me just put it back  
23 up. What you should see is a picture from Mr.  
24 Cannon's balcony.

25 (Pause.)

1 MR. ORLASKEY: Can you see it now?

2 CHAIRPERSON ANDERSON: Yes, sir. Go  
3 ahead, Mr. Cannon.

4 MR. CANNON: Partially. Well, I put  
5 this exhibit up because it shows that I have a  
6 good view of what was going on in front of  
7 Barkada, the area approaching Barkada, and the  
8 area just to the north of Barkada on that evening  
9 from my house, and that is from my balcony at my  
10 house, okay.

11 CHAIRPERSON ANDERSON: Mr. Cannon, I  
12 just want to -- I don't need for you to have any  
13 conversation. I know there is someone sitting  
14 next to you. I do not need to have any  
15 conversations with the person sitting next to  
16 you, please.

17 MR. CANNON: Okay, I'll obey that, Mr.  
18 Chairman, all right. Even though I was on the  
19 third floor of my unit, the noise from Barkada  
20 was deafening. As best I could tell, the event  
21 featured a bingo competition. That's what it  
22 sounded like to me, using amplified voices.

23 I saw that the entire sidewalk in  
24 front of Barkada and Gallagher & Graham was  
25 covered with a crowd of greater than 60 event

1 patrons and curious passersby who had stopped to  
2 see what was going on.

3 I could also see that many pedestrians  
4 who had been walking north toward U Street on  
5 Barkada's side of 12th Street were diverting off  
6 the sidewalk into traffic on 12th Street to skirt  
7 around Barkada's streeterly occupying the curb  
8 lane in front of Barkada and Gallagher & Graham.  
9 The diverted pedestrians caused a lengthy traffic  
10 jam, with drivers honking their horns.

11 After that, I went back to my bedroom  
12 on the second floor of my unit to go to sleep as  
13 I had an early morning medical appointment the  
14 next day and needed to get to bed early.

15 The bedroom is located just above the  
16 first floor bedroom where I had earlier been  
17 watching television. Even though this bedroom is  
18 located on the side of my unit furthest from  
19 12th Street, I could still hear occasional shouts  
20 from Barkada as I struggled to get to sleep.

21 And another thing I want to testify to  
22 is my activity to prepare for the hearing, a  
23 specific activity I took.

24 One of the main activities I pursued  
25 was to determine whether there was any precedent

1 for what Barkada has applied to do, that is  
2 whether any establishment in the nearby U Street  
3 area that holds live outdoor entertainment events  
4 with amplified live musical voices, or host  
5 bingo, or trivia games, or drag shows on the  
6 sidewalk outside the establishment, when that  
7 establishment is located on a narrow two-lane  
8 neighborhood street that is overwhelmingly  
9 residential in nature and features ground or  
10 basement-level dwelling units located as close as  
11 100 feet from the establishment.

12 As indicated in my questioning of the  
13 ABRA investigator, I relied upon Mr. Butler's  
14 list of 50 Board-approved ABC-licensed  
15 establishments located within 1,200 feet of  
16 Barkada.

17 Using the list, I found that one of  
18 the -- you know, of course, as I questioned Mr.  
19 Butler, two of those don't count on the list and  
20 those are the Lincoln and then Compass Rose was  
21 counted twice, so that knocks the number down to  
22 48.

23 Next, I found that 16 of the  
24 establishments on that list -- and I could list  
25 those out, and I did list those out for Mr.



1 Butler -- do not appear to have entertainment  
2 endorsements.

3           Regarding the remaining 32  
4 establishments with entertainment endorsements, I  
5 found that 28 of them are either located on U,  
6 14th, or 9th Street NW, or directly on the corner  
7 of one of these streets, okay, and I listed those  
8 out earlier too.

9           These streets, which I call major  
10 streets, are wide, heavily trafficked, four-lane  
11 thoroughfares which are overwhelmingly populated  
12 with commercial or entertainment establishments  
13 and they feature few ground or basement-level  
14 residential dwellings.

15           The four remaining on that list were  
16 Wet Dog Tavern, American Ice Company, Compass  
17 Rose, and Lulu's Wine Garden. After reviewing  
18 the ABRA investigator's report, I interviewed a  
19 representative of each of those establishments,  
20 and each one reported that their establishment  
21 does not broadcast amplified music or voices, or  
22 hold entertainment events such as bingo, trivia  
23 games, or drag shows on the sidewalks adjacent to  
24 their establishments.

25           And that is the end of my statement,

1 and if it pleases the Board, I can provide a  
2 signed written version of this testimony.

3 CHAIRPERSON ANDERSON: Now, is this  
4 disclosed in the disclosure, sir?

5 MR. CANNON: No, it wasn't, sir,  
6 because I had trouble getting the opportunity to  
7 interview all of the persons that I did, and I  
8 was only able to accomplish that, finish that  
9 part of my investigation on Tuesday afternoon.

10 CHAIRPERSON ANDERSON: All right, Mr.  
11 Orlaskey, can you please close your screen,  
12 please, sir?

13 MR. ORLASKEY: I'm doing that now.

14 CHAIRPERSON ANDERSON: Thank you. Mr.  
15 Guglietta, do you have any questions of Mr.  
16 Cannon?

17 MR. GUGLIETTA: I do.

18 CHAIRPERSON ANDERSON: Go ahead, sir.

19 MR. GUGLIETTA: For the one event of  
20 many that you keep referencing, do you have  
21 evidence of your testimony, be it video or  
22 photos?

23 MR. CANNON: No, I don't. I have my  
24 sworn statement.

25 MR. GUGLIETTA: So, you have no

1 physical evidence of any of what you described  
2 taking place?

3 MR. CANNON: I believe a sworn  
4 statement is evidence.

5 MR. GUGLIETTA: Perfect. Did you file  
6 a complaint with ABRA, the D.C. Police, or  
7 approach the establishment itself regarding your  
8 concerns with anything that you described?

9 MR. CANNON: No, I did not, sir,  
10 because first of all, I am not a person who,  
11 usually not a person who is complaining. This is  
12 the first time I've been in a sort of tribunal  
13 like this or any sort of complaining mode, I  
14 guess you could say.

15 So, there were two reasons why I  
16 didn't report that event. One, like I said, I'm  
17 not a complainer. Two, I had a choice between  
18 trying to figure out who to call that night or to  
19 get to bed for a medical appointment, and I  
20 decided in all prudence to get to bed for my  
21 medical appointment.

22 And besides, I think highly of my  
23 neighbors, and that if something happens, you  
24 know, I give them one bite at the apple at least  
25 to hope that it doesn't happen again.

1 MR. GUGLIETTA: After the bite at the  
2 -- strike that, sorry. Have you ever filed any  
3 complaints with Amsterdam, Brooklyn, or Rebel  
4 Taco?

5 MR. CANNON: No, I haven't, sir,  
6 because I'm not a complainer.

7 MR. GUGLIETTA: Have you provided  
8 exhibits and testimony indicating that they are,  
9 indeed, a source of concern for noise late into  
10 the night, as late as 2:00 and 3:00 a.m.?

11 MR. CANNON: I don't believe that was  
12 part of my testimony.

13 MR. GUGLIETTA: That is correct. I  
14 was asking if you've ever submitted exhibits  
15 related to this case that indicate that?

16 MR. CANNON: Well, I believe that your  
17 questions have to be limited to what I testified  
18 to.

19 CHAIRPERSON ANDERSON: Mr. Cannon, if  
20 you can answer the question, answer the question.  
21 This is what, he asks a question, you answer to  
22 the best of your ability. If you're unable to  
23 answer the question, you say you can't answer the  
24 question.

25 You don't ask him a question. You

1 answer the questions to the best of your  
2 knowledge. If you don't have an answer, you say  
3 I don't have an answer, sir, okay?

4 MR. CANNON: Okay.

5 CHAIRPERSON ANDERSON: Are you able to  
6 answer the question?

7 MR. CANNON: Okay, may I hear the  
8 question again?

9 CHAIRPERSON ANDERSON: Go ahead, sir.

10 MR. GUGLIETTA: Yes, have you  
11 submitted exhibits indicating that Amsterdam,  
12 Brooklyn, and Rebel Taco have music and loud,  
13 unruly patrons from those bars extending into the  
14 hours of 2:00 and 3:00 a.m.?

15 MR. CANNON: Have I presented evidence  
16 to this effect?

17 MR. GUGLIETTA: Have you presented a  
18 statement in an exhibit as part of this case  
19 indicating those three establishments as having  
20 both loud noise and patrons into 2:00 and 3:00 in  
21 the morning?

22 MR. CANNON: Well, I'm not -- I have  
23 no idea of that, but I will say this, that  
24 Amsterdam and the other establishments you  
25 mentioned are actually on U Street.

1 MR. GUGLIETTA: And are they within --  
2 that is correct. Their addresses are on U  
3 Street. Are they pretty close to you?

