# DISTRICT OF COLUMBIA

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### ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: Family, LLC, t/a

MK Lounge & Restaurant : 1930 9th Street, N.W. :

Retailer CT - ANC 1B : Case #20-PRO-00024

(Application to Renew the License)

> Thursday March 25, 2021

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

## PRESENT:

DONOVAN W. ANDERSON, Chairperson BOBBY CATO, JR., Member RAFI ALIYA CROCKETT, Member EDWARD S. GRANDIS, Member JENI HANSEN, Member JAMES SHORT, JR., Member REMA WAHABZADAH, Member

#### ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff ZEKARIAS BELACHEW, Witness RICHARD BIANCO, Applicant's Counsel ALEX PADRO, Witness EVAN SCHLOM, Protestant PIERSON STOECKLEIN, Protestant DEREGE ZEWDIE, Applicant JEREMY ZOLLARCOFFER, DC ABRA Investigator

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# 1 P-R-O-C-E-E-D-I-N-G-S 2 10:10 a.m. 3 CHAIRPERSON ANDERSON: The first case on our calendar is a protest hearing, case 4 number 20-PRO-00024, MK Lounge & Restaurant, 5 license number 88787. 6 7 Ms. Andrews, can you please elevate 8 the rights of the participants in this case, 9 please. 10 MS. ANDREWS: Sure. Stand by. 11 Mr. Schlom, your rights have been elevated. 12 Ms. Johnson, your rights have been elevated. 13 Mr. Stoecklein, your rights have been elevated. 14 Mr. Bianco, your rights have been elevated. 15 Mr. Zollarcoffer, your rights have been elevated. 16 Mr. or Ms. Zewdie, your rights have 17 been elevated. Mr. Schivan, your rights have 18 been elevated. Mr. or Ms. Belachew, your rights 19 have been elevated. And we do have a Mr. McMullen on the 20 21 line. I can only unmute his line, can't make him 22 a panelist. That's all. 23 CHAIRPERSON ANDERSON: All right, 24 thank you. Thank you very much, Ms. Andrews. 25 All right, let's start with -- for everyone who's

rights have been elevated, if you have a camera, can you please open up your camera please, and you can -- what I would also ask is that if you're not speaking, can you please always keep your microphone on mute.

Only unmute your microphone when it's time to speak, because we're going to have a feedback, so I just ask that if you're not speaking, please mute your microphone.

All right, good morning everyone. So,
I'll have everyone identify themselves for the
record. And we'll start with the applicant.

So, Mr. Bianco, can you please introduce yourself for the record, please, and, I'm sorry, just let us know who's with you. And then, once you call them and they can identify themselves for the record, and I'll ask that they spell and state their name -- that everyone spell and state their name for the record.

MR. BIANCO: Thank you, Mr. Anderson, good morning. Members of the Board, good morning as well. My name is Richard Bianco. My last name is spelled B-I-A-N-C-O. I am counsel for the applicant.

With me, representing the applicant,

is the owner. His name is Derege Zewdie. 1 DJ, 2 can you please announce yourself and spell your 3 last name, please? CHAIRPERSON ANDERSON: You need to 4 5 unmute yourself, sir. And spell your first and last name, please. 6 7 My first name is Derege, MR. ZEWDIE: 8 D-E-R-E-G-E. Last name is Zewdie, Z-E-W-D-I-E. 9 CHAIRPERSON ANDERSON: Thank you, 10 Mr. Zewdie. Who else is with you, Mr. Bianco? 11 MR. BIANCO: And also with me is the 12 manager of the establishment, Zack Belachew. 13 Mr. Belachew, can you please announce yourself 14 and spell your last name? 15 MR. BELACHEW: My name is Zekarias 16 Belachew. It's spelled Z-E-K-A-R-I-A-S, last 17 name B-E-L-A-C-H-E-W. 18 CHAIRPERSON ANDERSON: Thank you, 19 Mr. Belachew. 20 MR. BIANCO: And, Mr. Anderson, I do 21 have one other witness. I don't think he has 22 logged in yet. He's somebody that should 23 probably be fairly well-known to the Board, 24 Mr. Alex Padro. And I did not hear Ms. Andrews 25 say that she elevated his rights. I don't know

if he has not logged on yet. But I don't 1 2 anticipate needing him as a witness for a little 3 bit of time yet. CHAIRPERSON ANDERSON: All right. 4 5 Ms. Andrews, if you see at some time Mr. Alex Padro, can you please elevate his rights if you 6 7 see him. Yes, he is not on the line, but I have 8 alerted her that if you expect him at whatever 9 point, Mr. Bianco, please let him know and 10 Ms. Andrews will elevate his rights. 11 MS. ANDREWS: Mr. Chair, he just 12 logged on. 13 CHAIRPERSON ANDERSON: I'm sorry, 14 Ms. Andrews? 15 He just logged on. MS. ANDREWS: 16 CHAIRPERSON ANDERSON: Okay, thank 17 Mr. Padro, can you unmute your line and 18 please spell and state your name for the record, 19 please. 20 MR. PADRO: Yes. Good morning, 21 Mr. Chairman. I am Alexander M. Padro. I am 22 Executive Director of Shaw Main Streets. MУ 23 first name is spelled A-L-E-X-A-N-D-E-R. My last 24 name is spelled P as in Peter, A, D as in David, 25 R-O (P-A-D-R-O).

CHAIRPERSON ANDERSON: 1 Thank you, 2 Mr. Padro. All right, and as I remind everyone, 3 if you're not speaking, please mute your telephone. 4 5 All right, so we'll go with the protest. And so, there let's go with the abutted 6 7 property owner, Mr. Schlom. 8 MR. SCHLOM: Yes. Good morning, 9 Mr. Chairman, members of the Board. My name is 10 Evan Schlom. That's E, V as in Victor, A, N as 11 in Nancy (E-V-A-N). Last name is S as in Sam, C 12 as in Charlie, H-L-O, M as in Mary (S-C-H-L-O-M), 13 and I'm abutting property owner protecting. 14 CHAIRPERSON ANDERSON: Is there anyone 15 with you who will be testifying along with you, 16 sir? 17 In the interest of MR. SCHLOM: No. 18 time and avoiding repetitive testimony, I will be 19 the only one testifying for my protest. 20 CHAIRPERSON ANDERSON: All right. 21 Thank you, Mr. Schlom. Mr. Stoecklein, can you 22 please spell and state your name for the record, 23 please, and who do you represent, sir? 24 MR. STOECKLEIN: Yes. Pierson 25 Stoecklein, spelled P-I-E-R-S-O-N, last name

1	S-T-O-E-C-K-L-E-I-N. I'm here on behalf of the
2	Westminster Neighborhood Association.
3	CHAIRPERSON ANDERSON: And do you have
4	any witnesses who will testify today at this
5	hearing, sir?
6	MR. STOECKLEIN: Yes. With me today
7	is Frank Chauvin. Last name's spelled
8	C-H-A-U-V-I-N.
9	CHAIRPERSON ANDERSON: Is Mr. Chauvin
10	on the line?
11	MR. STOECKLEIN: I do not know if
12	Mr. Chauvin's rights have been elevated.
13	CHAIRPERSON ANDERSON: Yes, yes.
14	Mr. Chauvin, can you please identify yourself for
15	the record by spelling and stating your name,
16	please. Unmute your line, Mr. Chauvin.
17	MR. CHAUVIN: Yes. My name is Frank
18	Chauvin. Frank, F-R-A-N-K, last name
19	C-H-A-U-V-I-N.
20	CHAIRPERSON ANDERSON: All right,
21	thank you, Mr. Chauvin. Who else is with you,
22	Mr. Stoecklein?
23	MR. STOECKLEIN: There's nobody else
24	here that will be a witness.
25	CHAIRPERSON ANDERSON: All right,

thank you very much. So, I see that the 1 2 applicant will have two witnesses, and each 3 protester will have one witness, along with the representative. All right, that's fine. 4 5 Mr. Zollarcoffer, can you please spell and state your name for the record, please. 6 7 MR. ZOLLARCOFFER: My name is Jeremy 8 Zollarcoffer, J-E-R-E-M-Y, last name 9 Z-O-L-L-E-R-C-O-F-F-E-R. 10 CHAIRPERSON ANDERSON: Good morning. 11 And who are you, sir? 12 I'm an investigator MR. ZOLLARCOFFER: 13 for ABRA. 14 CHAIRPERSON ANDERSON: Thank you. All 15 Again, good morning everyone. right. Let's 16 approach this hearing. So, I just want to remind 17 everyone that each side will have one hour to 18 present your case. Your hour starts once you 19 start your case. 20 So, once you start your case, be 21 reminded that the time that you spend in cross-22 examining another side, that takes away from your 23 But I think it might not be a problem, at 24 least in this particular case, since we don't

have a whole lot of witnesses.

1	So, I'm hoping that it's not an issue
2	in the sense that I have to remind folks of their
3	time constraints. So, that's the only thing I
4	want to remind, and I do appreciate for that
5	parties, that we do not have repetitive
6	testimony.
7	So, by not having a lot of witnesses,
8	I hope that I'm assuming correctly that we won't
9	have repetitive testimony by witnesses.
10	All right, are there any preliminary
11	motions that need to be addressed by the Board
12	before we start?
13	MR. SCHLOM: None from the applicant.
14	CHAIRPERSON ANDERSON: From the
15	abutting property owner? Mr. Schlom?
16	MR. SCHLOM: None from me,
17	Mr. Chairman.
18	CHAIRPERSON ANDERSON: Mr. Stoecklein?
19	MR. STOECKLEIN: None from us,
20	Mr. Chairman.
21	CHAIRPERSON ANDERSON: All right,
22	thank you. All right, the way the process is
23	going to work is that the applicant will make an
24	opening statement. I'll give you five minutes to
25	make an opening statement.

The protesters will also make an opening statement. Both protesters can make an opening statement. They'll have five minutes each to make their opening statement.

Once the applicant and the protestants have made their opening statement, then the Board will call its first witness. The witness will testify about his report. Once the witness testifies regarding his report, the Board will ask questions of the witness based on the report.

Once the Board has asked questions of the Board's witness regarding his report, then the applicant will have an opportunity -- the applicant's attorney -- will have an opportunity to cross-examine the Board's witness.

And once the applicant has had an opportunity to cross-examine the Board's witness, then both protestants will also have opportunities to cross-examine the witness.

I'm not going to give parties an opportunity to do follow-up cross-examination. So, please make sure that you ask all your questions that are relevant while you have the witness present.

Once the applicant and the two

protestants have cross-examined the witness, then the Board will have follow-up questions, if the Board so desires.

And once that's done, then the Board will conclude its case, and then the applicant will then present its case on the appropriateness of why the agency should renew its license, with or without restriction.

Once the applicant has presented its case, then the protestant will have an opportunity to -- I'll probably go with the abutting property owner first, and then the Neighborhood Association second.

The protestant can then present its case. And in the presentation of the protestants, it needs to be clear to the Board what it is you're asking the Board to do.

Are you saying to the Board, okay, you can renew the license; however, if you renew the license, these are the restrictions you should put on the license?

And if you're saying that the license should not be renewed, then you should give us reasons why the license should not be renewed.

So, that's what I want each side to

present. So, you need to be clear and concise in letting us know what is it you're expecting from the Board.

I know there are a couple of attorneys here, some who are identified and others who are not identified. But an opening statement is just an overview. So, you're not testifying. You're just providing the Board an overview of what the case is about, what your position is about, and what is the evidence that you will present to the Board, and what it is that the Board should look for in the presentation of the case.

Now, once each side has had an opportunity to present its case, then we'll have closing arguments. And again, I'll give each side approximately five minutes.

So, the five minutes for opening and five minutes for closing, it's not from your hour. So, it's not from your hour. That's separate and apart, so I'll give you that opportunity.

This is the only case that we have.

I do not anticipate that it will last all day.

It shouldn't last all day. But the Board, we're at your disposal.

One thing that I try to do is to make sure that everyone has had an opportunity to be heard. But yes, I want you to be heard, but I also want you to clearly and concisely provide testimony and evidence to the Board so we can make a proper determination. All right?

So, what we'll do then, is that we'll start with the applicant. And the attorneys of the applicant will have five minutes to present your opening, sir.

MR. BIANCO: Great. Thank you,
Mr. Anderson. I appreciate it.

My client, Derege Zewdie, is known as DJ to most everybody. He's been a fixture in the 1900 block of 9th Street for decades.

He has owned, and currently owns, several business on the block, going back to 2005. He raised his family there, he's at the center of the Ethiopian business community, which recently succeeded in having the block officially designated as Little Ethiopia.

And I say officially, because most of us have sort of known it as Little Ethiopia for quite some time. And it seems that the government is now just getting around to

recognizing that.

The evidence that you'll hear today will demonstrate the MK Lounge is appropriate for this neighborhood.

MK built a strong record for compliance pre-COVID, and didn't have any ABRA violations from the time it opened until the middle of the pandemic, basically. And we ask that you give that record of compliance due weight.

Unfortunately, the story that you're going to hear today is not a new one. And it frighteningly is becoming more and more common.

This is what it is. New people move into a neighborhood, they pay an astronomical sum for housing, and then they start complaining about businesses that have been there for decades, in an effort to regulate them out of existence.

It happens again and again and again, all over the city. Family-owned, black-owned businesses, are dying. That is a fact.

This case is at the center of that issue. The protestants moved onto a block with no fewer than 69 licensed establishments. Six-

nine.

The existence of these establishments was not a surprise. In fact, it may have been a draw.

DC does not have nightclub districts, per se. There's no official designation of this block is a nightlife district.

But 69 establishments in a 1200 foot radius is a very high concentration of nightlife establishments. If DC did have nightlife districts, this would be one. Perhaps the biggest and most densely populated one.

And when you move into a neighborhood with those characteristics, there are certain things that you are accepting. You are accepting noise, you are accepting crowds, you are accepting parking issues, odors, disturbances, rats, and other things that come along with having 69 licensed establishments in a block.

To move next door to a bar, and to then start complaining that bar things are going on in and around the bar, is, to an extent, absurd.

The Board has recognized this in the past, and we are confident that after hearing the

evidence today, you will renew this license 1 without further condition. And that's our ask in 2 3 the matter. Thank you. CHAIRPERSON ANDERSON: Thank you, 4 Mr. Bianco. Mr. Schlom? 5 MR. SCHLOM: Yes. Thank you very 6 7 much, Mr. Chairman, members of the Board. Good 8 morning, and thank you for the opportunity to be 9 here today. 10 My name is Evan Schlom and, as Mr. Bianco noted, I live next door to MK Lounge 11 12 at 1932 9th Street, NW. 13 I'm here today protesting the establishment Class CT license renewal 14 15 application for one reason. My neighbors and I 16 who live next door to MK Lounge feel as though we 17 think we have no choice but to go through this 18 process. 19 MK Lounge signed a settlement agreement with the ANC 1B in 2017. 20 2017. It was 21 a new license application. They signed a 22 settlement agreement. 23 That agreement included a number of 24 provisions designed to mitigate the negative 25 effect that a nightclub like MK Lounge would have

on the community and those who live in it.

Mr. Zewdie signed that agreement knowing there was a condominium building next door. And knowing that this is situated in a mixed-use zone. Mr. Bianco said this would be a nightlife district. That's, in fact, the opposite of the truth.

As you will hear from the investigator, this establishment has been an ARTS-2 overlay, which, by definition, is designed as a mixed-use district and encouraging residential development.

It was created to encourage residents to move into these formerly commercial areas.

That is why the District created it.

But notwithstanding the settlement agreement for the last three-and-a-half years, my neighbors and I have suffered through severe late-night noise and vibration in our homes, and unpermitted parklet directly in front of our building without our consent, long queues of unmasked patrons blocking our doors during a pandemic, and other dangers to our health and to the public health. These are not simply bar things. These are far beyond it.

From the very beginning, my neighbors and I had hoped to have a positive relationship with Mr. Zewdie, as you'll hear today. And indeed, it started off that way.

But as you will hear in today's testimony, Mr. Zewdie's course of dealing with us, and particularly, his record during the pandemic over the last year, has undermined that confidence. And efforts to address these issues directly with him have not yielded long-term durable results.

So, my neighbors and I feel we have no other place to go, other than the ABRA Board.

Now, under the DC Code, it is

Mr. Zewdie's burden today to prove by a standard

of substantial evidence, that his establishment

is appropriate for this area, and that his

license should be renewed without any

restrictions.

But I would submit that he cannot meet that burden. The testimony, the evidence, and perhaps most importantly, the establishment's record during this public health crisis, will clearly demonstrate that the existing restrictions are not adequate to control the

negative effect of this business, and therefore, the Board must order additional measures to mitigate the negative impact that MK Lounge has on the peace, order and quiet of the neighborhood, residential parking, and real property values. Thank you.

CHAIRPERSON ANDERSON: Thank you, sir.
Mr. Stoecklein?

MR. STOECKLEIN: Yes, Mr. Chairman and Board members. Thank you very much for your time today.

As I said before, my name is Pierson Stoecklein, on behalf of the Westminster Neighborhood Association.

Our resident members live in the blocks immediately surrounding MK Lounge. And many of them have lived in the neighborhood for more than 20 years.

Over the course of time, the unmitigated disturbances and public health and safety issues have continued to worsen, to a point where, prior to the COVID crisis, where residents had some degree of reprieve, they've been subject to effective torture.

The circumstances have included some

of the following: persistent and flagrant disregard for conditions of the ABRA license and the existing settlement agreement, music levels coming from the bar directly behind residences, with numerous calls from owners complaining, with little to no result or response, late-night overflow onto nearby streets well beyond 2:00 a.m. during weekdays, 3:00 a.m. on weekends.

Frequent fights, at times involving the use of weapons, with residents afraid to intervene, and a failure of MPD to respond when called.

Extremely loud music played from the cars when attending this establishments, with occupants continuing to party at all hours of the night.

Illegal consumption of alcohol in the adjacent streets, urinating on private property and sidewalks, with residents afraid to intervene, persistent failure of MPD to respond, again, when called.

Illegal parking on the surrounding residential streets, with little to no enforcement of posted restrictions, well-documented and extensive pattern of vehicle

break-ins, and trash overflowing from garbage cans used by this establishment and the surrounding establishments, which flow onto nearby streets and sidewalks.

I realize that what I've recited to you is a list of circumstances that could be attributable to any number of bars. And yet, we find ourselves in a position of seeking some kind of resolution from this Board.

Because, quite frankly, the
Westminster Neighborhood Association has no other
place to go. This Board has the authority to
impose restrictions, or refuse the renewal of
this license, based on the litany of
circumstances that I've recited.

The effect on the enjoyment and livability of the surrounding area is a statutory condition that you may consider in deciding whether or not to renew, and/or what limitations to place upon the establishment owner if you choose to renew.

And we would ask that you give weight to all of the circumstances that have adversely affected our resident members for the past two years and more. Thank you.

1	CHAIRPERSON ANDERSON: All right,
2	thank you, sir. All right, the Board will call
3	its first witness, Mr. Jeremy Zollarcoffer.
4	WHEREUPON,
5	JEREMY ZOLLARCOFFER
6	was called for examination and, having first been
7	duly sworn, was examined and testified as
8	follows.
9	CHAIRPERSON ANDERSON: Again, spell
10	and state your name for the record, please.
11	MR. ZOLLARCOFFER: It's Jeremy
12	Zollarcoffer. J-E-R-E-M-Y Z-O-L-L-A-R-C-O-F-F-E-
13	R.
14	CHAIRPERSON ANDERSON: And where are
15	you currently employed?
16	MR. ZOLLARCOFFER: ABRA.
17	CHAIRPERSON ANDERSON: And what are
18	your duties and responsibilities at ABRA?
19	MR. ZOLLARCOFFER: I'm an
20	investigator.
21	CHAIRPERSON ANDERSON: And what is the
22	main you said you're an investigator. What do
23	you investigate?
24	MR. ZOLLARCOFFER: I conduct
25	inspections and investigations of licensed ABC

1	establishments within the District of Columbia.
2	CHAIRPERSON ANDERSON: All right. And
3	how long have you been working for the Agency?
4	MR. ZOLLARCOFFER: Two years, sir.
5	CHAIRPERSON ANDERSON: All right. And
6	are you familiar with this establishment?
7	MR. ZOLLARCOFFER: I am.
8	CHAIRPERSON ANDERSON: And how are you
9	familiar with this establishment?
10	MR. ZOLLARCOFFER: I'm familiar with
11	the area, monitoring the Shaw area and the
12	Cardozo-U Street corridor.
13	CHAIRPERSON ANDERSON: And did there
14	come a time that you had to complete a case
15	report for guiding the specific establishment?
16	MR. ZOLLARCOFFER: This protest is the
17	first time I've had an official case report with
18	MK Lounge.
19	CHAIRPERSON ANDERSON: So, how did it
20	come about that you had to write out a report
21	regarding this establishment? Tell me, how did
22	that come about?
23	MR. ZOLLARCOFFER: On February 10,
24	2021 I was assigned to the protest investigation
25	of Family LLC, trading as MK Lounge and

	Restaurant, regarding the renewal of their
2	alcohol license.
3	CHAIRPERSON ANDERSON: All right. So,
4	did there come a time that you wrote a case
5	report regarding this matter?
6	MR. ZOLLARCOFFER: Yes, I did.
7	CHAIRPERSON ANDERSON: And are you
8	able to share your screen so you can share that
9	with the Board and the public?
10	If he doesn't have the opportunity,
11	can you give him an opportunity to share his
12	screen, please?
13	MS. ANDREWS: Sure. Stand by.
14	Mr. Zollarcoffer, you can now share your screen.
15	CHAIRPERSON ANDERSON: All right. So,
16	Mr. Zollarcoffer, can you identify the document
17	that's on your screen, please?
18	MR. ZOLLARCOFFER: This is the protest
19	report for MK Lounge and Restaurant.
20	CHAIRPERSON ANDERSON: All right. So,
21	can you tell us, as the result, what information
22	were you able to gather regarding this protest?
23	MR. ZOLLARCOFFER: I gathered the
24	information, this establishment is located at
25	1930 9th Street, NW, on the westbound side of the

street, and is bounded by the 900 block of U Street and the 900 block of T Street.

The application for renewal of MK
Lounge and Restaurant was protested by two
entities: the abutting property owner, Evan
Schlom, and the Westminster Neighborhood
Association, led by Lynn Johnson.

There are 69 ABC establishments within 1200 feet of 1930 9th Street, NW. Just to note, due to the pandemic health emergency, many of these establishments have been closed temporarily or permanently, and are not accurately reflected on the current District of Columbia GIS system.

The protest issues involve the following: adverse impact on peace, order and quiet, residential parking, vehicular and pedestrian safety, and adverse impact on real property values.

On February 17, 2021 I visited MK

Lounge and met with the owner, Mr. Derege Zewdie,

and his attorney, Richard Bianco. I conducted a

regulatory inspection and walkthrough of this

establishment.

Mr. Zewdie stated that he had made attempts to reach a music noise-level agreement

with the protesting, abutting property owner, but was unsuccessful.

I advised him to continue those efforts and possibly coming to an agreement.

Mr. Bianco stated to me that he would email a statement providing information about the establishment, and/or concerns regarding this protest, within the next few days.

As of the date this report was submitted, I have not received that document.

MK Lounge offers four-hour street meter parking Monday through Thursday, 7:00 a.m. to 6:30 p.m., with limited available spots on both sides of the street.

The lower end of the 1900 block of the 9th Street is limited to Zone 1 and Zone 2 permits Monday through Friday, 7:00 a.m. to 8:30 p.m.

On February 21, 2021 I received an email from Evan Schlom providing a statement addressing several issues and concerns regarding this establishment's renewal application.

Mr. Schlom stated he lives at 1932 9th Street, NW, directly next door to MK Lounge, since June of 2017. Mr. Schlom stated he lives

on the third floor, and his condo unit abuts the second floor of MK Lounge.

Mr. Schlom stated he is protesting this renewal application because MK Lounge is a severely negative impact on peace, order and quiet of the neighborhood, particularly that of his condominium building.

Mr. Schlom describes several issues that I have included in the case report, highlighting noise, patrons and lines blocking the entrance doorway to his condo, the use of hookah and other pandemic-related issues.

Also, as of the date this report was submitted, I have not received a reply from Lynn Johnson on behalf of the Westminster Neighborhood Association, for his statement.

MK Lounge was monitored by ABRA personnel a total of four times, from February 17, 2021 to March 13, 2021, with no violations found.

After review of ABRA records, MK

Lounge and Restaurant received 11 noise

complaints reported to the ABRA hotline from

February 2020 to February 2021, and there were

27 calls for service from the Office of Unified

Communications, relating to the address of 1930 9th Street, NW.

This establishment has had five
Mayor's orders and ABC Board emergency rulemaking
violations, from August 3, 2020 to January 23,
2021. There was a 15-day suspension to this
establishment for multiple violations observed on
September 12, 2020, that was served from
September 18th to October 3rd. That's it,
Mr. Chair.

CHAIRPERSON ANDERSON: So, why don't you show me this. Tell me what type of neighborhood -- what other establishments are in this area?

MR. ZOLLARCOFFER: This is considered an ARTS-2 zone. It's a mixed-use development. It does have an emphasis on residential development.

It is known to have a lot of nightlife going on. It is loud at night. There's several businesses with many alcohol license directly in that direct area.

CHAIRPERSON ANDERSON: So, how many businesses -- can you try to be specific? Can you be specific? How many establishments are

located in the area?

MR. ZOLLARCOFFER: I would say 69.

Approximately 69 directly within 1200 feet of this establishment.

CHAIRPERSON ANDERSON: And what type of establishments are these?

MR. ZOLLARCOFFER: They're taverns, restaurants. For the most part, they're taverns and restaurants.

CHAIRPERSON ANDERSON: So, as an investigator, how would you describe this area?

As an investigator. From your perspective as an investigator, how would you describe this area?

MR. ZOLLARCOFFER: I would describe it as being busy, especially during the evenings, the weekends. It does have a nightlife feel to it. A lot of people congregate on U Street for nightlife activities in that block of 9th Street, on the 1900 block. So, it is busy, it's loud, it has a nightlife feel to it.

CHAIRPERSON ANDERSON: Now, prior
to -- I mean, in the two years you've worked with
the Agency, approximately how many times have you
been within this block of 9th Street? If you
know?

1 MR. ZOLLARCOFFER: Hundreds of times, 2 probably. 3 CHAIRPERSON ANDERSON: So, pre-COVID 4 pandemic, explain to the Board and the public 5 specifically, what is this block like? MR. ZOLLARCOFFER: Pre-pandemic, very 6 7 Compared to now, it's probably a shell of 8 itself. But it is picking back up. But this was 9 one of the premier places to hang out, especially 10 going out on the town. Yeah. 11 CHAIRPERSON ANDERSON: So, I quess I'm 12 trying to get a flavor of the area. That's what 13 I'm trying to get from you, to give us a flavor of what area this is. What it is. 14 15 I'm just trying to find out, is this 16 an outliner in the area, or this is just a part 17 of this neighborhood? That's what I'm trying to 18 find out from you, since most of us don't 19 necessarily are aware of this area. 20 MR. ZOLLARCOFFER: I would say that it 21 has a dominant presence of being a nightlife 22 It has a strong presence of Ethiopians. area. 23 It does for sure. 24 And there's a lot of restaurants, a 25 lot of tight taverns, close to each other, a lot

of people within very close proximity to each 1 2 other. As I mentioned, there's upwards of 3 69 establishments within a very small area. it's on top of each other. 4 5 (Off-record comments.) CHAIRPERSON ANDERSON: All right, what 6 7 are the hours of operations of this 8 establishment, sir? 9 MR. ZOLLARCOFFER: Well, during the 10 phase 2 pandemic --11 CHAIRPERSON ANDERSON: Mr. 12 Zollarcoffer --13 MR. ZOLLARCOFFER: Yeah. 14 CHAIRPERSON ANDERSON: The Board's 15 aware that there are short-term restrictions for 16 all alcohol establishments in DC. But pre- --17 and I'm hoping that we're not going to have these 18 measures in place forever. 19 We all hope that we're going to return to whatever is considered normal at some time. 20 21 So, what I'm trying to find out is that we can 22 have specific testimony at some point about the 23 restrictions on the licensee's ability to operate 24 during COVID.