4 MR. CANNON: Not as close as Barkada.

5 MR. GUGLIETTA: But still pretty  
6 close, right? I realize that's a subject  
7 question, but.

8 MR. CANNON: It's not subjective at  
9 all that they are not as close as Barkada is to  
10 me.

11 MR. GUGLIETTA: Fair, and sorry, I got  
12 a little lost in some of the confusion of the  
13 questions there. Have you filed complaints  
14 against any noise coming from any of those  
15 establishments?

16 MR. CANNON: One from, I believe it  
17 was Amsterdam, and Amsterdam is on U Street.

18 MR. GUGLIETTA: Okay, moving on, from  
19 the exhibits that you referenced, the exhibit  
20 from Investigator Butler's testimony, you had  
21 narrowed it down to a handful of establishments.  
22 One of them was Lulu's Wine Garden. Have you  
23 lived in the neighborhood since it was Vinoteca  
24 as well?

25 MR. CANNON: Yes.

1 MR. GUGLIETTA: And per Investigator  
2 Butler's findings, is it correct that they have a  
3 sidewalk caf,, and a summer garden, and an  
4 outdoor entertainment license?

5 MR. CANNON: Okay, I can tell you what  
6 I know. I know that Lulu's has a summer garden  
7 in the back. I know that Lulu's has a seating  
8 area in the front, and then there's a large wall,  
9 and then there's the sidewalk.

10 And I can tell you that I interviewed  
11 Lulu's, and Lulu's representative stated that  
12 they do not play amplified music into the seating  
13 area that faces 11th Street, and they certainly  
14 don't allow people to move beyond their wall onto  
15 the public sidewalk in front of Lulu's.

16 MR. GUGLIETTA: From your  
17 understanding of the entertainment license, they  
18 could choose to do that and play live music  
19 should they want to? They are endorsed to do  
20 that?

21 MR. CANNON: They said they play music  
22 in their back summer garden, but they do not play  
23 music on their front summer garden, but the terms  
24 of their entertainment, I did not have the  
25 opportunity to review with them the terms of

1 their entertainment endorsement.

2 MR. GUGLIETTA: Okay, so they do have  
3 an entertainment endorsement and they are on 11th  
4 Street, which is residential similar to 12th?

5 MR. CANNON: That's true, but they do  
6 not hold events on the sidewalk in front of  
7 Lulu's.

8 MR. GUGLIETTA: But they have the  
9 entertainment endorsement that includes the  
10 outdoor space --

11 MR. CANNON: I think I've answered  
12 your question.

13 CHAIRPERSON ANDERSON: Mr. Cannon --

14 MR. GUGLIETTA: I'm trying to --

15 CHAIRPERSON ANDERSON: Hold on, hold  
16 on.

17 MR. GUGLIETTA: -- ascertain if they  
18 have the legal --

19 CHAIRPERSON ANDERSON: Gentlemen.

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: Gentlemen, hold  
22 on, gentlemen, gentlemen. This is what I want to  
23 occur. Mr. Cannon, you're a witness.

24 MR. CANNON: Yes.

25 CHAIRPERSON ANDERSON: Because you



1 decided to testify, you're subject to cross  
2 examination, sir.

3 MR. CANNON: Yes.

4 CHAIRPERSON ANDERSON: So, I need you  
5 to answer the questions to the best of your  
6 ability, sir, okay?

7 MR. CANNON: Okay, great. So, would  
8 you please repeat the question?

9 MR. GUGLIETTA: Yes, from your  
10 understanding, Lulu's Wine Garden has the right,  
11 due to their entertainment endorsement, to use  
12 live and amplified music. However, from your  
13 interview, they indicated they have chosen not to  
14 do that. Is that a correct understanding?

15 MR. CANNON: No, I do not know the  
16 terms of Lulu's -- I do not know the terms of  
17 their entertainment endorsement, whether they are  
18 authorized to play amplified music in the front  
19 of their establishment or not.

20 MR. GUGLIETTA: Okay, fair enough, but  
21 their establishment is similar in terms of  
22 residential composition to Barkada Wine Bar?

23 MR. CANNON: Yes, that is true.

24 MR. GUGLIETTA: Correct, and then I  
25 suppose I would reference Investigator Butler's

1 testimony that they indeed do have an outdoor  
2 endorsement as well. However, it is your  
3 testimony that, from the interview, they choose  
4 not to use that?

5 MR. CANNON: Like I said, I don't know  
6 the terms of their endorsement, whether the  
7 endorsement allows them to play amplified music  
8 in the front of their establishment. They did  
9 mention that they are authorized to play  
10 amplified music behind their establishment in  
11 their summer garden.

12 MR. GUGLIETTA: Okay, I'll put that  
13 one to rest. No further questions.

14 CHAIRPERSON ANDERSON: Thank you, sir.  
15 Any questions from any Board members?

16 MEMBER SHORT: Yes, Mr. Chair, I'd  
17 like to ask a question.

18 CHAIRPERSON ANDERSON: Go ahead, Mr.  
19 Short.

20 MEMBER SHORT: This is to Mister --  
21 the witness's name again, please?

22 CHAIRPERSON ANDERSON: Mr. Cannon.

23 MEMBER SHORT: Mr. Cannon, yes, thank  
24 you. Mr. Cannon, how many years have you resided  
25 on 12th Street?

1 MR. CANNON: Eleven years, sir.

2 MEMBER SHORT: Eleven years. So, how  
3 many of these establishments have come since  
4 you've been there in 11 years, how many new  
5 establishments?

6 MR. CANNON: Lots of new  
7 establishments have popped up or either left on,  
8 you know, at least in the immediate area on U  
9 Street. On 12th Street, there has only been  
10 three commercial establishments here, Gallagher &  
11 Graham, which is the boutique liquor store,  
12 Menchie's, which was an ice cream parlor, no, it  
13 was a frozen yogurt parlor, and Barkada. Those  
14 are the only commercial establishments that I  
15 know of that are on 12th Street.

16 MEMBER SHORT: And in your 11 years,  
17 you've enjoyed, it sounds like from your  
18 testimony, you've enjoyed peace and quiet in your  
19 apartment or your home?

20 MR. CANNON: Yes, I have, sir, except  
21 for some noise from U Street from time to time,  
22 but nothing like what I experienced on June 29.

23 MEMBER SHORT: Okay, well, the  
24 testimony of the investigator who testified today  
25 that they can only have 12 people on that -- they

1 only can have 12 people in the front of that  
2 building.

3 MR. CANNON: Yes.

4 MEMBER SHORT: And so, if they got the  
5 entertainment endorsement, do you think they  
6 would stick to having 12 people in your opinion?

7 MR. CANNON: I don't, sir. Although  
8 I know I maybe shouldn't do this, but I think you  
9 can refer to the documents that Barkada has  
10 provided, you know, provided to this forum. On  
11 many occasions, they have had events on the  
12 outside with greater than 15 persons.

13 MEMBER SHORT: And they've done this  
14 without the endorsement of ABRA, is that correct?

15 MR. CANNON: You know, I didn't get a  
16 chance to ask that question. I don't know  
17 whether ABRA gave the endorsement or not. They  
18 didn't put on a witness who would testify, so I  
19 didn't get to cross examine them to determine if  
20 they did actually, or if they did or they didn't  
21 get ABRA approval.

22 MEMBER SHORT: Well, I'll say this,  
23 Mr. Cannon, you are an excellent witness for the  
24 community. You've stayed composed and you seem  
25 to have your facts down, and you live in the

1 neighborhood and you've been living there for 11  
2 years.

3 Thank you for your testimony. It's  
4 been quite compelling, and again, as a Board  
5 member, I'd just like to thank you for testifying  
6 today. Thank you. That's all I have, Mr. Chair.

7 MR. CANNON: I appreciate that, sir.  
8 Thank you.

9 CHAIRPERSON ANDERSON: Any other  
10 witnesses by -- I'm sorry, any other questions by  
11 any other Board members?

12 MEMBER CROCKETT: This is Ms.  
13 Crockett.

14 CHAIRPERSON ANDERSON: Go ahead, Ms.  
15 Crockett.

16 MEMBER CROCKETT: Good afternoon, Mr.  
17 Cannon.

18 MR. CANNON: Good afternoon.

19 MEMBER CROCKETT: Thank you for your  
20 testimony. I just have a very simple question.  
21 You testified to a lot of, you know, activity  
22 that you say has occurred at Barkada in the last  
23 two years.

24 Do you have any pictorial or video  
25 evidence supporting the statements that you've

1 made regarding outdoor activity, or music, or  
2 live entertainment that you say is occurring at  
3 Barkada?

4 MR. CANNON: Okay, I will answer that  
5 this way, madam. First of all, I am from a  
6 different generation, I know. I don't carry my  
7 cell phone with me everywhere and video things.  
8 My kids get on me about that. They get on me  
9 about not having my video, my phone with me, so,  
10 no, I don't.

11 No, I don't have any video graphic or  
12 photo evidence. You know, it's just basically my  
13 sworn statement and, you know, and I take my  
14 sworn statements seriously.

15 You know, I am a retired attorney and  
16 I believe -- and I take statements to any forum  
17 seriously, and as an attorney, I do not  
18 misrepresent facts to the forum.

19 MEMBER CROCKETT: Thank you. I don't  
20 have any additional questions.

21 CHAIRPERSON ANDERSON: Thank you, Ms.  
22 Crockett. Any questions by any other Board  
23 member? Mr. Guglietta, any follow-up questions  
24 to Mr. Cannon based on the questions that were  
25 asked by the Board?

1 MR. GUGLIETTA: No questions. Thank  
2 you.

3 CHAIRPERSON ANDERSON: All right,  
4 thank you. All right, Mr. Cannon, do you have  
5 another witness you wish to call?

6 MR. CANNON: I do, I do, Chairman.  
7 That witness will be Mr. Ryan Heiling.

8 CHAIRPERSON ANDERSON: Mr. Ryan --  
9 where is mister -- is mister, is he online?

10 MR. HEILING: Yes, I'm here.

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

15 MR. HEILING: I do.

16 CHAIRPERSON ANDERSON: Thank you.  
17 Once again, I'm asking all -- if you're online,  
18 the only two people whose mics should be unmuted  
19 are Mr. Cannon and Mr. Heiling. Go ahead, Mr.  
20 Cannon. Now, Mr. Cannon, now you're on mute.

21 MR. CANNON: Okay, there we are. Good  
22 afternoon.

23 CHAIRPERSON ANDERSON: I said that  
24 it's you and Mr. Heiling whose phones should be  
25 unmuted. Go ahead, sir.

1 MR. CANNON: Yes, Mr. Chairman. You  
2 put the fear of God in me, but --

3 CHAIRPERSON ANDERSON: I'm hearing  
4 background. I'm hearing background, so that's  
5 why I'm reminding folks. I'm hearing background  
6 noise. That's why I'm --

7 And these hearings, we have a court  
8 reporter, so the court reporter needs to hear and  
9 pick up everything, so that's one reason I try to  
10 do this, all right? Okay, go ahead, sir.

11 MR. CANNON: Okay, all right, good  
12 afternoon, Mr. Heiling. How are you?

13 MR. HEILING: Good, thank you.

14 MR. CANNON: Good. Now, Mr. Heiling,  
15 I understand that you have some observations  
16 about what happened on the evening of June 29,  
17 2021, is that correct?

18 CHAIRPERSON ANDERSON: Mr. Heiling,  
19 I'm sorry, Mr. Cannon, can you -- who is Mr.  
20 Heiling? Where does he live? Can you kind of  
21 lay some foundation to who he is first, sir,  
22 before you move on?

23 MR. CANNON: Oh, absolutely,  
24 absolutely.

25 CHAIRPERSON ANDERSON: Thank you, sir.



1 MR. CANNON: Okay, Mr. Heiling?

2 CHAIRPERSON ANDERSON: Have him spell  
3 his name for the record, also, too, please?

4 MR. HEILING: Oh, sure. It's Ryan, R-  
5 Y-A-N, Heiling, H-E-I-L-I-N-G.

6 MR. CANNON: Okay. Thank you. And  
7 where do you live Mr. Heiling?

8 MR. HEILING: I live at 1939 12th  
9 Street, Number -- Unit 303, which is in the same  
10 building as the Barkada Wine Bar.

11 MR. CANNON: Great. And Mr. Heiling,  
12 were you in your residence on the night of June  
13 29, 2021?

14 MR. HEILING: I was.

15 MR. CANNON: Okay. And can you, in  
16 your own words, describe what happened on that  
17 evening?

18 MR. HEILING: Yes. I have lived in  
19 that unit for just under five years and have --  
20 was home that evening. And I had a few guests in  
21 my home, about two -- three individuals on the  
22 evening of that event. And, you know, there was  
23 -- as others have testified; I won't repeat every  
24 piece of it -- there were -- there was an  
25 additional speaker, folks using, you know,

1 microphones, lots of audience interaction and  
2 sort of solicitation of audience cheers by  
3 performers. And it made it so I could not have a  
4 conversation in, you know, in my own home at a  
5 reasonable level, you know, nor could I hear, you  
6 know, my television even after turning up the  
7 volume to an uncomfortable level. And, you know,  
8 the windows of the building of my unit are  
9 double-paned, and historically I have not really  
10 experienced an issue with too much incoming noise  
11 above, you know, I would say reasonable city-  
12 levels from nearby restaurants or bars. But this  
13 made being -- that evening being in any section  
14 of my home was quite uncomfortable.

15 MR. CANNON: Thank you. Did you have  
16 a -- could you -- did you have a chance to  
17 actually look down and get -- and to see what was  
18 actually going on in the street that night?

19 MR. HEILING: I did.

20 MR. CANNON: And can you tell me what  
21 you saw?

22 MR. HEILING: Yes. There were  
23 performers on the -- or individuals that were  
24 performing, it looked like, on the sidewalk in  
25 front of -- in front of the building. There were

1 individuals who both looked to -- in my opinion,  
2 viewed -- seemed like they had been -- you know,  
3 they were there for this specific event both in  
4 the streeterly, which I know is -- that will be  
5 the last time I mention the streeterly -- both  
6 there but also out -- like outside the streeterly  
7 as well, both on the sidewalk and in the  
8 immediate section in front of the building, as  
9 well as folks who had sort of -- foot traffic  
10 that had been passing by that maybe had seen what  
11 was going on.

12 MR. CANNON: Great. And so you said  
13 that your unit is like just two stories above  
14 Barkada, is that correct? So you -- did you have  
15 a good view?

16 MR. HEILING: Yes, I did. I have a --  
17 I was also able to view it from within my home  
18 but also on the -- I have a balcony that  
19 oversees, from an angle, directly above.

20 MR. CANNON: All right. Mr. Heiling,  
21 is there anything else you want to share with us  
22 about that evening?

23 MR. HEILING: Nothing specific passed  
24 what I already mentioned.

25 MR. CANNON: Okay. Now Mr. Heiling,

1 I have a question about your being a resident in  
2 the -- in that building. I believe it's called  
3 Moderna (phonetic), is that correct?

4 MR. HEILING: Moderno.

5 DR. LEVITT: Moderno, okay. Thank  
6 you. Sorry. Okay. Yes. It sounded like a  
7 super hero or something but --

8 MR. HEILING: Or a vaccine, yes.

9 MR. CANNON: Yes. Mr. Heiling, as a  
10 resident of that building, did you ever receive  
11 any -- any notification that Barkada had plans or  
12 -- had plans to play the broadcast amplified  
13 music on the sidewalk below your unit?

14 MR. HEILING: I was not aware, no.

15 MR. CANNON: Okay.

16 CHAIRPERSON ANDERSON: Mr. Cannon?

17 MR. CANNON: Yes.

18 CHAIRPERSON ANDERSON: I hope you're  
19 not doing what I think you're doing, sir. So I'm  
20 just going to --

21 MR. CANNON: Okay.

22 (Simultaneous speaking.)

23 CHAIRPERSON ANDERSON: All right. You  
24 know, you made some representation earlier, so  
25 I'm going to take you on your representation,

1 sir. Okay. Go ahead.

2 MR. CANNON: Okay. All right. Okay.  
3 All right. I guess I would say did you receive  
4 notice of the application for the entertainment  
5 endorsement?

6 MR. HEILING: Did I -- I did not  
7 personally receive the application, no.

8 MR. CANNON: Okay. Great. I have no  
9 further questions, Mr. Heiling. I thank you for  
10 your testimony.

11 CHAIRPERSON ANDERSON: Thank you. Mr.  
12 Guglietta. Pronounce your name one more time for  
13 me, sir?

14 MR. GUGLIETTA: Certainly. Guglietta.

15 CHAIRPERSON ANDERSON: Guglietta. Go  
16 ahead, sir.

17 MR. GUGLIETTA: Thank you.

18 CHAIRPERSON ANDERSON: Mr. Heiling, do  
19 you have any questions for him?

20 MR. GUGLIETTA: I do. Thank you, Mr.  
21 Heiling. When you saw the placards posted  
22 outside of Barkada for the application -- for  
23 this application we're discussing today, did you  
24 raise any questions to the board of the condo?

25 MR. HEILING: I did not actually

1 notice the placards outside the building so I did  
2 not.

3 MR. GUGLIETTA: Bright green. Okay.  
4 Is the Board -

5 (Simultaneous speaking.)

6 MR. GUGLIETTA: Sorry, no reason. Is  
7 the board of directors elected at the condo  
8 building?

9 MR. HEILING: It -- to my knowledge,  
10 yes.

11 MR. GUGLIETTA: Okay. Great. Have  
12 you filed a formal complaint for any events  
13 referenced, or any time at all, against Barkada  
14 Wine Bar for the premise being open?

15 MR. HEILING: I have not.

16 MR. GUGLIETTA: Have you -- in regards  
17 to any of the events that are held, have you  
18 reached out to the establishment itself indicated  
19 any of your concerns?