What I care about is that under the

1 current license, what are the hours of operation, 2 sir? 3 MR. ZOLLARCOFFER: The hours of 4 operation are from 10:00 a.m. to 2:00 a.m., 5 Sunday through Thursday, and 10:00 a.m. to 3:00 a.m. on Fridays and Saturdays. 6 7 CHAIRPERSON ANDERSON: And is it 8 correct that based on the COVID restrictions, 9 that the current operation hours for all establishments in DC is midnight? Is that 10 11 correct, sir? 12 MR. ZOLLARCOFFER: That is correct. 13 CHAIRPERSON ANDERSON: All right, 14 thank you. I'm not sure if you had mentioned, 15 but what's parking like in this area? If you 16 know? 17 Parking is very MR. ZOLLARCOFFER: 18 limited. Like I mentioned, they do have some 19 metered parking out front of the establishment on 20 both sides of 9th Street, with four-hour limits. 21 But it's very limited. 22 And with the addition of people using 23 some expanded space into the parking lot, it's 24 even tighter. But they do also offer Zone 1 and 25 Zone 2 permit parking on the lower side of the

1900 block.

CHAIRPERSON ANDERSON: I need everyone's phone to be on mute, except for the investigator. And because this screen has been shared, I don't know who is not on mute.

But I need everyone's phone to be on mute, except for my line is unmuted, and the investigator is unmuted. So, I appreciate that if everyone can mute their line.

And as stated before, if you're not speaking, it needs to be on mute, and as again, let me state that no one is allowed to speak until I give them permission to speak later on in these proceedings. All right, thank you.

I thought, as part of your report, you had stated -- I think you stated that there were 27 calls for service over the year. Can you expound upon that, sir?

MR. ZOLLARCOFFER: Yes. So, 27 calls for service came in through the Office of Unified Communications. And that's specifically to that address.

From what I see on the history, that might have been a couple of times where it did result in some ABRA violations. But the history

is right here as well. But yeah, that was for a 1 2 one-year span. It was from February 2020 to 3 February 2021. 4 CHAIRPERSON ANDERSON: I think you've 5 referenced Exhibit 22. So, let's go to Exhibit 22, and maybe you can go through 6 7 Exhibit 22 for us and tell us what's Exhibit 22. 8 MR. ZOLLARCOFFER: Mr. Chair, I don't 9 believe I'm able to share the exhibits on this 10 right here. 11 CHAIRPERSON ANDERSON: Your exhibits 12 are not attached to your report, sir? 13 MR. ZOLLARCOFFER: No, the actual 14 photos aren't attached to it. I might be able to 15 find them. 16 CHAIRPERSON ANDERSON: So, I'm unable 17 to go through the exhibits that are attached to 18 your report? 19 MR. ZOLLARCOFFER: If you can bear 20 with me, I might be able to find it. 21 MR. BIANCO: Mr. Chair, Richard Bianco 22 for the applicant. I actually had listed the 23 report as Exhibit 1 in my case. I have it queued 24 up. If Ms. Andrews gives me the ability to share 25 my screen, it has all the exhibits attached and

1	I'd be happy to scroll it at Mr. Zollarcoffer's
2	direction.
3	CHAIRPERSON ANDERSON: Thank you,
4	Mr. Bianco. But Mr. Zollarcoffer, are you able
5	to pull up the exhibits that's attached to your
6	report, sir?
7	MR. ZOLLARCOFFER: Let me see if I can
8	do it.
9	CHAIRPERSON ANDERSON: We're off the
10	record for a couple of minutes.
11	(Whereupon the above-entitled matter
12	went off the record at 10:53 a.m. and
13	resumed at 11:02 a.m.)
14	CHAIRPERSON ANDERSON: Are you back,
15	Mr. Zollarcoffer?
16	MR. ZOLLARCOFFER: Yes, I'm here.
17	CHAIRPERSON ANDERSON: The question
18	I'm asking you was to go through Exhibit 22. And
19	can you go to Exhibit 22 and tell us what Exhibit
20	22 is?
21	MR. ZOLLARCOFFER: Exhibit 22 is a
22	list of calls for service.
23	CHAIRPERSON ANDERSON: And to the best
24	of your knowledge, did any of these calls for
25	service during the period result in any ABRA

violation?

MR. ZOLLARCOFFER: I don't believe so.

CHAIRPERSON ANDERSON: I just want to
go back briefly to the investigative history of
the establishment.

(Long pause.)

CHAIRPERSON ANDERSON: That's on page 14.

MR. ZOLLARCOFFER: There you are, sir.

CHAIRPERSON ANDERSON: So, based on
their investigative history, what can you tell us
about the history? Is it pre-COVID? Is it

COVID-related? I mean, what can you tell us
about just the general view of what the
investigative history of the establishment? What
do we have?

MR. ZOLLARCOFFER: I could tell you as of August 3rd to January 23rd, there's been five Mayor's orders violations and ABC emergency rulemaking violations. There's been one 15-day suspension within that time period.

And prior to that, they've only had just -- let me see here. It was almost three years, really, since they've had back-to-back violations. In 2017, they had quite a few. And

the one in 2018 and 2019.

CHAIRPERSON ANDE

CHAIRPERSON ANDERSON: All right,
let's go through the exhibits. So, can you
please -- I need you to go through the exhibits
and identify the exhibits that are attached to
your report.

MR. ZOLLARCOFFER: Okay.

CHAIRPERSON ANDERSON: So, what's Exhibit 1?

MR. ZOLLARCOFFER: Exhibit 1 is the protest from the abutting property owner, Evan Schlom, addressing his issues, on what grounds he has issues with for the renewal of the alcohol license at MK Lounge.

Exhibit 2 is their protest letter from Westminster Neighborhood Association, submitted by Lynn Johnson, on some of their protesting issues.

Exhibit 3 is a regulatory inspection that I conducted on February 17th when I did the walkthrough with the owner, Mr. Zewdie, and his attorney, Richard Bianco.

Exhibit 4 is a photograph of the outside of MK Lounge, and the entrance being right here. I believe this is where they had

their park lit and their outside expanded space right here. But it's no longer a structure.

Exhibit 5 is also a photo of the expanded outdoor space that they used on the sidewalk.

Exhibit 6 is a photo of the signs of the available parking that's directly outside of MK Lounge, and that's kind of what you see on the opposite side of the street as well for the four-hour meter parking, and the Zone-1 and 2 parking being further down the street, lower on the 1900 block.

Exhibit 7 is a photograph of the first level of MK Lounge, facing out toward the street level. This was taken when I was doing my inspection.

Exhibit 8 is a photograph of the volume, the stereo equipment behind the bar on the first floor, where they control the volume. And I was going through a scenario of having the owner put the music up to a level where normally they would have it, almost pre-pandemic, just to kind of gauge where this level is, and possibly coming up with an agreement with the abutting property owner on what's a reasonable volume for

them to work together to find.

So, at this level right here, the volume was all the way up. And just to mention, I was not able to hear this music all the way up here on the second floor of the terrace. On the second floor.

Exhibit 9 is just something that they have on their bar informing their patrons of a seating time limit.

This is the food menu. Exhibit 10 is a food menu.

Exhibit 11 is headphones that patrons wear when they come into the establishment. I was told by the owner that they have about 50 pair of these headphones that they use and they pass out to the patrons that are willing to wear them and that want to wear them.

CHAIRPERSON ANDERSON: Hold on. I'm sorry. Was this pre-COVID? Or is this because of COVID? This part.

MR. ZOLLARCOFFER: This is because of COVID. This was something that I believe that they tried to do to have the music lower and still have the patrons be able to listen to loud music. So, they offer these headphones, which I

did -- while monitoring this establishment, I did 1 2 walk through and I did see patrons wearing these 3 headphones. I believe it was on February 13th. Excuse me, March 13th. 4 5 CHAIRPERSON ANDERSON: Okay. MR. ZOLLARCOFFER: Exhibit 12 is the 6 7 first floor speaker, which the owner pointed out 8 that they'd spaced the speaker from the wall,

Exhibit 13 is the trash area directly behind the establishment.

trying to create less vibrations attached to the

Exhibit 14 is the second floor, facing toward 9½ Street facing the back of the establishment. That's their second-level bar that they have.

Exhibit 15 is also the second floor, facing 9th Street, and the tables that they have available.

Exhibit 16, also the second floor.

This is an example of their seating arrangement.

Exhibit 17 is the second floor storage terrace. It's on the back of their property that leads out from the second floor. Exhibit 18 is also a photo of the second floor storage terrace.

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wall.

Exhibit 19 is a photo of the abutting 1 property owner. His condo unit is right here and 2 3 it's abutting to MK Lounge to the right. Exhibit 20 is a list of the 4 5 establishments within the 1400 foot radius that 6 have alcohol license. 7 Exhibit 21 is a listing of the schools within a 400 foot radius, where there's no 8 schools within 400 feet of this establishment. 9 Exhibit 22 is a list of calls for 10 11 service from the Office of Unified 12 Communications, where there's been calling for 13 service to this particular address at 1930 9th 14 Street, NW. 15 Exhibit 22A, it's continuous of the list for the calls of service. 16 17 Exhibit 23 is the ABC license for MK 18 Lounge and Restaurant. 19 Exhibit 24 is the Certificate of 20 Occupancy for this particular address. And I 21 believe that's it, sir. 22 CHAIRPERSON ANDERSON: All right, you 23 can stop sharing your screen. Thanks. Do we 24 have any questions by any Board members? 25 MEMBER SHORT: Yes, sir. Mr. Short,

1	I'd like to ask a question.
2	CHAIRPERSON ANDERSON: Go ahead, Mr.
3	Short.
4	MEMBER SHORT: Please forgive me.
5	Yes, Investigator Zollarcoffer?
6	MR. ZOLLARCOFFER: Yes, sir.
7	MEMBER SHORT: In your investigation
8	of MK Lounge, in regards to your report and the
9	violations that were found, how many violations
10	were found after COVID, if the Mayor's orders
11	were listed?
12	MR. ZOLLARCOFFER: Five, sir.
13	MEMBER SHORT: Can you describe for
14	the record your understanding of the Mayor's
15	orders and why they were put in place?
16	MR. ZOLLARCOFFER: For the public
17	health for the people of the District of
18	Columbia, to keep people safe?
19	MEMBER SHORT: Okay. So, these
20	violations five of them would you consider
21	them to be very serious violations of the Mayor's
22	order?
23	MR. ZOLLARCOFFER: Yes.
24	MEMBER SHORT: Would you consider them
25	to have been a threat to public health of the

District of Columbia during the pandemic and the 1 Mayor's orders being posted for public safety? 2 3 MR. ZOLLARCOFFER: Yes. MEMBER SHORT: Did you have a talk 4 5 with the owner regarding these violations and the seriousness thereof? 6 7 MR. ZOLLARCOFFER: Yes. We did 8 discuss the importance of following the orders 9 and the safety involving it all. 10 MEMBER SHORT: So, after the very 11 first time, you had a talk with him. 12 correct? 13 MR. ZOLLARCOFFER: Yes. MEMBER SHORT: The first of five. 14 The 15 second time you had a talk with him. The third time you had a talk with him. 16 The time when he 17 was closed for several days because he violated, 18 after the Mayor's order had been placed and he 19 had been found in violation of this, he 20 continued. Is that true? 21 MR. ZOLLARCOFFER: That is true. 22 MEMBER SHORT: Would you consider that 23 to be responsible actions of an owner who really 24 cared about public safety and about the Mayor's

Would that be responsible? Your opinion?

order?

1	MR. ZOLLARCOFFER: No, I don't believe
2	that those examples present him to be responsible
3	case after case.
4	MEMBER SHORT: Thank you. Thank you
5	for your testimony. Thank you for your excellent
6	report. That's all I have, Mr. Chair.
7	CHAIRPERSON ANDERSON: Do we have any
8	other questions by any of the other Board
9	members? All right, hearing none, Mr. Bianco,
10	any questions of the investigator?
11	MR. BIANCO: Yes, I do. And Ms.
12	Andrews, are you able to make it so I have the
13	ability to share my screen so I can point my
14	questions at Investigator Zollarcoffer's report?
15	MS. ANDREWS: Sure. Stand by.
16	MR. BIANCO: Thank you.
17	MS. ANDREWS: Okay, Mr. Bianco. You
18	can share your screen now.
19	MR. BIANCO: Excellent. Thank you.
20	Okay, good morning, Inspector Zollarcoffer. How
21	are you doing today?
22	MR. ZOLLARCOFFER: I'm good. Good
23	morning, Mr. Bianco.
24	MR. BIANCO: Are you able to see my
25	screen. I have your investigative report marked

as Applicant's Exhibit 1 and I'm showing the 1 2 cover page of that report. Are you able to see 3 that on your screen? 4 MR. ZOLLARCOFFER: Yes. 5 MR. BIANCO: And I also have my cursor Are you able to see me moving that around? 6 7 I may use that to point at particular areas. 8 MR. ZOLLARCOFFER: Yes. 9 MR. BIANCO: Okay, great. Thank you 10 very much. So, in your testimony, you explained 11 to the Board that you had been an investigator 12 for two years. Correct? 13 MR. ZOLLARCOFFER: Yes. 14 MR. BIANCO: Okay, so you've had some 15 time in pre-pandemic, as well as during the 16 pandemic. Right? 17 MR. ZOLLARCOFFER: That's correct. 18 MR. BIANCO: And before that, I 19 understand you were a police officer, right? 20 MR. ZOLLARCOFFER: I worked in law 21 enforcement, yes. 22 Okay. For how long? MR. BIANCO: 23 MR. ZOLLARCOFFER: Ten years. 24 MR. BIANCO: Okay. Now, between pages 25 2, let's say -- I'm sorry, 7, 8 and 9 of the

report, you indicate that there are 69 licensed 1 establishments within a 1200 foot radius of MK 2 3 Lounge. Right? 4 MR. ZOLLARCOFFER: Yes. 5 MR. BIANCO: And would you describe that as densely populated with licensees? 6 7 MR. ZOLLARCOFFER: Absolutely. 8 MR. BIANCO: And in your experience as an investigator in DC, can you think of many 9 places around town that have more licensees in 10 11 such a small area? 12 MR. ZOLLARCOFFER: I don't believe 13 there is. 14 MR. BIANCO: Okay. 15 MR. ZOLLARCOFFER: But I'm not for 16 But it's definitely one of the most 17 populated. 18 MR. BIANCO: Definitely one of the 19 most. Yeah, we're not going for a number one 20 rating here, but of the neighborhoods you are 21 aware of, this is one of the most densely 22 populated. That's what we're looking for. 23 So, you testified that you've been to 24 this particular area -- and by this particular 25 area, I'm talking about the sort of 1200 foot

radius that you have on your map -- hundreds of times in your two years. Right?

MR. ZOLLARCOFFER: Yes.

MR. BIANCO: Okay. And you sort of described for Mr. Anderson what it's like walking through that area pre-COVID on a weeknight. And I appreciate that testimony.

And I want to get into a little bit more about how MK compares to the other establishments in that particular area. So, just generally, from an operational standpoint, how does MK compare to the 68 other establishments that are there in that immediate area?

MR. ZOLLARCOFFER: I'm not sure how you want me to describe it, but they have been one of the popular places to go, I would say, on that 1900 block of 9th Street. All the establishments are pretty busy in that area.

MR. BIANCO: Well, is MK much larger than the other establishments? I see that you attach the Certificate of Occupancy to your report. It indicates that their occupancy is 122. Is it much larger than the surrounding establishments?

MR. ZOLLARCOFFER: No.

	MR. BIANCO: Okay. You also attach
2	the license to your report. And it indicates
3	that they can operate until 2:00 a.m. on
4	weeknights and 3:00 a.m. during the week. Is
5	that typical of the 68 other establishments in
6	the area, or are they operating much, much later?
7	MR. ZOLLARCOFFER: No, it seems to be
8	around the same time. Most of them are closing
9	at 3:00 on weekends.
10	MR. BIANCO: Okay. And I understand
11	that, pre-COVID at least, MK Lounge didn't have
12	any outdoor operations whatsoever. Is that
13	correct?
14	MR. ZOLLARCOFFER: Excuse me? Can you
15	repeat that?
16	MR. BIANCO: Sure. Are you able to
17	hear me okay?
18	MR. ZOLLARCOFFER: I could. I'm
19	sorry, I missed what you said.
20	MR. BIANCO: Okay. So, pre-COVID, MK
21	Lounge did not have any outdoor operations at
22	all. Is that correct?
23	MR. ZOLLARCOFFER: That's correct.
24	MR. BIANCO: Okay. And some of the
25	surrounding 68 establishments, do any of those

MR. ZOLLARCOFFER: Yes, there's summer gardens that are in that area as well.

have outdoor operations?

MR. BIANCO: Have you, in your visits to the neighborhood, have you ever observed an inordinate amount of noise coming out of the establishment?

MR. ZOLLARCOFFER: It's hard to focus where all the noise comes from. They all contribute to a pretty loud noise level as a whole. But you do hear noise coming out of establishments when the door opens, and sometimes you can't always track it down where it's coming from.

MR. BIANCO: Okay. So, it's fair to say that when you're in the area, you can't distinguish from sounds coming out of MK Lounge versus the other establishments? Is that a fair statement?

MR. ZOLLARCOFFER: That is fair, sir.

MR. BIANCO: Okay. So, in part 4 of

your report -- and we're going to scroll down to

that -- you talk about the effect of the

establishment on peace, order and quiet. And you

indicate in that paragraph that during your four

visits, you did not substantiate any issues with 1 2 peace, order and quiet. Right? 3 MR. ZOLLARCOFFER: Right. MR. BIANCO: Okay. So, let's say in 4 5 the year leading up to COVID, do you remember any 6 times that you had occasion to visit that block 7 and you did observe MK Lounge doing something 8 that had an adverse impact on peace, order and 9 quiet? I don't recall. 10 MR. ZOLLARCOFFER: Ι 11 don't have any cases with them. 12 MR. BIANCO: Okay. Okay. And then, 13 we're going to go to part 7, which is your record 14 search. And the first paragraph of part 7 talks 15 about your Exhibits 22 and 22A, which was your search of the Office of Unified Communications, 16 17 and I think I understand that. 18 So, what we didn't talk about is the second paragraph of your records search. 19 And 20 that paragraph indicates that you search ABRA 21 records, and that there were 11 noise complaints 22 in the one-year period from February 2020 to 23 February 2021, right? 24 MR. ZOLLARCOFFER: Yes.

Okay.

And there's no

MR. BIANCO:

corresponding exhibit for those 11 noise 1 2 complaints that identify the who, the what, the 3 when, the where, the why. Is that typical, or is 4 that unusual, that there's no documentation? 5 That's usual. MR. ZOLLARCOFFER: MR. BIANCO: Okay. And when you 6 7 looked up the records, were you able to tell who 8 the complaining party was? 9 MR. ZOLLARCOFFER: I was not. No. 10 MR. BIANCO: Okay. How about the 11 timing of the complaints. Were you able to tell 12 when the complaints were made? 13 MR. ZOLLARCOFFER: They were not listed when I researched that record. 14 15 Okay. So, the only MR. BIANCO: 16 details you have is that 11 complaints were made, 17 without any further information. We don't know who or when? 18 19 MR. ZOLLARCOFFER: Right. 20 MR. BIANCO: Okay. Now, I want to 21 discuss with you briefly the day that we met at 22 the establishment and you did your walkthrough. 23 I think your report indicates that was February 24 You remember that, right? 17th.

I do.

Yes.

MR. ZOLLARCOFFER:

MR. BIANCO: And you started to talk 1 2 about this a little bit in response to some of 3 Mr. Anderson's questions, but I want to drill down on it a little bit more. And that's when we 4 5 sort of conducted a test of the sound system. you remember that? 6 7 I do remember. MR. ZOLLARCOFFER: 8 Yes. 9 MR. BIANCO: Okay. And as I recall --10 and please correct me if I'm wrong -- we turned 11 the music up loud and stepped outside on the 12 second floor terrace area to see if we can hear 13 it. Is that how you recall us doing that? 14 MR. ZOLLARCOFFER: Yes. 15 MR. BIANCO: Okay. And I'm going to 16 scroll down to one of your exhibits, so we can 17 sort of see a photograph of what we're talking 18 about. 19 Okay, so I think when you testified, 20 you describe this is a storage terrace, right? 21 Yes, I believe MR. ZOLLARCOFFER: 22 that's how Mr. Zewdie explained it to me. CHAIRPERSON ANDERSON: Hold on a 23 24 minute please. Mr. Bianco, if you're referring

to an exhibit, can you identify for the record

what exhibit you're having the witness testify 1 2 to. Okay? 3 MR. BIANCO: Absolutely. So, what 4 we're talking about is Exhibit number 17, to 5 Investigator Zollarcoffer's report. The pages 6 aren't numbered, but it's on the 33rd page of 7 that document and it's labeled as Exhibit number 8 17. 9 And the door here that's visible in 10 the photo, that's the door to enter into the 11 second floor of the establishment. Correct? 12 MR. ZOLLARCOFFER: That's correct. 13 MR. BIANCO: And you took this photo, 14 right? 15 MR. ZOLLARCOFFER: Yes. MR. BIANCO: And where this photo was 16 17 taken from -- a few feet from that door -- is that about where we were standing when we were 18 19 conducting this test of the sound? 20 MR. ZOLLARCOFFER: Yes. 21 MR. BIANCO: Okay. And now, I want to 22 scroll down to your Exhibit 19. Okay? And that 23 is a photograph shot upwards, and that shows 24 where Mr. Schlom's unit is in relation to that 25 second floor storage terrace area. Is that

1	correct?
2	MR. ZOLLARCOFFER: That's correct.
3	MR. BIANCO: Okay. So, it's visible
4	from the terrace area, right?
5	MR. ZOLLARCOFFER: Yes.
6	MR. BIANCO: Okay. And the time of
7	day that we were doing this, it was the middle of
8	the day. It was about 2:00 in the afternoon,
9	right?
10	MR. ZOLLARCOFFER: Yes.
11	MR. BIANCO: So, there wasn't any
12	other establishments operating at that time
13	producing meaningful noise?
14	MR. ZOLLARCOFFER: That's correct.
15	MR. BIANCO: Okay. And from our
16	vantage point outside of this door on the
17	second-story terrace level, were you able to hear
18	the music coming out of the establishment?
19	MR. ZOLLARCOFFER: I was not,
20	surprisingly.
21	MR. BIANCO: Okay. And are you
22	surprised because we had it turned up really
23	loud?
24	MR. ZOLLARCOFFER: Yeah. It was
25	actually louder than normally I've heard it when

	I do come and visit it, almost pre-pandemic.
2	Yeah, I couldn't hear it.
3	MR. BIANCO: Okay. I want to take a
4	step back, still talking about the sound test
5	that we did on February 22nd. Okay, so now we're
6	referring to Exhibit 8 to your investigative
7	report, which is on the 24th page of the report.
8	And I see that you have this label
9	here, where it says max volume level. Is that
10	something that you added to the exhibit?
11	MR. ZOLLARCOFFER: I did, just to give
12	an example on where the volume stands when it's
13	turned all the way up.
14	MR. BIANCO: Okay. And it looks to me
15	and again, please correct me if I'm wrong
16	like the volume knob is marked in red. Is that
17	actually there, or is that something that you put
18	there?
19	MR. ZOLLARCOFFER: Where it says max
20	volume level, I've inserted a little tab there.
21	But nothing else, just the photo.
22	MR. BIANCO: Okay.
23	MR. ZOLLARCOFFER: Yeah. I'm not
24	sure.
25	MR. BIANCO: Great. I think we need

to talk a little bit about the investigative
history, because, quite honestly, I think there's
some confusion. And I want to look at it in a
little bit greater detail. So, I'm going to
scroll back up to the body of your report.

And let's talk about the
investigations that are listed on this report

investigations that are listed on this report prior to August 3, 2020. So, specifically, where we're looking at is page 14 of your report, section 8.

And there are 11 numbered items in section 8. And right now, I want to focus on number 6, number 7, number 8, number 9 and number 10. So, we're looking at items 6 through 10.

And I think in your testimony, you classified these as violations. And I see after each one of these, the notation NFA. Do you know what that notation stands for?

MR. ZOLLARCOFFER: No further action, sir.

MR. BIANCO: Right. So, that means the Board -- my understanding is that means the Board took no further action on those investigations. Is that correct?

MR. ZOLLARCOFFER: I would assume so.

1 Yes, sir. 2 MR. BIANCO: Okay. So, they weren't 3 actually adjudicated violations. Those are 4 merely investigations. Correct? 5 MR. ZOLLARCOFFER: I believe so. MR. BIANCO: Okay. And so, that's 6 7 numbers 6 through 10. And let's now look at 8 number 11, which occurred on 9/27/2017. And again, focusing in on the last part of that. 9 10 It says, the OAG declined to prosecute 11 because the investigator could not substantiate 12 that a violation had occurred. Do you see where 13 it says that? 14 MR. ZOLLARCOFFER: Yes. 15 So, again, that number 11 MR. BIANCO: 16 there is not actually a violation. Right? 17 MR. ZOLLARCOFFER: Well, the OIG, they 18 weren't able to prosecute because they weren't 19 able to substantiate. So --20 MR. BIANCO: Right. 21 MR. ZOLLARCOFFER: -- yes, I would 22 agree. 23 Okay. And now, let's MR. BIANCO: 24 look at some of these items that occurred during 25 COVID. Let's go all the way to the top.

now, we're looking at page 13. And I want to 1 look at number 1, which looks like it's an 2 3 investigative report from 1/23/21. You see where we're looking there? 4 5 MR. ZOLLARCOFFER: Yes. MR. BIANCO: And there's no indication 6 7 on item number 1 that it's been adjudicated, This is still a pending allegation. 8 right? 9 MR. ZOLLARCOFFER: Yes. 10 MR. BIANCO: Okay. And then, the same 11 thing with number 3. There's no indication here 12 of adjudication. Again, we're merely dealing 13 with an allegation. Right? 14 MR. ZOLLARCOFFER: At this point we 15 are. 16 MR. BIANCO: Okay. Okay. And then, 17 skipping down to number 5, it looks like we have 18 a warning issued for number 5, right? 19 MR. ZOLLARCOFFER: That's correct. 20 MR. BIANCO: Okay. Now, you gave some 21 testimony in response to Mr. Short's questions. 22 And I've got to admit, I don't understand what 23 any of that was about. So, I want to go through 24 that in a little bit greater detail. 25 I understood Mr. Short to be asking

1	you if you had a discussion with the licensee
2	after each one of these first five investigative
3	reports. Is it your testimony that you
4	personally talked to the licensee after each one
5	of these reports?
6	MR. ZOLLARCOFFER: No, that was
7	misunderstood. I apologize for being no, I
8	didn't understand that correctly. I spoke with
9	him on the first visit and the fourth visit.
10	MR. BIANCO: Okay. Okay. So, you had
11	a conversation with him on or about 1/23/21 here,
12	about your investigative report in that matter?
13	MR. ZOLLARCOFFER: 1/23? No. No. It
14	wasn't January 23rd.
15	MR. BIANCO: Okay. Are you talking
16	about the walkthrough that you did on February 17
17	when I was present?
18	MR. ZOLLARCOFFER: That was one of the
19	times when I spoke with him. Yes.
20	MR. BIANCO: Okay.
21	MR. ZOLLARCOFFER: And
22	MR. BIANCO: So, that was I'm
23	sorry, go ahead. I didn't mean to interrupt your
24	testimony. Go ahead.
25	MR. ZOLLARCOFFER: The first one, and

also on the March 13th, I believe. 1 2 MR. BIANCO: Okay. So, the first 3 conversation you had with the licensee about 4 violations during the COVID period was on 5 February 17, 2021 in my presence. MR. ZOLLARCOFFER: Yes. 6 7 MR. BIANCO: And then, what your 8 testimony is, just so I understand and that it's 9 clear, is that at some point in March you had a second conversation with the licensee? 10 11 MR. ZOLLARCOFFER: Yes, March 13th. 12 MR. BIANCO: Okay, great. 13 MR. ZOLLARCOFFER: I'm sure he 14 remembers. 15 MR. BIANCO: Yes. And Investigator 16 Zollarcoffer, thank you. I very much appreciate that clarification, because I was pretty confused 17 18 on those points. 19 Let me just make sure I don't have 20 anything else for you. I think that likely 21 concludes my cross-examination. Thank you very 22 much for your time. I really appreciate your 23 report. 24 MR. ZOLLARCOFFER: Thank you. 25 CHAIRPERSON ANDERSON: Thank you, Mr.