20 MR. HEILING: I have not.

21 MR. GUGLIETTA: Would you feel  
22 comfortable doing so going forward?

23 MR. HEILING: Yes.

24 MR. GUGLIETTA: Thank you. About how  
25 many residents are in that condo building?

1 MR. HEILING: The residential units  
2 are approximately 15 give or take. I don't know  
3 how many -- I don't know how many individuals,  
4 but there is 15 -- approximately 15 units.

5 MR. GUGLIETTA: Fifteen units, great.  
6 Perfect. No further questions. Thank you.

7 CHAIRPERSON ANDERSON: Thank you. Any  
8 questions of this witness? Yes, Mr. Short.

9 MEMBER SHORT: Thank you, Mr. Chair.  
10 Witness's name again, please?

11 CHAIRPERSON ANDERSON: Mr. Heiling.

12 MEMBER SHORT: Mr. Heiling?

13 CHAIRPERSON ANDERSON: Yes.

14 MEMBER SHORT: How long have you  
15 resided and what is the address of your building?

16 CHAIRPERSON ANDERSON: I've been at  
17 the -- I'm sorry, can you repeat that? So the  
18 address and how long?

19 MEMBER SHORT: Yes. What is your  
20 address of where you reside?

21 MR. HEILING: 1939 12th Street NW,  
22 Unit 303.

23 MEMBER SHORT: Okay.

24 MR. HEILING: And I've been there for  
25 about 4-1/2 years.

1                   MEMBER SHORT: Thank you very much.  
2 Now, where is the front entrance to 1939 12th  
3 Street NW in conjunction with the licensee who is  
4 asking for this endorsement?

5                   MR. HEILING: If you are facing the  
6 building, it is the very next door on the right  
7 next to the entrance to Barkada is the entrance  
8 to the building, the residential part of the  
9 building.

10                  MEMBER SHORT: So on the night of June  
11 the 29th, 2021, when the complaints were put in  
12 that we've heard on testimony here today, had you  
13 had to leave your building in a hurry if there  
14 was an emergency, would you have been impeded?

15                  MR. HEILING: To my recollection, it  
16 would have -- the exiting the building, you mean  
17 the front door?

18                  MEMBER SHORT: That is correct, yes.

19                  MR. HEILING: Yes. The performances  
20 were -- were that whole section so yes, it would  
21 have -- I would have walked very, very close to  
22 where that was happening.

23                  MEMBER SHORT: Okay. Well, I  
24 understand from testimony today that the  
25 community is not -- has met the business halfway



1 by saying they can have entertainment on the  
2 inside where they have 49 seats, but they don't  
3 want it on the outside where they have 12 seats.  
4 Why was that decision made, or were you a part of  
5 that decision-making?

6 MR. HEILING: I was not a part of that  
7 myself, no.

8 MEMBER SHORT: Are you opposed to them  
9 having entertainment on the inside?

10 MR. HEILING: Personally, no, I am not  
11 opposed to that at all.

12 MEMBER SHORT: Are you opposed to them  
13 having it on the outside and why?

14 MR. HEILING: Yes. I personally am  
15 opposed to it given the lack of sort of natural  
16 infrastructure that exists, the fact that it's on  
17 a public sidewalk, with the plan sort of  
18 presented for noise mitigation, I, in sum, could  
19 argue that it would project the noise even more  
20 directly on the building than it currently is.  
21 And the -- you know, as someone who has lived not  
22 in this exact unit but in this -- within a three-  
23 block radius for the last, you know, almost 12  
24 years, you know, I want to continue living in  
25 this area. And I think the -- owning a home and

1 having a right to some degree of peace and quiet  
2 is reasonable above -- and this would go beyond  
3 the traditional restaurant-dining type  
4 establishment.

5 That is the whole reason I wanted to  
6 live in this neighborhood to begin with, and this  
7 is just -- you know, the U Street business that  
8 have been referenced this whole time, to -- in my  
9 view, all have very different features of their  
10 entertainment or their location that are  
11 fundamentally difficulty from what we're dealing  
12 with here. And it would be just -- it would add  
13 a element of discomfort to the residential  
14 lifestyle that most of us currently enjoy.

15 MEMBER SHORT: Okay. So apparently,  
16 you're not opposed to businesses like this one in  
17 your building?

18 MR. HEILING: No -- no.

19 MEMBER SHORT: You're not opposed?

20 MR. HEILING: No. Not at all.

21 MEMBER SHORT: But you are opposed to  
22 them having a exterior entertainment endorsement?

23 MR. HEILING: That's correct.

24 MEMBER SHORT: Thank you very much.  
25 I thank you for your testimony. Mr. Chair,

1 that's all I have at this time.

2 CHAIRPERSON ANDERSON: Thank you. Any  
3 other questions by other witnesses? I'm sorry.  
4 Any other questions by any other Board Members?  
5 All right. Mr. Guglietta, do you have any  
6 questions of the witness based on the questions  
7 that were asked by the Board Members?

8 MR. GUGLIETTA: Yes, I do.

9 CHAIRPERSON ANDERSON: Go ahead, sir.

10 MR. GUGLIETTA: Mr. Heiling, when you  
11 referenced the sound mitigation strategies, were  
12 you aware of the applicant's proposal to bring in  
13 a sound engineer in coordination with you to find  
14 ways to mitigate that?

15 MR. HEILING: I am not aware of that,  
16 no.

17 MR. GUGLIETTA: I'm sorry to hear  
18 that. We were told that you and the rest of the  
19 protestors were through communication with  
20 Commissioner Orlaskey.

21 MR. HEILING: Was there -- I was not  
22 aware. Was there a specific like offer that was  
23 scheduled, or is that --

24 CHAIRPERSON ANDERSON: All right.  
25 This is --

1 MR. GUGLIETTA: It's a one way.

2 Sorry, Mr. Heiling, I can't --

3 CHAIRPERSON ANDERSON: Right. Please  
4 ask the question. Please answer. This is not a  
5 communication. Okay. Go ahead.

6 MR. GUGLIETTA: Okay. Yes. So I  
7 guess given that -- the confusion there, to  
8 confirm, you are not aware that Commissioner  
9 Orlaskey was in receipt of a proposal from the  
10 applicants to bring in a sound engineer to  
11 address the concerns of the protestors, of which  
12 you are one?

13 MR. HEILING: I was aware that that  
14 had been discussed. I do not -- I'm not aware of  
15 the details.

16 MR. GUGLIETTA: Okay. No further  
17 questions.

18 CHAIRPERSON ANDERSON: Thank you. Mr.  
19 Cannon, any follow-up questions based on the  
20 questions based on the questions that were asked  
21 by the Board?

22 MR. CANNON: No. I have no questions  
23 at this time, Mr. Chairman.

24 CHAIRPERSON ANDERSON: Thank you. Mr.  
25 Heiling, thank you very much for your testimony.

1 Mr. Cannon, do you have another witness?

2 MR. CANNON: Yes, I do, Mr. Chairman.  
3 The next witness I'd like to call is Mr. Alan  
4 Cohan.

5 CHAIRPERSON ANDERSON: Mr. Cohan.  
6 Okay. All right. Mr. Cohan, can you raise your  
7 right hand?

8 MR. COHAN: Yes.

9 CHAIRPERSON ANDERSON: Do you swear or  
10 --

11 MR. COHAN: Can you see me?

12 CHAIRPERSON ANDERSON: Do you swear or  
13 affirm to tell the truth and nothing but the  
14 truth?

15 MR. COHAN: I do.

16 CHAIRPERSON ANDERSON: Okay. Your  
17 witness, sir.

18 MR. CANNON: Good afternoon, Mr.  
19 Cohan. I'd like to start with a few  
20 preliminaries of who you. Mr. Cohan, can you  
21 tell us where you live?

22 MR. COHAN: Yes. I live at 1920 12th  
23 Street exactly next door to you, Mr. Cannon.

24 MR. CANNON: Yes. Okay. And Mr.  
25 Cohan, how many years have you lived there?

1 MR. COHAN: About eight.

2 MR. CANNON: Okay. Very good. And  
3 Mr. Cohan, can you give us basically in your own  
4 words, you know, your impressions of Barkada's  
5 application or an endorsement for outdoor  
6 entertainment and perhaps the impacts that might  
7 have on your life?

8 MR. COHAN: Well, I think one of the  
9 things that's important for individuals who don't  
10 know our neighborhood as well is that the way our  
11 units are built, the upstairs units, the bedrooms  
12 face west, so they actually face vacant lots and  
13 then 13th Street. The downstairs units face 12th  
14 Street so that our bedroom, our master bedroom is  
15 actually functionally on the sidewalk at 12th --  
16 the 1900 block of 12th Street.

17 So even in the case of, as you  
18 describe, being on the back of your unit and  
19 still being able to hear noise on the front of  
20 our unit, it's not unusual for people just  
21 walking down the street talking at normal volume  
22 for us to be able to be aware of that and to hear  
23 it. Anything louder than that, whether it's loud  
24 music coming from a car or something to that  
25 effect is -- is a bit overwhelming so that

1 anything that would add -- I mean acknowledge  
2 we're in the middle of an entertainment zone and  
3 we understand that and we knew that when we  
4 bought our unit, but we are sort of faced at this  
5 point with compounding the issue by having  
6 amplified music directly blaring into our bedroom  
7 window.