	Blanco. Mr. Schlom, any questions for the
2	investigator?
3	MR. SCHLOM: Yes, I do. Thank you
4	very much, Mr. Chairman, and thank you very much,
5	Investigator. Good morning, and thank you very
6	much for taking your time to be here.
7	Mr. Bianco asked you a number of
8	questions about your investigation. I have a few
9	follow-ups for that. And as part of your
10	investigation, you reviewed the records of noise
11	complaints against MK Lounge. Is that right?
12	MR. ZOLLARCOFFER: That's correct.
13	Yes.
14	MR. SCHLOM: And you found, as you
15	said to Mr. Bianco, 11 noise complaints between
16	February of 2020 and February of 2021. Is that
17	right?
18	MR. ZOLLARCOFFER: Yes, that's what
19	was reported.
20	MR. SCHLOM: And did you review any
21	records of noise complaints made prior to
22	February of 2020?
23	MR. ZOLLARCOFFER: I did not.
24	Normally, we'll go back one year.
25	MR. SCHLOM: So, you have no idea of

how many or how few complaints were made prior to 1 2 February 2020. 3 MR. ZOLLARCOFFER: Not exactly. No. 4 MR. SCHLOM: Okay. And Mr. Bianco 5 asked you a number of questions about your 6 personal prior experience with the 1900 block of 7 9th Street, and also your experience with MK 8 Lounge. And he asked if you had ever noticed any 9 issues or peace, order or quiet, relating to MK 10 Lounge, and you said no. 11 Is your answer based solely on being 12 outside of the establishment, or did you ever go 13 into any residences to substantiate that? 14 MR. ZOLLARCOFFER: No, I've never been 15 to any residence to substantiate that. That's 16 purely just from watching the area. 17 MR. SCHLOM: Got it. So, you've never 18 been inside my condominium building at 1932 19th 19 Street, NW. 20 MR. ZOLLARCOFFER: No, thank you. 21 So, you have no idea what MR. SCHLOM: 22 can or can't be heard inside of that building. MR. ZOLLARCOFFER: That is true. 23 Okay. Now, I want to 24 MR. SCHLOM: 25 turn to MK Lounge's -- the kind of the end of Mr.

1	Bianco's cross-examination, about MK Lounge's
2	history during the pandemic.
3	And as punishment for their
4	violations, they've received a warning, a fine,
5	and a 25-day suspension with ten days of that
6	stayed. Is that correct?
7	MR. ZOLLARCOFFER: Fifteen-day
8	suspension, ten stayed. Right?
9	MR. SCHLOM: Yeah. Twenty-five total,
10	they served 15, ten have been stayed.
11	MR. ZOLLARCOFFER: That's correct.
12	MR. SCHLOM: Right. And the fifth
13	case, as Mr. Bianco noted, is still pending.
14	Correct.
15	MR. ZOLLARCOFFER: That is correct.
16	MR. SCHLOM: So, we don't know what
17	punishment, if any, will be issued there.
18	MR. ZOLLARCOFFER: Right.
19	MR. SCHLOM: Okay. Now, I want to
20	turn to your individual visits to the
21	establishment. Your four visits. You visited
22	four times. Is that correct?
23	MR. ZOLLARCOFFER: That's correct.
24	MR. SCHLOM: Okay. And all four of
25	those visits took place between February 17, 2021

1	and March 13, 2021. Is that right?
2	MR. ZOLLARCOFFER: That's correct.
3	MR. SCHLOM: So, all of your visits
4	for this investigation took place while the
5	Mayor's order was in effect.
6	MR. ZOLLARCOFFER: That is right.
7	MR. SCHLOM: Okay. And in section 4
8	of your report, you say that you monitored the
9	establishment and didn't substantiate any issues
10	of peace, order and quiet. When you say
11	monitored, what does that mean?
12	MR. ZOLLARCOFFER: Monitoring from the
13	outside, or walking through the establishment.
14	MR. SCHLOM: Okay. And when you say
15	issues with peace, order or quiet, what does that
16	include?
17	MR. ZOLLARCOFFER: Say that again,
18	please?
19	MR. SCHLOM: Sure. So, you said you
20	didn't see any issues with peace, order or quiet.
21	I'm trying to understand how you define issues
22	related to peace, order and quiet.
23	MR. ZOLLARCOFFER: Yeah. I didn't
24	notice any loud music coming from the
25	establishment. I didn't see any large crowds. I

mean, with the Mayor's orders and things like 1 2 that, it was pretty calm. 3 MR. SCHLOM: Sure. Now, based on your 4 report, you spent less than three hours total at 5 the establishment during your course of this investigation. Is that right? 6 7 MR. ZOLLARCOFFER: Yes. 8 MR. SCHLOM: All right. And during 9 how many of those hours was the establishment 10 open to customers? 11 MR. ZOLLARCOFFER: Three. 12 MR. SCHLOM: So, outside of those 13 hours that the establishment was open to 14 customers that you were there, you have no idea 15 what was going on at the establishment, do you? 16 MR. ZOLLARCOFFER: I do know what's 17 going on with the establishment. From the time 18 that I was there, the times that I visited it, I 19 didn't observe any ABRA violations, sir. 20 MR. SCHLOM: No, no, no. I apologize I'm talking about 21 that my question was unclear. 22 outside of the few hours that you were there. 23 When you weren't there, you have no idea what was 24 going on, do you?

MR. ZOLLARCOFFER:

25

Well, obviously.

1	I wasn't there.
2	MR. SCHLOM: Okay. Okay. Now, as
3	part of your investigation in this matter, did
4	you ever ask to enter any residences?
5	MR. ZOLLARCOFFER: No.
6	MR. SCHLOM: Okay.
7	MR. ZOLLARCOFFER: Yeah.
8	MR. SCHLOM: Okay. Now, let's talk
9	about your first visit to the establishment, what
10	Mr. Bianco called the walkthrough, with Mr.
11	Zewdie and Mr. Bianco, on February 17, 2021.
12	Now, you had prearranged for this
13	visit. Correct?
14	MR. ZOLLARCOFFER: Yes.
15	MR. SCHLOM: You didn't show up
16	unannounced.
17	MR. ZOLLARCOFFER: No.
18	MR. SCHLOM: So, Mr. Bianco and Mr.
19	Zewdie knew what time you'd be arriving.
20	MR. ZOLLARCOFFER: Yes.
21	MR. SCHLOM: Okay. And to be clear,
22	the establishment was not open to the public
23	during this visit, was it?
24	MR. ZOLLARCOFFER: They were closed.
25	MR. SCHLOM: Okay. So, there was no

alcohol being served at that time, was there? 1 2 MR. ZOLLARCOFFER: No. 3 MR. SCHLOM: Okay. And during that 4 visit, Mr. Bianco asked you a number of questions 5 about the sound test that you'd performed. if I understand correctly, you said that you 6 7 asked the owner, Mr. Zewdie, to turn the volume 8 to where it would be during the pandemic. 9 that what you asked him to do? 10 MR. ZOLLARCOFFER: Yeah. I was trying 11 to get a gauge on where the knob was, to possibly 12 come to an agreement with you and the owner, to 13 have somewhat of an agreement on a noise level. 14 MR. SCHLOM: Sure. But it was Mr. 15 Zewdie who set the volume, not you. Correct? 16 MR. ZOLLARCOFFER: Yeah, I believe it 17 was one of his managers and Mr. Zewdie. 18 MR. SCHLOM: Okay. And then, once you 19 turned on this music, you said you went out onto 20 the second floor terrace to see if you could hear 21 Is that right? it. 22 MR. ZOLLARCOFFER: Yes. We were 23 trying to see if we could hear it outside, and 24 also on the front street.

Sure.

MR. SCHLOM:

25

But you didn't

test to see whether you could hear it inside the 1 2 condominium building next door, could you? 3 MR. ZOLLARCOFFER: No. 4 MR. SCHLOM: So, you don't know what 5 kind of noise or vibrations could have been felt 6 from that music during the sound test inside the 7 condominium building. 8 MR. ZOLLARCOFFER: That is correct. 9 MR. SCHLOM: Okay. Now, in Exhibit 5 10 of your report, you took a photo of what you 11 called the expanded outdoor space. 12 right? 13 MR. ZOLLARCOFFER: Yes, the proposed 14 expanded outdoor space. I believe there is some 15 history behind that where there once was a 16 structure that wasn't approved and it's no longer 17 there. 18 MR. SCHLOM: I see. So, as part of 19 your investigation, you determined that that 20 outdoor space was not approved. 21 MR. ZOLLARCOFFER: No. I'm just --22 from what I've heard between the owner and, I 23 believe, you, was that that wasn't officially 24 approved and they had to take it down.

Sure.

MR. SCHLOM:

25

Now, as part of

1	your investigation, did you investigate whether
2	MK Lounge had a permit from the Department of
3	Transportation to have the bicycle rack and other
4	things that are out in the street right now?
5	MR. ZOLLARCOFFER: No.
6	MR. SCHLOM: Okay. Now, in the four
7	occasions that you visited, you in your report
8	say that you recorded no ABRA violations. Is
9	that right?
10	MR. ZOLLARCOFFER: That's correct.
11	MR. SCHLOM: Okay. What do ABRA
12	violations include?
13	MR. ZOLLARCOFFER: Several things.
14	Many things.
15	MR. SCHLOM: Like what? Does it
16	include violations of the settlement agreement?
17	MR. ZOLLARCOFFER: Does it what?
18	MR. SCHLOM: Does it include
19	violations of the settlement agreement?
20	MR. ZOLLARCOFFER: Yes.
21	MR. SCHLOM: Okay. And when you
22	visited on those four occasions, do you recall
23	which provisions of the settlement agreement you
24	checked for compliance?
25	MR. ZOLLARCOFFER: No.

1	MR. SCHLOM: Okay. Now, directing you
2	to Exhibit 10 of your report and I don't know,
3	Mr. Chairman, if I'm allowed to share my screen
4	to show this.
5	CHAIRPERSON ANDERSON: Ms. Andrews,
6	can you give
7	MS. ANDREWS: Stand by.
8	CHAIRPERSON ANDERSON: Yeah, thank
9	you. Go ahead, give him ability to share screen,
10	please.
11	MS. ANDREWS: Okay, Mr. Schlom. You
12	can share your screen now.
13	MR. SCHLOM: All right. It's still
14	telling me it's not showing up for me. Are
15	you able to see my screen at all?
16	MS. ANDREWS: No. You have to hit
17	share content, and so for the application.
18	MR. SCHLOM: That's grayed out for me.
19	Mr. Chairman, can I ask Mr. Zollarcoffer to share
20	his screen?
21	CHAIRPERSON ANDERSON: All right. Mr.
22	Zollarcoffer, can you, once again, share your
23	screen? What exhibit are you referencing, sir?
24	MR. SCHLOM: I'm referencing Exhibit
25	10 to his report.

	CHAIRPERSON ANDERSON: SO, Mr.
2	Zollarcoffer, can you share your screen, and
3	please I'm sorry. So, Ms. Andrews, please
4	give him the ability to share his screen. And
5	Mr. Zollarcoffer, can you please move forward to
6	Exhibit 10.
7	MS. ANDREWS: Mr. Zollarcoffer, you
8	can now share your screen.
9	MR. ZOLLARCOFFER: Can you see it?
10	MR. SCHLOM: I can see your screen.
11	If you can scroll up, please, to Exhibit 10.
12	It's what you call the food menu. All right,
13	perfect. Thank you so much. Now, you took this
14	photograph. Correct?
15	MR. ZOLLARCOFFER: That's correct.
16	MR. SCHLOM: All right. Can you read
17	the top of the right side of the menu, please?
18	MR. ZOLLARCOFFER: It's the hookah.
19	Hookah flavors.
20	MR. SCHLOM: Okay. Are you familiar,
21	Investigator Zollarcoffer, with the DC laws
22	around hookah?
23	MR. ZOLLARCOFFER: Somewhat, yes.
24	MR. SCHLOM: Okay. What is it that
25	you know?

1	MR. ZOLLARCOFFER: Well, I know hookah
2	is not allowed without some type of exemption.
3	It's really not allowed it's a DC health
4	violation.
5	MR. SCHLOM: Sure. Now, as part of
6	your you mentioned exemption. As part of your
7	investigation, did you investigate whether MK
8	Lounge had that exemption?
9	MR. ZOLLARCOFFER: No.
10	MR. SCHLOM: Okay. Are you aware
11	whether they have an exemption?
12	MR. ZOLLARCOFFER: I believe they
13	don't.
14	MR. SCHLOM: Okay, thank you. And as
15	part of your investigation, did you investigate
16	MK Lounge's Department of Health record?
17	MR. ZOLLARCOFFER: No.
18	MR. SCHLOM: Okay. Now, you had said
19	before that you never entered any residences as
20	part of your investigation in this case. Is that
21	right?
22	MR. ZOLLARCOFFER: That's correct.
23	MR. SCHLOM: Okay. And are you aware
24	that MK Lounge's settlement agreement requires
25	that they take all necessary action to ensure

that music, noise and vibration are not audible 1 2 in any residences? 3 MR. ZOLLARCOFFER: I am aware of that. MR. SCHLOM: So, as part of your 4 5 investigation -- because you never went inside a residence -- you can't determine whether or not 6 7 they were ever in compliance with that provision. 8 MR. ZOLLARCOFFER: Yeah. Yeah, I'd 9 have to go into your apartment to be able to 10 substantiate whether not I could hear it in your 11 But yeah, I didn't go there. apartment. 12 MR. SCHLOM: All right, that makes 13 All right. Now, just in closing I want sense. 14 to clarify something. You first contacted Mr. 15 Bianco to set up the meeting on February 10, 16 2021. Is that right? 17 MR. ZOLLARCOFFER: Yes. 18 MR. SCHLOM: And your first visit to 19 the establishment was one week later, on February 20 17th. Is that right? 21 MR. ZOLLARCOFFER: Yes. 22 MR. SCHLOM: So, all four of your 23 visits in connection with this investigation took 24 place after Mr. Bianco knew that you were 25 conducting the investigation. Is that right?

1	MR. ZOLLARCOFFER: All what? All four
2	what?
3	MR. SCHLOM: All four of your visits
4	occurred after you told Mr. Bianco you were
5	conducting an investigation.
6	MR. ZOLLARCOFFER: Yes. Which I'm
7	sure he was aware of the protest. I believe he
8	was aware of the protest as well. But yes.
9	MR. SCHLOM: Sure. All right, thank
10	you very Investigator Zollarcoffer. Mr.
11	Chairman, I have no further questions for this
12	witness.
13	CHAIRPERSON ANDERSON: Thank you. Mr.
14	Zollarcoffer, can you please close your screen.
15	Mr. Stoecklein, do you have any questions for the
16	investigator?
17	MR. STOECKLEIN: Yes, Mr. Chairman.
18	I have just a few.
19	CHAIRPERSON ANDERSON: Sure. Go
20	ahead, please.
21	MR. STOECKLEIN: Inspector
22	Zollarcoffer, are you aware of any differences in
23	applicable noise requirements or restrictions
24	during COVID, that might differ from those
25	applicable outside of the Mayor's order and the

	COVID restrictions?
2	MR. ZOLLARCOFFER: I know that the
3	noise needs to be below a conversational level
4	during the pandemic. During these joint
5	restrictions.
6	MR. STOECKLEIN: Thank you. And what
7	about outside of the pandemic? What are the
8	regulations applicable otherwise?
9	MR. ZOLLARCOFFER: Well, due to the
10	settlement agreement, you shouldn't be able to
11	hear it. There are some restrictions on being
12	able to hear it outside of that particular
13	establishment. Period.
14	MR. STOECKLEIN: Mm-hmm. And there
15	are capacity restrictions during the COVID
16	we'll call them requirements as well correct?
17	MR. ZOLLARCOFFER: Yes.
18	MR. STOECKLEIN: And what are those?
19	MR. ZOLLARCOFFER: Well, currently at
20	25 percent occupancy during phase 2.
21	MR. STOECKLEIN: So, a pretty markedly
22	lower number of patrons in an establishment at
23	any one time?
24	MR. ZOLLARCOFFER: That's correct.
25	MR. STOECKLEIN: Okay. And so. in

your opinion, is it fair to say that noise can 1 2 and would presumably be substantially louder if, 3 in fact, an establishment were able to be filled with patrons, and music were allowed to be played 4 above conversational levels, outside of COVID? 5 MR. ZOLLARCOFFER: That's fair to say. 6 7 MR. STOECKLEIN: Okay. And then, 8 could you just please remind me, the period 9 during which you sought to observe any and all 10 noise violations during your investigation, 11 occurred during this period in which you just 12 indicated that you would not expect the noise to be nearly as high as it would otherwise be 13 outside of COVID. 14 Correct? 15 MR. ZOLLARCOFFER: That's fair to say. 16 MR. STOECKLEIN: Okay, thank you. 17 Inspector, I think you testified earlier that you 18 are pretty familiar with the area, that you 19 worked in it for quite a while, which we 20 appreciate. Are you aware of a bar noticed 21 Nellie's? 22 MR. ZOLLARCOFFER: I do. I'm aware of 23 Nellie's on the corner. Yep. 24 MR. STOECKLEIN: And would you say 25 it's on or about 900 U Street?

1	MR. ZOLLARCOFFER: Yes. It's on the
2	top side of 9th and U. Yes.
3	MR. STOECKLEIN: Okay. And so, that's
4	several door down from MK Lounge. Correct?
5	MR. ZOLLARCOFFER: Correct.
6	MR. STOECKLEIN: Okay. Do you
7	remember any COVID violations committed by
8	Nellie's during the pandemic?
9	MR. BIANCO: Objection. Relevance.
10	MR. STOECKLEIN: Establishing a
11	pattern of systemic violations attributable to
12	this particular establishment.
13	MR. BIANCO: Conduct of other
14	establishments aren't relevant in this
15	proceeding.
16	CHAIRPERSON ANDERSON: I'm going to
17	overrule the objection. If you can answer the
18	question, you can. If you can't, you can't. So,
19	answer the question if you can, Mr. Zollarcoffer.
20	MR. ZOLLARCOFFER: Sir, could you
21	repeat it again?
22	MR. STOECKLEIN: Sure. To your
23	knowledge, are you aware of any COVID violations
24	committed by Nellie's during the pandemic?
25	MR. ZOLLARCOFFER: I've not been a

part of any cases with Nellie. I can't recall.

MR. STOECKLEIN: Okay. Are you aware of another establishment called DC9, which is located at 940 9th Street?

MR. BIANCO: Same objection.

CHAIRPERSON ANDERSON: And I'm going to overrule the objection. I mean, I kind of see where he's going, but I mean, I hope we're not going to be asking him about all 69 establishments in the 1200 square foot area. So, you can answer the question, sir. If you can't answer the question, you can't. But you can answer the question if you can.

MR. STOECKLEIN: Just to be clear, I'm asking you to just speak to your knowledge, which I'm sure that you can speak to. I'd be happy to provide, if I'm able, ABRA's list of violations, which I think are highly relevant, posted on ABRA's website.

CHAIRPERSON ANDERSON: Now, Mr. -- I gave you some leeway to ask some questions.

However, at some point it's going to be irrelevant that if you're going to go through all 69 establishments within a period, whether or not they have complied with --

MR. STOECKLEIN: No, I promise that's not my plan, Mr. Chairman. I'm asking about establishments that are immediately adjacent to and on the same block as MK Lounge.

MR. BIANCO: Mr. Anderson, to my relevance objection, I would ask that if we're going to go through other establishments, you limit his questioning to establishments that are actually open.

CHAIRPERSON ANDERSON: All right. All right, understood. All right, sir. So, if you're going to ask a question, then you need to ask about establishments -- because I think what was presented by the investigator earlier, was that there are a lot of establishments, although there are 69 establishments within a 1200 square foot area, that not all of the establishments were open pre-COVID.

MR. BIANCO: That is correct.

CHAIRPERSON ANDERSON: So, therefore, you are correct. I mean, so I will modify overruling the objection in the sense that you need to be asking him questions about establishments that are open. And if the investigator doesn't have personal knowledge,

1	then he can't answer the question.
2	But as I said before, I hope that
3	we're not going down through a list of all the
4	MR. STOECKLEIN: We're not. We're
5	not.
6	CHAIRPERSON ANDERSON: All right,
7	thank you. All right.
8	MR. STOECKLEIN: Inspector
9	Zollarcoffer, I'd like to just go back to
10	Nellie's briefly. Are you aware of whether or
11	not Nellie's is open at this time?
12	MR. ZOLLARCOFFER: I believe Nellie's
13	is open.
14	MR. STOECKLEIN: Well, not at this
15	present moment, of course. But generally
16	speaking, Nellie's is operating on a fairly
17	regular basis. Is that correct?
18	MR. ZOLLARCOFFER: I understand.
19	That's correct.
20	MR. STOECKLEIN: Thank you. Are you
21	aware of this will be my last question about
22	another specific establishment. Are you aware of
23	a restaurant, which also holds an ABRA license,
24	named Al Crostino, which is two doors down from
25	MK Lounge, located at 926 9th Street?

1	MR. ZOLLARCOFFER: I've heard of it.
2	I'm not very familiar with that establishment.
3	MR. STOECKLEIN: Are you aware of
4	whether or not this establishment is operating
5	fairly regularly, again, during COVID?
6	MR. ZOLLARCOFFER: I'm not for
7	certain.
8	MR. STOECKLEIN: Okay. Are you aware
9	of any COVID violations committed by Al Crostino
10	during the COVID lockdown period?
11	MR. ZOLLARCOFFER: I'm not aware.
12	MR. STOECKLEIN: Okay. So, does it
13	strike you as odd that these establishments,
14	which have also been operating during COVID, have
15	not had any violations, despite being open, and
16	yet you just spoke to us about numerous I
17	believe you cited five or more COVID
18	violations, on multiple occasions. Does that
19	strike you as odd? In any way?
20	MR. BIANCO: Objection. I'm going to
21	object. It's compound, lacks foundation, assumes
22	facts not in evidence, and mischaracterizes
23	previous testimony.
24	CHAIRPERSON ANDERSON: All right. I
25	know that you're an attorney, Mr. Bianco, and I

-- at least Mr. Stoecklein has not presented 1 2 himself as an attorney. So, can please --3 MR. STOECKLEIN: I am an attorney, Mr. Chairman. 4 CHAIRPERSON ANDERSON: 5 Sir? MR. STOECKLEIN: I am an attorney. 6 7 I'm licensed in the District of Columbia. 8 CHAIRPERSON ANDERSON: Sir, you didn't 9 hear what I said. What I said was that you did 10 not present yourself as an attorney, so I was not 11 even aware that you were an attorney. So, since 12 you're now presenting yourself as an attorney, 13 I'm going to sustain the objection, and you can 14 rephrase your question. 15 Now that I know that there are two 16 attorneys onboard, then I am going to be more 17 specific in sense of cross-examinations. 18 of times when I'm not dealing with an attorney, 19 I'm more flexible. 20 But now that they're attorneys, I know 21 that attorneys, they know the rules and 22 regulations, and so therefore I will now listen 23 more intently. And I now have expectations of

attorneys I should. So, I'm going to sustain the

objection. If you have another question, ask the

24

1 question, sir. 2 MR. STOECKLEIN: Okay. Understood, 3 Mr. Chairman. Inspector Zollarcoffer, I believe 4 that you just answered questions regarding 5 Nellie's and Al Crostino, and COVID violations of which you were not aware in this instance, that 6 7 you are aware of none. Is that correct? 8 MR. ZOLLARCOFFER: That's correct. 9 MR. STOECKLEIN: Okay. And you also 10 had testified that MK Lounge has on numerous 11 occasions been found to have violated the Mayor's 12 orders. Correct? 13 MR. ZOLLARCOFFER: That's correct. 14 MR. STOECKLEIN: And have you ever had 15 any reasons why MK Lounge might be more or less 16 likely to have patrons that have violated COVID, or to be operating in violation of the Mayor's 17 COVID orders? 18 MR. ZOLLARCOFFER: Do I have more 19 20 what? No. 21 MR. STOECKLEIN: Do you have any 22 opinion as to why MK Lounge would be situated 23 differently, and therefore more or less likely to 24 violate the Mayor's COVID restrictions?

MR. ZOLLARCOFFER:

25

No, I'm not sure

1 why. 2 MR. STOECKLEIN: Okay. All right, I 3 have no further questions. 4 CHAIRPERSON ANDERSON: All right, 5 thank you, sir. Do we have any follow-up 6 questions by any Board members? All right, 7 hearing none, thank you very much, Mr. 8 Zollarcoffer, for your testimony. You're 9 excused. All right, thank you. All right, Mr. 10 Bianco, do you have a witness you wish to call? 11 I do, Mr. Anderson. MR. BIANCO: Ι'd 12 like to first throw myself on the Panel's mercy and ask for a quick five-minute break. We've 13 14 been going a couple of hours at this point. 15 CHAIRPERSON ANDERSON: Mr. Bianco, you 16 know the Board has been -- you know we have been 17 working, working. And we're just 18 getting ready. But all right, it's -- we're off 19 the record. 20 (Whereupon the above-entitled matter 21 went off the record at 12:06 p.m., and resumed at 22 12:17 p.m.) 23 CHAIRPERSON ANDERSON: We're back on

the record. It's 12:17. Will all Board members

please log back on please.

24

1	(Pause.)
2	CHAIRPERSON ANDERSON: We're on the
3	record. I'm still waiting for another Board
4	member. But we're ready to start.
5	Mr. Bianco, do you have a witness?
6	MR. BIANCO: Yes, my first witness is
7	Derege Zewdie. He is the owner of the
8	establishment.
9	CHAIRPERSON ANDERSON: Mr. Zewdie, can
10	you raise your right hand, please? Can you raise
11	your right hand please, Mr. Zewdie?
12	Do you swear or affirm to tell the
13	truth and nothing but the truth?
14	MR ZEWDIE: I do.
15	CHAIRPERSON ANDERSON: I can't hear
16	you, sir.
17	MR ZEWDIE: I do.
18	CHAIRPERSON ANDERSON: All right. I
19	have noticed, sir, that you were driving. So I
20	know that you're in a car.
21	MR ZEWDIE: Yes.
22	CHAIRPERSON ANDERSON: So I'm hoping
23	that during your testimony and during cross
24	examination that you are stationary, that you are
25	not moving, that you're not operating a car, sir.

1	Is that clear, is that correct?
2	MR ZEWDIE: Yes, that's correct.
3	CHAIRPERSON ANDERSON: Thank you.
4	Your Witness, Mr. Bianco.
5	MR. BIANCO: Thank you very much. Ms.
6	Andrews, if you're able to give me the ability to
7	share the screen so I can go through exhibits,
8	that would be great.
9	CHAIRPERSON ANDERSON: Go ahead, Ms.
10	Andrews.
11	MS. ANDREWS: Sure, sir.
12	Okay, Mr. Bianco, you can now share
13	your screen.
14	MR. BIANCO: Excellent, thank you so
15	much.
16	All right. DJ, are you the owner of
17	MK Lounge?
18	MR ZEWDIE: Yes, I am.
19	MR. BIANCO: Are you the only owner?
20	MR ZEWDIE: Yes.
21	MR. BIANCO: Okay. Do you manage the
22	establishment?
23	MR ZEWDIE: Yes, I do.
24	MR. BIANCO: How often are you there?
25	MR ZEWDIE: Seven days a week.