8 MR. CANNON: Okay. And does it  
9 concern you that this type of entertainment can  
10 take place pretty much every weekday and  
11 afternoon and evening hour?

12 MR. COHAN: That -- yes, that concerns  
13 me. It also concerns me -- I'll give you a  
14 little history which is sort of in addition to  
15 all of the noise abatement issues that could or  
16 could not occur and that is the blocking of the  
17 sidewalk. Both my wife and myself spent our  
18 early years working in the area of developmental  
19 disabilities, and we worked with many people who  
20 were wheelchair bound or had walkers or crutches  
21 or simply had difficulty with mobility.

22 And my concern when I heard all this,  
23 beyond the noise, was how it was going to  
24 obstruct the sidewalk and the transit north and  
25 south on the east side of 12th Street. And as

1 you, I believe, mentioned earlier, with, you  
2 know, with the building of the streetery and the  
3 fact that we've had construction going on on 12th  
4 Street at U for quite a while, the transportation  
5 of cars going up and down that block is very  
6 difficult as it stands right now. Even if  
7 there's an Uber or a Lyft that drops somebody off  
8 in the middle of 12th Street, it often becomes  
9 difficult for cars to get by on either side, and  
10 they have to wait.

11 So our concern was two-fold; one, that  
12 the traffic that would be slowed as it went by  
13 Barkada and people looking for parking spaces in  
14 the area in order to try to participate in the  
15 events was going to make that really difficult,  
16 which meant people would have to walk in the  
17 street oftentimes to potentially get around the  
18 crowd, which we didn't want to see.

19 But also, I checked with the District  
20 and I went to the Department of Disabilities  
21 where I was informed that -- I talked to a  
22 gentleman there by the name of Anwar Mahmood who  
23 was from Disability Rights, and he -- he pointed  
24 out to us that there must be, under federal law -  
25 - and that law is agreed upon by the District --



1 that there must be at least a 10-foot right of  
2 way for people, particularly people in  
3 wheelchairs or walkers to go north and south on  
4 the east side of the street.

5 And if you look at any of the pictures  
6 or you go by the establishment -- and I'm not  
7 going to slow the process down by calling up a  
8 bunch of photos unless the Board wants me to --  
9 but on the west side, if you're look -- if you're  
10 walking north and south on the east side on the  
11 sidewalk, they have a bicycle rack -- three  
12 bicycle racks that take up from the street just  
13 in front of their streeterly and it takes a good  
14 couple of -- two to three feet on that side.

15 On the left side -- I'm sorry -- on  
16 the east side of the sidewalk, they have their  
17 outdoor tables, and the cover that has those  
18 tables has legs that are planted on the sidewalk.  
19 So the space between their outdoor tables and the  
20 bike racks and, in fact, the streeterly make a 10-  
21 foot right of way very, very difficult as it  
22 stands right now. But if you had a bunch of  
23 people standing there, it would make transit up  
24 and down that street very difficult.

25 CHAIRPERSON ANDERSON: Mr. Cannon, I

1 just want to remind you the purpose of this  
2 hearing is whether or not we should grant an  
3 entertainment endorsement on the sidewalk cafe.  
4 We are not -- whether or not it's handicapped  
5 accessible or whether or not it interferes with  
6 the streetery, that's not for this hearing. The  
7 only purpose of this hearing is whether or not  
8 it's appropriate for the ABC Board to grant a  
9 substantial change for them to have entertainment  
10 on the sidewalk caf,; okay?

11 MR. CANNON: Okay. Understood, Mr.  
12 Chairman.

13 MR. COHAN: I would like to add  
14 outside of that particular area, since we don't  
15 want to -- we don't --

16 CHAIRPERSON ANDERSON: Mr. Heiling  
17 (sic), there's no question pending by Mr. -- I  
18 thought you were done --

19 MR. COHAN: Okay.

20 CHAIRPERSON ANDERSON: I didn't  
21 interrupt you when you were testifying. I was  
22 just reminding the representative what the nature  
23 of the testimony that's relevant to this hearing.  
24 So Mr. Cannon, if you have another question,  
25 please ask the question, sir.

1 MR. CANNON: Yes, Mr. Chairman. Back  
2 to Mr. Cohan. Mr. Cohan, do you have anything  
3 else you'd like to share with the Board today?

4 MR. COHAN: Well, yes, just in terms  
5 of some of the questions that were raised. I did  
6 actually go across the street and talk to the  
7 people at Barkada the first time I saw the signs  
8 and that they were appealing for this. And no.  
9 Did we have pictures of crowds and did we have  
10 recordings of the noise? No, because frankly, we  
11 -- the neighbors -- and this may be our own fault  
12 -- but the neighbors did not know what the  
13 process was for planning a dispute in terms of  
14 going to the city and saying there was too much  
15 noise. We found out about the actual ability to  
16 make those complaints in the process of putting  
17 together this objection to the license.

18 MR. CANNON: Okay. Mr. Cohan, do you  
19 have any other remarks for the Board?

20 MR. COHAN: No. I would --  
21 (Simultaneous speaking.)

22 CHAIRPERSON ANDERSON: Hold on one  
23 minute. Hold on one minute.

24 MR. COHAN: -- I guess the only --

25 CHAIRPERSON ANDERSON: Mr. Heiling

1 (sic), hold on.

2 MR. COHAN: Okay.

3 CHAIRPERSON ANDERSON: Hold on. Mr.  
4 Cannon, I can't have you go on with one open-  
5 ended commentary, but this is the third one, sir.  
6 I need you to ask him a pointed question. So if  
7 you have a question -- but I can't -- I'm not  
8 going to have you do -- this is the third do you  
9 have anything else you want to add. If you have  
10 a specific question, sir, ask him a question. He  
11 can answer it. But we can't have -- it's not an  
12 open forum where he can just -- and not that --  
13 Mr. Heiling (sic), not that I don't appreciate  
14 what you're -- what you have -- your views, sir.  
15 Just I want to --

16 MR. COHAN: No. I understand.

17 CHAIRPERSON ANDERSON: -- make sure  
18 that questions are asked, pointed questions are  
19 asked for him to respond to, sir.

20 MR. CANNON: Okay. Thank you, Mr.  
21 Chairman. With that, I have no further questions  
22 for Mr. Cohan.

23 CHAIRPERSON ANDERSON: I wasn't trying  
24 to cut you off. I just want to make sure that  
25 you have pointed questions and we don't always

1 have open-ended questions, sir. That's all I was  
2 trying to do. I wasn't trying to cut off your  
3 questions if you had questions to ask the  
4 witness; okay? So you have no other questions to  
5 ask?

6 MR. CANNON: That's fine, Mr.  
7 Chairman. No, I don't.

8 CHAIRPERSON ANDERSON: Okay. Thank  
9 you, sir. All right. So Mr. Guglietta, do you  
10 have any questions you want to ask Mr. Heiling?  
11 Mr. Heiling --

12 MR. GUGLIETTA: Thank you.

13 CHAIRPERSON ANDERSON: -- don't step  
14 away, sir. You're not done.

15 MR. COHAN: Oh, okay.

16 CHAIRPERSON ANDERSON: He might have  
17 questions and the Board might also have questions  
18 for you, sir. So you're still in the hot seat,  
19 sir. Okay. Go ahead, sir.

20 MR. GUGLIETTA: Thank you. Thank you,  
21 Mr. Heiling (sic). Did you contact ABRA or the  
22 police with any sound complaints coming from  
23 Barkada Wine Bar?

24 MR. COHAN: No. I did not and I will  
25 give you the same explanation I just gave, and

1 that is we -- none of us in the neighborhood --  
2 and I know this from our meetings -- knew what  
3 the absolute process was for making complaints.

4 MR. GUGLIETTA: Have -- have you ever  
5 submitted any complaints to ABRA or the police  
6 regarding establishments along U Street whose  
7 noise might affect you as well?

8 MR. COHAN: No. I have not, but I  
9 have met with the managers of both Rebel Taco and  
10 Brooklyn (phonetic) over not only noise but  
11 garbage that piled up because of where their  
12 trash things are. And they were very amenable to  
13 correcting those problems.

14 MR. GUGLIETTA: Thank you. Were you  
15 aware of negotiation proposals to limit the days  
16 of the week for which this entertainment  
17 endorsement would be -- would be applicable?

18 MR. COHAN: I -- yes. I mean I knew  
19 what you were requesting and I saw the, you know,  
20 the placards so I was able to read that  
21 information.

22 MR. GUGLIETTA: And so were you aware  
23 of communication where we would be willing to  
24 discuss a change to those during the settlement  
25 agreement?

1 MR. COHAN: Yes.

2 MR. GUGLIETTA: Okay. I only ask  
3 because you mentioned that you were concerned  
4 about it being all seven days, and so it sounded  
5 like there might be a way forward with fewer than  
6 seven?

7 MR. COHAN: Well, no. That's not the  
8 -- the issue for me is --

9 MR. GUGLIETTA: I didn't really --

10 MR. COHAN: -- the fact that you --

11 MR. GUGLIETTA: -- ask a question. I  
12 apologize.

13 MR. COHAN: -- they were attempting --  
14 that you were attempting to use amplified music,  
15 and that seems to be -- makes it impossible to  
16 have a sound quality that would make sense for  
17 where we live.

18 MR. GUGLIETTA: So -- okay. So there  
19 -- there were negotiations. And final -- final  
20 point, are you aware that this endorsement has no  
21 change to the structure or seating that had been  
22 approved by ABRA or DOT nor the bike racks that  
23 you referenced as well?

24 MR. COHAN: No. I didn't know that  
25 but I do know that you all -- because I was aware

1 and I think everybody else on this call except  
2 perhaps the one member of our group who wasn't  
3 aware -- I was aware that you wanted to get a  
4 sound engineer, and I was aware that you reached  
5 out to Dan Orlaskey to offer that up. I'm also  
6 aware that you wanted these sound engineers to  
7 come into our homes, and we also were aware that  
8 --

9 MR. GUGLIETTA: That wasn't -- that  
10 wasn't my question.

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: He's answering  
13 the question. Go ahead, sir.

14 MR. COHAN: The only way that that  
15 would make sense is if we could do it on a summer  
16 day, and I'm not going to let strangers in my  
17 house just so that I can be able to sleep at  
18 night.

19 MR. GUGLIETTA: I'll repeat my  
20 question. Are you aware that this endorsement  
21 has no change to the structure or seating or bike  
22 racks?

23 MR. COHAN: No. I'm not aware of it.

24 MR. GUGLIETTA: Okay.

25 MR. COHAN: But that would seem to



1 eliminate your ability to mitigate sound if  
2 there's not going to be any change.

3 MR. GUGLIETTA: I'll leave it there.

4 No further questions.

5 CHAIRPERSON ANDERSON: All right. Any  
6 questions by the Board Members?

7 MEMBER SHORT: Yes, Mr. Chair.

8 CHAIRPERSON ANDERSON: Go ahead, Mr.  
9 Short.

10 MEMBER SHORT: Good afternoon, Mr.  
11 Cohan.

12 MR. COHAN: Good morning -- afternoon.

13 MEMBER SHORT: Okay. Good afternoon.  
14 Okay. Mr. Cohan, like yourself, I'm quite  
15 concerned about public safety and right of way  
16 for people to use our sidewalks in the city. To  
17 some in the city, I'm an expert on public safety,  
18 and I would just simply say this to you. It's  
19 people like you that make our city safer.

20 My question to you is, were you aware  
21 that the community made a deal where they didn't  
22 mind them having the endorsement on the inside.  
23 They met them halfway. They just didn't want  
24 them to have it on the outside. Were you aware  
25 of that?

1 MR. COHAN: Yes. I was part of that  
2 that met to make that as an offer through Dan  
3 Orlaskey to Barkada.

4 MEMBER SHORT: So again, you don't  
5 have any problem with the business or the  
6 business being that close to your home and your  
7 bedroom? You don't have a problem with that?  
8 The problem you have is outside noise and them  
9 having a -- is that correct -- having an  
10 endorsement --

11 MR. COHAN: That's absolutely --  
12 that's 100 percent correct.

13 MEMBER SHORT: And even one way or the  
14 other, will you hold that when it comes to public  
15 safety in your building?

16 MR. COHAN: I'm sorry, I didn't  
17 understand the question.

18 MEMBER SHORT: My question is, will  
19 you, because you're so insistent about public  
20 safety and the right of way on the sidewalk, will  
21 you hold their feet to the fire regarding that  
22 explanation that you gave and the commitments you  
23 made about public safety and the right of way in  
24 front of your apartment building and you getting  
25 out of your bedroom in the middle of the night?

1                   MR. COHAN: I think the only thing I  
2 can tell you is any time it snows, I shovel my  
3 sidewalk. You know, I mean yes, I'm absolutely  
4 tied into having public access and a right of way  
5 that's safe so people don't have to walk in the  
6 street.

7                   MEMBER SHORT: Thank you very much for  
8 your testimony and stay strong, sir. Thank you.

9                   CHAIRPERSON ANDERSON: Thank you. Any  
10 other questions by any other Board Members? Mr.  
11 Guglietta, do you have any other questions based  
12 on the questions that were asked by the Board?

13                  MR. GUGLIETTA: You can call me Nick  
14 if that works for you.

15                  CHAIRPERSON ANDERSON: No, I -- you  
16 know, I'm reading it phonetically on my pad here.  
17 That's why you see me looking down, because I'm  
18 trying not to butcher your name, sir. I  
19 apologize.

20                  MR. GUGLIETTA: That's fine.

21                  CHAIRPERSON ANDERSON: I pronounce it  
22 phonetically, write it down based on -- all  
23 right, go ahead, sir.

24                  MR. GUGLIETTA: It's quite all right.  
25 I do not have any further questions.

1 CHAIRPERSON ANDERSON: All right.

2 MR. GUGLIETTA: Thank you.

3 CHAIRPERSON ANDERSON: Mr. Cannon, do  
4 you have any redirect to ask -- this is not a new  
5 area but based on testimony -- based on the  
6 questions that were asked by the Board, do you  
7 have any redirect of Mr. Cohan?

8 MR. CANNON: I have no redirect,  
9 Chairman.

10 CHAIRPERSON ANDERSON: All right.  
11 Thank you. Mr. Cohan, thank you very much for  
12 your testimony today.

13 MR. COHAN: Thank you.

14 CHAIRPERSON ANDERSON: Mr. -- thank  
15 you -- Mr. Cannon, do you have another witness?

16 MR. CANNON: Yes. I do have another  
17 witness. It will be ANC Commissioner Orlaskey.

18 CHAIRPERSON ANDERSON: All right. How  
19 many other witnesses do you have, sir, after Mr.  
20 Orlaskey?

21 MR. CANNON: I have one other witness  
22 and I'm negotiating on whether we want to present  
23 that witness, cause it may be additive.

24 CHAIRPERSON ANDERSON: All right.  
25 Fine. Thank you. Mr. Orlaskey, can you raise

1 your right hand, please? Do you swear or affirm  
2 to tell the truth and nothing but the truth?

3 MR. ORLASKEY: I do.

4 CHAIRPERSON ANDERSON: All right.  
5 Thank you. And so what I'd like you to do  
6 because you're speaker is not -- the quality is  
7 not very good, so I need you to do the best you  
8 can so we can hear you, sir; okay?

9 MR. ORLASKEY: Is it better if I do  
10 this?

11 CHAIRPERSON ANDERSON: Yes. That's  
12 actually better, yes.

13 MR. ORLASKEY: I'll try to direct my  
14 comments like this.

15 CHAIRPERSON ANDERSON: Okay.

16 MR. CANNON: Are we ready for Mr.  
17 Orlaskey's testimony?

18 CHAIRPERSON ANDERSON: Whenever you're  
19 ready, sir, yes.

20 MR. CANNON: Okay. Great, Mr.  
21 Chairman. Well, first of all, I think -- I think  
22 you're probably known to the Board as being the  
23 ANC Commissioner who is responsible for -- for  
24 Barkada; is that correct?

25 MR. ORLASKEY: Yes. I've came before

1 the Board on several other occasions.

2 MR. CANNON: Yes. Mr. Orlaskey, I'd  
3 like to ask a few questions about the -- of the  
4 letter of support from --

5 CHAIRPERSON ANDERSON: I'm sorry. Mr.  
6 Cannon, just give me one second, because each of  
7 these cases are individuals, so just have him  
8 tell us on this record, to have a clean record,  
9 exactly who he is, sir, please.

10 MR. CANNON: Okay. And who are you,  
11 Mr. Orlaskey?

12 MR. ORLASKEY: I am ANC Commissioner  
13 Dan Orlaskey, 11th Street, 2021 11th Street NW.

14 MR. ORLASKEY: Great. And Mr.  
15 Orlaskey, would -- could you tell us in your own  
16 words what your concerns are regarding Barkada's  
17 application for outdoor entertainment?

18 MR. ORLASKEY: Sure. Of course, I  
19 will try not to repeat what has already been  
20 stated by the sort of more direct neighbors and  
21 residents. I do think that it bears mentioning  
22 that allowing for this type of license that would  
23 allow for outdoor entertainment in -- in the  
24 street - or I'm sorry, in a sidewalk cafe that  
25 is at least partially a public right of way would

1 open a door that would allow other businesses to  
2 want to do the same thing. And I think that  
3 would have a very detrimental effect on the  
4 neighborhood as a whole. I think that's just a  
5 pretty bad precedent to set. I put those things  
6 in my opening --

7 CHAIRPERSON ANDERSON: Hold on, Mr.  
8 Orlaskey. I cannot hear you --

9 MR. ORLASKEY: I'm sorry.

10 CHAIRPERSON ANDERSON: -- because --  
11 and hold on, sir. This is not your fault, sir.  
12 I'm asking once again -- I'm reminding everyone  
13 to please mute their phones. Only Mr. Orlaskey  
14 and Mr. Cannon's phone lines should be open. Go  
15 ahead, sir. I apologize, sir.