1	MR. BIANCO: Okay.
2	(Simultaneous speaking.)
3	MR. BIANCO: How long have you been -
4	I'm sorry, I didn't hear what you said. What did
5	you say there?.
6	MR ZEWDIE: Before the pandemic, I've
7	been there seven days a week.
8	MR. BIANCO: Seven days a week, okay.
9	how long have been running MK Lounge?
10	MR ZEWDIE: The MK Lounge was since
11	2015. Before that I had a different license in
12	the same building, so since 2012 to 2015 it used
13	to be Maraki Restaurant, with partners. And then
14	I bought them out in 2015.
15	MR. BIANCO: Okay. The
16	(Simultaneous speaking.)
17	MR. BIANCO: 1930 9th Street has been
18	MK Lounge since 2015. And before 2015 you
19	operated another establishment called Morroci.
20	Am I getting that right?
21	MR ZEWDIE: Yes.
22	MR. BIANCO: Okay. Do you own any
23	other establishments in the neighborhood?
24	MR ZEWDIE: Yes. In 2004 to 2015, I
25	had a photography studio on 1918 9th Street NW.

1 And once I moved to MK Lounge in 2015, I closed it down. And then I have another establishment 2 3 right across the street from 1930 9th Street. It's called Habersha Market and Restaurant. 4 5 We've been operating since 2015. MR. BIANCO: Okay. Can you describe 6 7 MK Lounge's operations? 8 MR ZEWDIE: Yes. The MK Lounge was 9 the first African American bar on 9th Street. Ι 10 started in 2015 as MK Lounge. Right after that, others followed too, and they serve the same 11 12 food. 13 We do carry out food, we do deliveries on the Grubhub and all the social Postmate and 14 15 DoorDash and everybody else. We do serve food, 16 yes, and things. It's more like a place where 17 people come. More of my client is, I would say, 18 from out of town. 19 MR. BIANCO: Okay. How big is it? 20 How many floors is it? 21 MR ZEWDIE: It's two floors. 22 MR. BIANCO: Okay. And what's your 23 occupancy? 24 One twenty-two. MR ZEWDIE: 25 MR. BIANCO: Okay. So up on the

1	screen right now, you'll see a photograph that is
2	Applicant's Exhibit Number 4 to Investigator
3	Zollarcoffer's investigative report.
4	MR. BIANCO: Do you recognize that?
5	MR ZEWDIE: Yes.
6	MR. BIANCO: And
7	MR ZEWDIE: This it's a photo of, I
8	mean -
9	MR. BIANCO: Is that a photo of the
10	outside of MK Lounge?
11	MR ZEWDIE: Yes, it is.
12	MR. BIANCO: Okay. Is that how it
13	looks today?
14	MR ZEWDIE: Yes, sir. Well, maybe the
15	flag is not there or the heart-shape is not
16	there, but the rest is like that.
17	MR. BIANCO: The rest looks like that,
18	
	okay. And then this building directly next door
19	okay. And then this building directly next door to MK Lounge where it says ArtView Condominium,
19 20	
	to MK Lounge where it says ArtView Condominium,
20	to MK Lounge where it says ArtView Condominium, it says 1932, that's the building where Mr.
20 21	to MK Lounge where it says ArtView Condominium, it says 1932, that's the building where Mr. Schlom lives, correct?
20 21 22	to MK Lounge where it says ArtView Condominium, it says 1932, that's the building where Mr. Schlom lives, correct? MR ZEWDIE: That's correct.

1	MR. BIANCO: What does that show?
2	MR ZEWDIE: That is the first floor of
3	MK Lounge facing from the restroom to the 9th
4	Street.
5	MR. BIANCO: So this is shot from the
6	back of the building to the front of the
7	building?
8	MR ZEWDIE: Not all the way to the
9	back but, like, from the bathroom to the front.
10	MR. BIANCO: Okay. And where -
11	(Simultaneous speaking.)
12	MR ZEWDIE: There's a kitchen -
13	(Simultaneous speaking.)
14	MR ZEWDIE: restroom behind us.
15	MR. BIANCO: Okay. Where this person
16	is standing, this is the 9th Street side of the
17	building, right?
18	MR ZEWDIE: Yes.
19	MR. BIANCO: Okay. Now we're going to
20	move to Photograph Number, I'm sorry, Exhibit
21	Number 14 to Investigator Zollarcoffer's report.
22	MR. BIANCO: What does this show?
23	MR ZEWDIE: This is the second floor
24	of our area. And on your right is a staircase
25	going up and down the staircase.

Okay. And this is shot 1 MR. BIANCO: 2 towards the back of the building? 3 MR ZEWDIE: Yes. MR. BIANCO: Okay. And then Exhibit 4 5 Number 15 to Investigator Zollarcoffer's report, what does that show? 6 7 MR ZEWDIE: That is the big screen 8 where we announce, we have video, like how to 9 wash your hands, and social media, forcing them to wear a mask --10 11 Well, let's take a step MR. BIANCO: 12 What part of the property is that? back. that the first floor or the second floor? 13 14 MR ZEWDIE: It's second floor facing 15 9th Street. 16 MR. BIANCO: Okay, so this is the 9th 17 Street portion of the second floor then, okay. And then, so this video wall here, this is the 18 19 9th Street side of the property, right? 20 MR ZEWDIE: Yes. 21 MR. BIANCO: And I think you were 22 starting to explain this, but let's go into it in 23 a little bit of detail. I see it says eating or 24 drinking on the screen. And it looks like

there's a picture of two people wearing masks.

Can you describe what is on, what it is that's on 1 2 that screen? 3 MR ZEWDIE: Right after the violation, 4 I hired a videographer. So we did some exercise 5 to show the people wearing the mask, and how they I wish we could have played the video, 6 7 but several come in. There is a sanitizer. wash their hands. 8 9 It's just telling the people that you 10 need to have your mask on when you are not eating 11 or drinking. That is the sign. It will scroll 12 underneath the screen throughout the night. 13 MR. BIANCO: Okay. And how often do 14 you play that on this video screen? 15 MR ZEWDIE: The video is played every 16 90 minutes. But the wording is as soon as we 17 open it starts rolling. 18 MR. BIANCO: Okay. And is there a 19 reason why you decided to play the video every 90 20 minutes? 21 Yes, because we limit our MR ZEWDIE: 22 selves. We got limited to capacity. A lot of 23 people want to stay longer. So we limit our time 24 to 90 minutes. So most like, within 90 minutes 25 there's a new person who will come in. So that's

when we play it. And this has happened right, 1 2 like I said, after we got shut down over the 3 violation. 4 Okay. And do you have signs around 5 the establishment indicating that you're limiting seating to 1.5 hours? 6 7 MR ZEWDIE: Yes. 8 MR. BIANCO: And if you could look at 9 the screen right there, we're looking at Exhibit Number 9 to Investigator Zollarcoffer's report. 10 Is that one of the signs that you have around the 11 12 establishment? 13 MR ZEWDIE: Yes. 14 MR. BIANCO: Okay. 15 MR ZEWDIE: Yes. 16 MR. BIANCO: So you've been in the 17 neighborhood for a long time. Are there a lot of 18 bars and restaurants in the neighborhood? 19 MR ZEWDIE: Yes, in my whole time, 20 over 20 years in that area, I lived on 1980 9th 21 Street with the photography studio before I got 22 married, on the second floor and work on the 23 first floor. And there was a lot of restaurants 24 and bars then opening and shutting down.

still now we have quite a few bars operating.

And some of them are closed.

MR. BIANCO: Okay. And, well, you mentioned that some of those bars are closed in the area. And there's been some testimony about that today. And you were here for that testimony, correct?

MR ZEWDIE: Yes

MR. BIANCO: And you heard some testimony about one of your neighbors called Nellie's. What's your understanding as to whether or not they're open or closed?

MR ZEWDIE: Nellie's, from the day one, they've been opening through the window, no walk-in customers. They haven't done indoor dining until recently. They've been, they don't have any indoor dining.

MR. BIANCO: Yes. And how about DC9, what's your understanding as to their operational status?

MR ZEWDIE: DC9 is the same way. He did a parklet. And they start operating for a few months. He didn't think it would work to operate because of the number of people. And he did shut down.

MR. BIANCO: Okay. So now I want to

scroll back and look at the map that Investigator 1 2 Zollercoffer prepared for this particular 3 protest. I'm looking at the wrong thing. 4 with me for just one second, okay. 5 If I may add onto the MR ZEWDIE: other restaurant that's been called? 6 7 MR. BIANCO: You don't need to. You 8 answered my question completely. 9 MR ZEWDIE: Okay. 10 MR. BIANCO: Thank you. 11 MR ZEWDIE: Yes, sir. 12 MR. BIANCO: I appreciate that. 13 MR ZEWDIE: You're welcome. 14 MR. BIANCO: There we go. Okay, so 15 what we are now looking at is Exhibit 20 to 16 investigator Zollercoffer's report. And in the 17 middle of that map, you will see 1930 9th Street 18 NW. And that shows the location of your 19 establishment, correct? 20 MR ZEWDIE: Yes. 21 MR. BIANCO: And does this truly and 22 accurately depict, to the best of your knowledge, 23 the establishments that are in proximity to MK? 24 MR ZEWDIE: Yes. Normally I'm home to 25 work, from work to home. So I'm pretty much

surprised to see we have 69 different, other 1 businesses similar to us. 2 3 MR. BIANCO: Hum. 4 MR ZEWDIE: But there are, when I am 5 driving buy I see most of the bars, but I haven't been inside. 6 7 MR. BIANCO: Okay. 8 CHAIRPERSON ANDERSON: Sir, I'm sorry, I'm sorry to interrupt, your voice is trailing 9 10 off, sir. I need you to always speak up. 11 mean, I know that I had to turn my volume up so I 12 can hear you. I don't know if the court reporter 13 is having concerns hearing you. But please hold 14 your voice up, okay? Thank you. 15 Okay, okay. MR ZEWDIE: 16 MR. BIANCO: Mr. Anderson, are you 17 directing that me or the Witness, because 18 sometimes mic gets lower? 19 CHAIRPERSON ANDERSON: The Witness, 20 sir. 21 Okay. MR. BIANCO: Thank you. 22 How does your establishment compare to 23 other neighboring establishments in terms of 24 what you're offerings are? 25 MR ZEWDIE: Pretty much everybody is

1 I would say everyone operating the the same. 2 same type of business where we all offer, you 3 know, whatever everybody's offering. MR. BIANCO: Okay. Do you have the 4 biggest establishment in the neighborhood? 5 MR ZEWDIE: No, I don't have the 6 7 biggest actually. That area, I think the biggest establishment is Nellie's or Brixton. Other than 8 9 that, everyone is pretty much the same size. 10 MR. BIANCO: And are you open later 11 than most of the other establishments? 12 MR ZEWDIE: No. 13 MR. BIANCO: Okay. So let's talk 14 about the period pre-COVID, and hopefully we'll 15 be returning to a period that looks like that So let's focus our discussion there. 16 17 Can you describe what it's like around the intersection of 9th and U Streets on a 18 19 typical weekend night pre-COVID? 20 MR ZEWDIE: Pre-COVID, 9th Street, U 21 Street, 7th Street, they're all a busy area. 22 They are always people walking up and down, and 23 lots of cars, and lots of people. 24 MR. BIANCO: Okay. 25 MR ZEWDIE: And in a way that is good.

2	
3	have any operations outside?
	MR ZEWDIE: I did from, like, for
4	about a week, or about a month, I would say. And
5	I got a letter from DDOT. And I'm sure you're
6	aware of that, the DDOT revoked the license.
7	MR. BIANCO: DJ, I'm asking you
8	specifically about pre-COVID, so before February
9	of 2020.
10	MR ZEWDIE: I'm sorry, I'm sorry. No,
11	none.
12	MR. BIANCO: None, okay. And you are
13	aware of the noise concerns raised by Mr. Schlom,
14	correct?
15	MR ZEWDIE: Yes, that's correct.
16	MR. BIANCO: And as you mentioned at
17	the outside of your testimony, he lives in the
	the outside of your testimony, he lives in the condominium building that is directly next door
17	
17 18	condominium building that is directly next door
17 18 19	condominium building that is directly next door to your establishment. And could tell the Board
17 18 19 20	condominium building that is directly next door to your establishment. And could tell the Board how long that condominium has been there?
17 18 19 20 21	condominium building that is directly next door to your establishment. And could tell the Board how long that condominium has been there?  MR ZEWDIE: I would say since 2000,
17 18 19 20 21 22	condominium building that is directly next door to your establishment. And could tell the Board how long that condominium has been there?  MR ZEWDIE: I would say since 2000, end of 2016.

2004, I mean, since 2012, Morroci. 1 2 MR. BIANCO: Right, you changed the 3 name in 2012, I'm sorry, 2015 though, to MK Lounge, right? 4 5 MR ZEWDIE: Yes, sir. MR. BIANCO: 6 Okay. 7 MR ZEWDIE: That's a name change under 8 the same licensee. 9 MR. BIANCO: Okay. Did you have any, 10 after the condo was competed, did you have any 11 discussions with the developer about noise? 12 MR ZEWDIE: I did discuss with the 13 developer. I did discuss with the contractor as 14 well. Because most of that building, when 15 they're doing the construction, they were on top 16 of my roof in order to finish up the wall on my 17 side. 18 So when I talked to the developer, he 19 said it's nothing to worry about the sound. 20 I keep saying is going to be okay, is the sound 21 not going to affect the building? Because I'm 22 sure the people know, when they move into the 23 place, we have a big sign saying Lounge. 24 And the contractor told me you don't

have to worry about it. In fact, this building,

because of here, your building is safe, because 1 2 your building is old. So we have your wall and 3 then another soundproof wall, no, another wall 4 and soundproof, and then a wall. So there is no 5 way they will hear any kind of noise or complaining. Because it's been done with 6 soundproof. I don't if we can get that the DCRA. 7 8 MR. BIANCO: Okay. Well, let's focus 9 on what we have in front of us here. And I am 10 now going to direct your attention to the screen 11 where I am showing you an exhibit that I have 12 marked as Applicant's Exhibit 3. And this is an email from June 12 of 2017. Do you recognize 13 14 this document? 15 Since I'm on my phone, MR ZEWDIE: it's kind of little, it's small. Hold on, let me 16 17 flip it. Yes. 18 MR. BIANCO: Okay. It's from Paul So. 19 MR ZEWDIE: MR. BIANCO: And who's Paul So? 20 21 MR ZEWDIE: That's the owner of the 22 1932 building. That's the developer. 23 MR. BIANCO: Okay. So that's the 24 person who developed the 1932 building. And you

were a recipient on this email.