16 FEMALE SPEAKER: Do you --

17 CHAIRPERSON ANDERSON: -- so I need  
18 Mr. Cohan also to -- all right, fine. So only  
19 Mr. -- yes, only Mr. Cohan -- Mr. Cannon and Mr.  
20 Orlaskey, they're the only people whose line  
21 needs to be unmuted. Go ahead, sir. I  
22 apologize.

23 MR. ORLASKEY: Okay. I'm not sure  
24 what everybody got, so I'll just try to sum up  
25 briefly what my comments were. I am concerned,

1 as a representative for a mixed use neighborhood,  
2 that allowing this sort of endorsement for  
3 outside entertainment on a sidewalk cafe that is  
4 at least partially a public right of way, what  
5 kind of effect that would have going forward. It  
6 is very conceivable that if it is granted, it  
7 will be taken advantage of by other businesses  
8 that want to do the same thing. And it becomes  
9 very hard to not allow that going forward. If  
10 you've done it once, you kind of have to keep  
11 doing it over and over again. That's the nature  
12 of a precedent, which is why we're very careful  
13 about these things, which is why that, you know,  
14 to the best of my knowledge of this entire  
15 neighborhood, there's no other establishment that  
16 does that, that wants -- or even want to do this.

17 The applicant mentioned Lulu. Lulu is  
18 on a similar block, but Lulu has a very different  
19 structural setup. They do have a small patio  
20 area which I suppose is a sidewalk cafe, but it  
21 is actually separated from the street, from the  
22 public right of way. They also, as Mr. Cannon  
23 mentioned, they don't play any live music and  
24 never have. When they -- even when they were  
25 Vinoteca they never did. This probably means



1 they've kind of stayed off my radar because no  
2 one has ever had a reason to ask about this, but  
3 it is something I've been looking to do in the  
4 future so I appreciate the applicant bringing  
5 that to my attention. But as far as -- other  
6 than that, there's not another establishment that  
7 does anything like this.

8           There are plenty of establishments  
9 that summer gardens that have entertainment  
10 endorsements for those. And by a summer garden,  
11 I mean the enclosed space within the boundaries  
12 of their business that do a lot of that. But in  
13 all of those cases, mitigation measures have been  
14 required to allow them to go forward with it.  
15 The best example I can think of is Wet Dog Tavern  
16 on B Street which actually does not border any  
17 residential or face any residential properties  
18 but does have a building behind it. And what  
19 they had to do was to build a large wooden awning  
20 -- is the best way to describe it -- that extends  
21 over their summer garden that would deflect down  
22 into the street. Across from them is a school.

23           You know, that being said, I would  
24 also like to address some of those things that  
25 were mentioned about our negotiations in the

1 early stages of this proceeding. The applicants  
2 rightly mentioned that we did have conversations  
3 about having sound engineers and what was  
4 originally referred to as a test event. But I  
5 think this is lacking on context. I offered  
6 those as methods that the applicant could use to  
7 find some kind of data or evidence that could  
8 help to inform his process going forward. And it  
9 was never meant to be a dispositive thing. It  
10 was meant to just add information to this process  
11 so people would be aware.

12           There were requirements that were --  
13 that were asked for by the group of five and by  
14 me that we know who the engineer was going to be  
15 that they were going to hire and what the plan  
16 was for their test before we would agree to it.  
17 We never actually got a concrete plan. The last  
18 I had actually heard --, and this is in  
19 Applicant's exhibit, I believe it's Exhibit 3 or  
20 4, part 3 -- that they no longer wanted to hire a  
21 sound engineer. And this test event, which in my  
22 mind was a orchestrated, you know, test process  
23 done by a professional sound engineer, became a  
24 test bingo night or test trivia night -- I'm  
25 sorry -- which was not something that we'd ever

1 agree to and not something that would be  
2 agreeable.

3 So I believe that that was a bit  
4 misleading and these -- all of these things were  
5 communicated to other Protestants. Maybe not  
6 every single one of them heard about it, but a  
7 forum of that group. And, therefore, I was very  
8 confident that I was representing the will of  
9 that group. And I don't think any testimony  
10 that's been heard here today would contradict  
11 that.

12 CHAIRPERSON ANDERSON: Any other  
13 questions, sir? You're on mute, Mr. Cannon.  
14 Remember I told you you didn't have to mute  
15 yourself.

16 MR. CANNON: Again, you frighten me,  
17 Mr. Chairman.

18 CHAIRPERSON ANDERSON: I'm -- that's  
19 one of the reasons why I don't mute myself  
20 because since I always talk and then I will start  
21 talking and realize that I'm muted. So I don't  
22 mute myself. But we do have feedback from --  
23 there -- we do have feedback from other lines.  
24 That's why I always remind folks to mute  
25 themselves, because we're getting feedback, and I

1 want to make sure that the court reporter can  
2 clearly hear. So that's why I always make those  
3 announcements. Okay. Go ahead, sir.

4 MR. CANNON: Oh, well, thank you, Mr.  
5 Chairman. I don't have any more questions.

6 CHAIRPERSON ANDERSON: Thank you. Any  
7 questions, sir -- Mr. Guglietta -- Mr. Nick?

8 MR. GUGLIETTA: Yes.

9 CHAIRPERSON ANDERSON: That's better,  
10 yes.

11 MR. GUGLIETTA: Thank you.  
12 Commissioner Orlaskey, in the discussions with  
13 the sound engineers, did your representative  
14 group --

15 CHAIRPERSON ANDERSON: Well, remember  
16 -- I mean I try to get into -- I think he was  
17 just trying to provide some context to that  
18 conversation. And that -- I don't want us to be  
19 discussing settlement terms per se.

20 MR. GUGLIETTA: Okay. Fair.

21 CHAIRPERSON ANDERSON: I think -- my  
22 impression of his testimony was just that he was  
23 trying to provide some context to say yes, there  
24 were conversations and conversations were held,  
25 not -- maybe not everybody heard all the

1 conversations, but he -- it was like, I'm  
2 representing the interest of the community as a  
3 whole. So if you -- you can ask questions but  
4 this is not -- I don't want to get into the  
5 substance of the conversations that were held,  
6 because that --

7 MR. GUGLIETTA: Understood --  
8 understood.

9 CHAIRPERSON ANDERSON: Okay.

10 MR. GUGLIETTA: With that guidance, no  
11 questions for Commissioner Orlaskey.

12 CHAIRPERSON ANDERSON: Okay. Thank  
13 you. And again, I'm not trying to not let you  
14 ask questions. I -- questions can be asked, but  
15 I do not want us to discuss settlement terms at  
16 the hearing, because those are all confidential.  
17 But I took what was stated was that he was just  
18 trying to give some context to state that there  
19 were conversations held and that's why I did --  
20 he didn't speak about the terms. He was just  
21 saying generally conversations were held and this  
22 is what was going on but not the substance per  
23 se. Okay. All right. Any questions by any  
24 Board Members?

25 MEMBER SHORT: Mr. Short has a

1 question.

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

4 MEMBER SHORT: Yes. Good evening, Mr.  
5 Orlaskey.

6 MR. ORLASKEY: Yes.

7 MEMBER SHORT: Okay. How long have  
8 you been an ANC Commissioner?

9 MR. ORLASKEY: This is my second term.  
10 I'm going on about 3-1/2 years.

11 MEMBER SHORT: Okay. And Mr.  
12 Orlaskey, just a question I want to make clear.  
13 What is your address, Mr. Orlaskey, if you don't  
14 mind giving it out.

15 MR. ORLASKEY: It is on the record.  
16 2021 11th.

17 MEMBER SHORT: Okay. All right.  
18 You're just above U Street. Okay. Mr. Orlaskey,  
19 again, being a good ANC Commissioner, you want  
20 business in your community, you want people to  
21 have places they can go out and have fun and  
22 enjoy themselves. So you're not against  
23 businesses?

24 MR. ORLASKEY: No.

25 MEMBER SHORT: And you're not against

1 entertainment endorsements?

2 MR. ORLASKEY: No. As long as they  
3 don't disrupt their neighbors then no, I don't.  
4 I'm -

5 MEMBER SHORT: It sounds like the  
6 community had a deal where the community was  
7 meeting the business halfway saying we won't  
8 fight you to have the entertainment inside, we  
9 just don't want it outside. Is that the  
10 community's major concern?

11 MR. ORLASKEY: That was the offer that  
12 we discussed.

13 MEMBER SHORT: So again, Mr. Orlaskey,  
14 I thank you for your time this evening and thank  
15 you for your testimony. That's all I have, Mr.  
16 Chairman. Thank you.

17 CHAIRPERSON ANDERSON: Any other  
18 questions by any other Board Members? All right.  
19 Thank you very much, Mr. Orlaskey, for your  
20 testimony. Mr. Cannon, do you have another  
21 witness, sir?

22 MR. CANNON: Mr. Chairman, no. We  
23 have no more witnesses.

24 CHAIRPERSON ANDERSON: All right. So  
25 do you rest?

1 MR. CANNON: Yes, we do.

2 CHAIRPERSON ANDERSON: Now it's time  
3 for closing. We can take a break or we can go  
4 straight through closing. So you tell me-- we  
5 can take another 10-minute break if the parties  
6 want, and then we'll do closing. Or are the  
7 parties ready to do closing?

8 MR. CANNON: This is Mr. Cannon,  
9 Chairman. I'm ready to go forward with closing.

10 CHAIRPERSON ANDERSON: All right.  
11 Okay. So Mr. Guglietta, let's do closing, sir.  
12 I need to tell us for closing, I need -- I'm  
13 sorry, hold on a minute. Let me make sure of  
14 that. Yes. I need just for you to tell us what  
15 it is that you want the Board to do. That's what  
16 I want both sides to -- in their closing and  
17 remind me, Mr. Orlaskey, that I'm going to give  
18 you an opportunity, if you so desire, to make  
19 sure that I don't jump over you; okay?

20 MR. ORLASKEY: I will, thank you.

21 CHAIRPERSON ANDERSON: All right. So  
22 I need each side to specifically tell the Board  
23 what it is that you want the Board to do. Okay.  
24 Go ahead, sir.

25 MR. GUGLIETTA: This is Nick Guglietta



1 with the applicant. We are looking for the Board  
2 to approve both the indoor and the patio --  
3 excuse me -- sidewalk cafe portion of the  
4 entertainment license as there is existing lie  
5 entertainment endorsements in similar blocks, and  
6 the enclosed request includes the very timely and  
7 in accordance with other regulations NPM ending  
8 of such entertainment. That's all. Thank you.

9 CHAIRPERSON ANDERSON: Okay. That was  
10 short and sweet. You were done before I took  
11 notes.

12 MR. GUGLIETTA: It's getting late, Mr.  
13 Chairman.

14 CHAIRPERSON ANDERSON: Thank you. Go  
15 ahead, Mr. Cannon. And I'll have the NAC go  
16 last. Go ahead, Mr. Cannon.

17 MR. CANNON: Thank you, Mr. Chairman.  
18 I think that it is the considered desire of this  
19 community of Protestants that Barkada's  
20 application for outdoor entertainment and the  
21 types of activities that they'd like to present  
22 outdoors should be denied, I believe just for all  
23 the reasons we mentioned before, that it's an  
24 unprecedented intrusion into a very, very  
25 overwhelmingly residential neighborhood that has

1 enjoyed peace and quiet for years in our homes  
2 and that, you know, we're not against business.

3           Some of our witnesses have stated, you  
4 know, outright that they -- we like the idea of  
5 having a restaurant in our neighborhood, but we  
6 find that having outdoor entertainment here is  
7 just one step too far and like I said, again,  
8 unprecedented and unwarranted. So we would allow  
9 the indoor entertainment as long as it meets the  
10 sound levels approved by the District Government  
11 but certainly no outside entertainment  
12 whatsoever.

13           CHAIRPERSON ANDERSON: Thank you. Go  
14 ahead, Mr. Orlaskey, you have the last word.

15           MR. ORLASKEY: Thank you. I believe  
16 since I just spoke a few minutes, it's hard to  
17 add anything new. I will just say that one point  
18 of clarification is that the DC Noise Act does  
19 not have a cutoff. It is valid all day long and  
20 all night long. I would -- we'd just like to  
21 state what -- how I would like this to play out  
22 if I had to choose myself. I think the license -  
23 - the application for a substantial change of  
24 current form should be denied. I would like for  
25 Barkada to come back to us and to the community

1 so that we can do a settlement agreement and then  
2 reapply for the license that adheres to those  
3 parameters. This is not uncommon. We've done  
4 this with, I can't imagine how many at this  
5 point, other businesses, and it is basically a  
6 policy of this ANC to encourage these settlement  
7 agreements to make sure that these sort of  
8 arrangements where we have businesses and  
9 residents in close proximity can be managed and,  
10 you know, appropriately -- appropriately managed.  
11 And I think that that's what I would like to see  
12 happen.

13 So my request of the Board is to deny  
14 the application for outdoor entertainment.

15 CHAIRPERSON ANDERSON: Thank you, sir.  
16 All right. I want to thank everyone for their  
17 presentation today. The record is now closed and  
18 so what we'll do, I will make -- yes, the record  
19 is now closed. I need to read a statement and we  
20 will -- the Board will issue a decision in this  
21 case in 90 days. But let me -- hold on, please.

22 All right. As Chairperson of the  
23 Alcoholic Beverage Control Board for the District  
24 of Columbia and in accordance with D.C. Official  
25 Code Section 2574(b) of the Open Meetings Act, I

1 move that the ABC Board hold a closed meeting for  
2 the purpose of seeking legal advice from our  
3 counsel on Case Number 21-PRO-00070, Barkada Wine  
4 Bar, pursuant to D.C. Official Code Section  
5 2574(b)(4) of the Open Meetings Act and  
6 deliberating upon Case Number 21-PRO-00070,  
7 Barkada Wine Bar, for the reasons cited in D.C.  
8 Official Code Section 2574(b)(13) of the Open  
9 Meetings Act. Is there a second?

10 MEMBER CROCKETT: Ms. Crockett  
11 seconds.

12 CHAIRPERSON ANDERSON: Ms. Crockett  
13 has seconded the motion. I will take a roll call  
14 vote on the motion before us now that's been  
15 properly seconded. Mr. Short.

16 MEMBER SHORT: Mr. Short. I agree.

17 CHAIRPERSON ANDERSON: Mr. Cato.

18 MEMBER CATO: Bobby Cato. I agree.

19 CHAIRPERSON ANDERSON: Ms. Crockett?

20 MEMBER CROCKETT: Rafi Crockett. I  
21 agree.

22 CHAIRPERSON ANDERSON: Ms. Hansen.

23 MEMBER HANSEN: Jeni Hansen. I agree.

24 CHAIRPERSON ANDERSON: And Mr.  
25 Anderson. I agree. As it appears that the

1 motion has passed 5-0-0, I hereby give notice  
2 that the ABC Board will recess these proceedings  
3 to hold a closed meeting in the ABC Board  
4 conference room pursuant to Section 2574(b)(13)  
5 of the Open Meetings Act.

6 Again, I want to thank the parties for  
7 their presentation today, and we will issue a  
8 decision within 90 days. So just give me a  
9 couple of minutes. I'm going to go off the  
10 record officially for the day so we can adjourn  
11 for the day.

12 As Chairperson of the Alcoholic  
13 Beverage Control Board for the District of  
14 Columbia, in accordance with Title 3 Chapter 45,  
15 Office of Open Government, I move that the ABC  
16 Board hold a closed meeting on March 23, 2022 for  
17 the purpose of discussing and hearing reports  
18 concerning ongoing or planned investigations of  
19 alleged criminal or civil misconduct or  
20 violations of law or regulations and seeking  
21 legal advice from our legal counsel on the  
22 Board's investigative agenda, legal agenda, and  
23 licensing agenda for March 23, 2022, as published  
24 in DC Register on March 18, 2022. Is there a  
25 second?

1 MEMBER SHORT: Mr. Short. I second.

2 CHAIRPERSON ANDERSON: Mr. Short has  
3 seconded the motion. I will now take a roll call  
4 vote on the motion before us now that it's been  
5 properly seconded. Mr. Short.

6 MEMBER SHORT: Mr. Short. I agree.

7 CHAIRPERSON ANDERSON: Mr. Cato.

8 MEMBER CATO: Bobby Cato. I agree.

9 CHAIRPERSON ANDERSON: Ms. Crockett.

10 MEMBER CROCKETT: Rafi Crockett. I  
11 agree.

12 CHAIRPERSON ANDERSON: Ms. Hansen.

13 MEMBER HANSEN: Jeni Hansen. I agree.

14 CHAIRPERSON ANDERSON: And Mr.  
15 Anderson. I agree. As it appears that the  
16 motion has passed, I hereby give notice that the  
17 ABC Board will hold the aforementioned closed  
18 meeting. Pursuant to the Open Meetings Act,  
19 notice will also be posted on the ABC Board  
20 hearing room bulletin board, placed on the  
21 electronic calendar on ABRA's website, and  
22 published in DC Register in as timely a manner as  
23 practical.

24 We're now adjourned for the day.

25 Again, I would like to thank everyone who

1 participated in this hearing this afternoon. I  
2 would like to also thank all of the members of  
3 the public who participated virtually in this  
4 hearing today. Thank you very much. Have a  
5 great evening, and we are adjourned for the day.  
6 I now direct all Board Members to return to  
7 Executive Session for further development. Thank  
8 you very much.

9 (Whereupon, the above-entitled matter  
10 went off the record at 6:10 p.m.)  
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## A

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Before: DC ABRA

Date: 03-16-22

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