1 MR ZEWDIE: Yes. 2 MR. BIANCO: Okay. And your email 3 address is mkloung@gmail.com? MR ZEWDIE: Yes. 4 5 MR. BIANCO: Okay. And so the first part of this email, what it says is, "Hi, all, 6 7 attached is Bay Acoustics final report from their 8 testing. The recommendations are as stated in 9 Michael's earlier email." Did you receive an 10 acoustic report from a sound engineer? 11 MR ZEWDIE: Yes, we did. 12 MR. BIANCO: Okay. And we're going to scroll down --13 14 CHAIRPERSON ANDERSON: I'm sorry, I'm 15 I'm not sure whose phone is on and who is 16 unmuted, but either the investigator or, I'm 17 sorry, either, I apologize, the attorney or the 18 Witness. I want everyone to just mute their 19 phones, please. Because it appears that this is 20 not the first time that someone has been unmuted, 21 and I hear a phone ringing. So if you have a 22 phone, can you please put your phone in silence. 23 I'm sorry, go ahead. 24 MR. BIANCO: Mr. Anderson, your brief 25 indulgence. I want to turn around and turn my

1	office phone off in the event that it rings. It
2	would be audible through the Webex platform. So
3	if you could excuse me a second.
4	CHAIRPERSON ANDERSON: Thank you.
5	MR. BIANCO: Great.
6	CHAIRPERSON ANDERSON: All right,
7	thank you.
8	MR ZEWDIE: Okay. Yes, sorry, my
9	battery get hot and
10	MR. BIANCO: Okay. Thank you very
11	much. I appreciate that. I'm back. We're ready
12	to go back on the record.
13	CHAIRPERSON ANDERSON: All right, Mr.
14	Bianco.
15	MR. BIANCO: Okay. So we're going to
16	scroll down past Page 1 of Exhibit 3 and look at
17	this document. It says Bay Acoustics, Results
18	and Recommendations, Sound and Vibration Testing.
19	And it's dated June 10th of 2017. Do you
20	recognize that document?
21	MR ZEWDIE: Yes.
22	MR. BIANCO: Okay. And is that the
23	acoustical report that you received from Bay
24	Acoustics in 2017?
25	MR ZEWDIE: That's correct.

MR. BIANCO: Okay. And did that
report make certain recommendations that you
could put into place to mitigate sound concerns?
MR. SCHLOM: Mr. Chairman, I'm going

to object to an improper opinion here. This
Witness has not been qualified as an expert to
interpret this report in any way. I'm fine with
him testifying that he received it, but he is not
qualified to interpret it.

CHAIRPERSON ANDERSON: I'm fine. I mean, I'll sustain the objection. He's correct. Mr. Bianco

MR. BIANCO: I, I --

CHAIRPERSON ANDERSON: -- he can state what it is he has received and what it is. But it's it's moreso for him to interpret what this report stands for. Okay.

MR. BIANCO: No, I understand. But the question, I wasn't asking him to interpret anything. And I don't intend to. So the proffer of the testimony is that a report was done by an expert. The report contained recommendations. He put the recommendations into place. And that testimony is appropriate, and the reports admissible for that purpose.

We're not asking him to say if the 1 2 recommendations are good, bad, or indifferent, 3 just that they exist and he did them. MR. SCHLOM: Can I be heard, Mr. 4 Chairman? 5 CHAIRPERSON ANDERSON: Yes, sir, go ahead. 6 7 MR. SCHLOM: I understand what Mr. 8 Bianco is saying, but he still is missing the 9 point that Mr. Zewdie is not qualified to even 10 interpret what the recommendations are, 11 necessarily. 12 If Mr. Bianco wants to include some 13 background or some voir dire of this Witness to 14 show that he's qualified, but as of now he has 15 not been qualified as an expert to even interpret 16 what these recommendations are. 17 CHAIRPERSON ANDERSON: All right, I'm 18 sorry. Mr. Bianco, what is this exhibit? What 19 is this? MR. BIANCO: So this is an acoustical 20 21 report that was prepared at the behest of the 22 developer of Mr. Schlom's condominium. And the 23 acoustical report goes through and lists what all 24 of the problems are structurally with the 25 construction of Mr. Schlom's condominium and why

sound is transmitting from MK Lounge to the condominium.

And I'm not asking for any testimony or interpretation, or anything that relates to that in any way. What I'm saying is, at the conclusion of the report there are recommendations, and this is exactly where we were going, to the conclusion of the report where there are recommendations. And it says, essentially, if you want to mitigate the noise concerns install this.

CHAIRPERSON ANDERSON: Well, so what is, so why don't you ask the question. Okay, was there a report done, who did the report, what were their recommendations, and did he, I mean, did he follow the recommendations. I mean --

MR. BIANCO: That's precisely what I was asking when Mr. Schlom objected for evidently no reason. That's exactly --

MR. SCHLOM: If I may, Mr. Chairman, my objection is twofold. One, Mr. Bianco is trying to get this expert report in without the person who wrote out through a back door. If he offered in proffer, he's claiming that this has prejudicial information in it. But no one's

going to testify, yet it's going to come into evidence.

And he still is avoiding the issue that we have not established that Mr. Zewdie is qualified to even understand what these recommendations are. If Mr. Bianco wishes to voir dire the Witness and establish that he is an expert in sound engineering and does understand, can understand what these recommendations are, fine.

He could choose to call the expert that prepared the report. He could choose to call a contractor and engineer who implemented any such recommendations. But he's not doing that. He's asking Mr. Zewdie to testify to all of this.

MR. BIANCO: Well, no. What I'm asking is for Mr. Zewdie to testify that he read the recommendations which tell him to install a certain consumer product and that he installed the consumer product per the expert's recommendations. It does not require, in any way, shape, or form --

CHAIRPERSON ANDERSON: All right.

MR. BIANCO: -- any expertise except

the ability to read.

the Artview Condominium.

CHAIRPERSON ANDERSON: All right.

Okay. All right. Who was the report sent to?

MR. BIANCO: This report was sent to

Mr. Zewdie, Mr. Paul So, and two of the

condominium owners in Mr. Schlom's building who

were named witnesses for today's hearing.

Caroline Renzulli and Tom Bush are unit owners in

CHAIRPERSON ANDERSON: All right. I'm going to allow, I mean the bottom line is, this is a report that was sent to the owner. And I think he can testify that the report was done, I'm sorry, this report was done, that recommendations were given to him, and he complied with, he did the recommendation as the report stated.

Whether or not this has remediated the issue, I don't know. But, I mean, the only part of it that I think is appropriate for him to testify to is to say this report was done, it was sent to him, and this is what he did as per the report, if that's what he did.

And I believe, Mr. Schlom, under cross examination that you can further explore this

issue to get to what, to get to the point you're trying to get to. I know where you're getting to, but I think you can -- I'm going to allow some testimony on this in cross examination. I think you'll be able to get your point across, sir, okay.

All right. So I'm going to overrule the objection. And go ahead, Mr. Bianco? But again, this is not, he's not an expert, and he's a layman. And so I expect the answers that are to given from him are from a layman's perspective unless he has provided, unless you're going to provide him as an expert, okay.

MR. BIANCO: No, I understand. I'm not seeking to qualify him as an expert. And as stated at the outset, the testimony is going to be limited to he received the report, he read the report -

CHAIRPERSON ANDERSON: Fine.

MR. BIANCO: -- he implemented the recommendations. And that's it.

CHAIRPERSON ANDERSON: So therefore,
I'm overruling the objection. And go ahead, sir,
under limited basis.

MR. BIANCO: All right, so Mr. Zewdie,

I believe we've had testimony already that you 1 2 received this report and you recognized it, and 3 you've had the opportunity to review it, correct? 4 MR ZEWDIE: That's correct. 5 MR. BIANCO: Okay. So now I want to go down to Page 3 of the report. 6 7 specifically we are looking at the bottom 8 paragraph that says, below, we provide the 9 following isolation recommendations for each 10 speaker. 11 All speakers, including sub-woofers, 12 should be suspended from the roof joists for 13 maximum isolation. It is sometimes possible to 14 isolate speakers that are floor mounted, however 15 we find suspending them to be most effective, 16 especially where the floor is the apparent 17 conduit of the sound. 18 And below that it lists some products 19 that you could use to --20 MR. SCHLOM: Mr. Chairman, I'm going 21 to object --22 Objection, Mr. MR. STOECKLEIN: 23 Chairman 24 (Simultaneous speaking.) 25 -- He's testifying for MR. SCHLOM:

the Witness. 1 2 CHAIRPERSON ANDERSON: Objection 3 sustained. Mr. Bianco, you're asking a question, sir. Please ask him a question --4 5 MR. BIANCO: Sure. CHAIRPERSON ANDERSON: -- and let's 6 7 I do not want the Attorney to be 8 reading, if you want to direct the Witness to a 9 certain portion on the page, fine, so just let me know what it is that --10 11 MR. BIANCO: Sure, okay. 12 CHAIRPERSON ANDERSON: All right, 13 okay. 14 MR. BIANCO: I understand completely. 15 So, Mr. Zewdie, can I direct your attention to 16 the three bulleted points, one which says sub-woofers, the next which says EV model ZLX12, 17 18 and the third which says QSC Model K-10. Can you 19 read those yourself, please? 20 MR ZEWDIE: Okay. If can see this on 21 my phone, so, sorry, it can't be on it. 22 MR. BIANCO: And you don't need to 23 read it out loud, you can just read it to 24 yourself. I just want to make sure you're

reading it.

1	MR ZEWDIE: Which one, you said?
	· -
2	MR. BIANCO: Okay, so three bulleted
3	points, sub-woofers, and then there's text
4	following it, EV Model ZLX 12, NQS MODEL, K-10.
5	MR ZEWDIE: Yes. Attach EV ZLX
6	bracket to each speaker, suspended yoke, two, add
7	to point with the shredded end, one.
8	MR. BIANCO: Okay, you don't need to
9	read it out loud, just let me know when you've
10	finished reading it.
11	MR ZEWDIE: All right.
12	MR. BIANCO: Okay, have you finished
13	reading that?
14	MR ZEWDIE: Yes.
15	MR. BIANCO: Okay. Now scrolling
16	further down the report, I'd like to direct your
17	attention to this page of the report with
18	specifications on that. If you could look at
19	that and read it, and
20	MR ZEWDIE: Yes.
21	MR. BIANCO: familiarize yourself
22	with that.
23	MR ZEWDIE: Yes. I'm familiar with
24	this.
25	MR. BIANCO: Okay. And then the

1	following page, K Series Accessories, if you
2	could look at that, review it, and familiarize
3	yourself with that.
4	MR ZEWDIE: Yes.
5	MR. BIANCO: Okay.
6	MR ZEWDIE: I am familiar.
7	MR. BIANCO: Okay, now having looked
8	at the recommendations portion of the report, did
9	you install the products as suggested by the
10	acoustic engineer?
11	MR ZEWDIE: Yes, I did.
12	MR. BIANCO: Okay. And did you do
13	that yourself, or did you hire a professional to
14	do it?
15	Actually, the building owner, Mr.
16	Paul, he recommended somebody. And that person
17	came in and installed it.
18	MR. BIANCO: Okay. Thank you. Mr.
19	Chair, I would, at this time, move admission of
20	Applicant's Exhibit. It's numbered as Number 3.
21	If you prefer, we can keep it as Number 3. I
22	think that probably makes more sense than
23	renaming it Number 1.
24	CHAIRPERSON ANDERSON: Mr. Schlom, any
25	objection?

MR. SCHLOM: Yes, Mr. Chairman. Mr. Bianco has not laid the proper foundation that this Witness can testify to anything that is in the report. In fact, the Witness was going through all of these technical issues at the end of the report when Mr. Bianco asked him -

(Simultaneous speaking.)

CHAIRPERSON ANDERSON: Hold up. No, he wants to move this into evidence. I'm asking you if you have any objection.

You're speaking about the nature of the testimony. I'm talking about just the documents and stuff. Do you have an objection to admitting this document into evidence?

MR. SCHLOM: Yes, I do object, because Mr. Bianco has not has not had Mr. Zewdie lay the proper foundation for this document in evidence.

MR. BIANCO: The foundation objection is misguided. He has acknowledged that he has received it at the time it was sent, that he recognizes it, that he read it, and he's not testifying about the contents of document, merely that he followed the recommendations. That's the purpose for which it is being admitted. No further foundation expertise or anything else is

necessary.

I understand why Mr. Schlom doesn't want it in, it's very damaging to his case. But the fact remains that all he's testifying about is that he followed the steps in the report.

MR. STOECKLEIN: Mr. Chairman, WNA would like to object as well on the same -CHAIRPERSON ANDERSON: I'm going to

get to you, sir. I'm going to get to you. I haven't forgotten about you. I'm going to get to you. So I wasn't sure if Mr. Schlom was finished before I go to you.

MR. SCHLOM: Yes, sure. Yes, Mr. Chairman. The fact remains that Mr. Zewdie, by his own testimony, did not personally do the installation. Mr. Bianco could have called the author of the report. He could have called the developer who commissioned the report. He chose not to do that, and he's, at least as of now.

If he wishes to do that, he can and then try to get the report in that way, but he's trying to get the report in through Mr. Zewdie who, by all indications, does not understand what the report says and did not supervise or even hire the person, or might not have even hired the

person to install it. There's just not proper foundation for this report to come into evidence.

Mr. Zewdie can testify as to what he did, but he doesn't the report to do that.

CHAIRPERSON ANDERSON: Mr. Stoecklein?

MR. STOECKLEIN: Mr. Chairman, we join

Mr. Schlom's objections.

(Pause.)

CHAIRPERSON ANDERSON: I'm going to admit the document. And this is a document that was specifically sent to the Board and to the establishment regarding alleged noise. And that was provided -- that has some recommendation for noise mitigation. So I'm allowing it for just that reason, because it was sent to him specifically.

It wasn't sent, if it not sent to the owner, then I, if I liked it, then I would have admitted it to evidence. But since this was sent to him, he's one of the recipients for this report that addresses, that allegedly addresses noise mitigation. I'm going to overrule the objection. And so I'll admit Exhibit, this is Exhibit 3.

MR. BIANCO: Yes, it's marked as

1	Applicant's Exhibit 3. But there's unlikely to
2	be a one or a two. I just wanted to make sure
3	that's on the record.
4	CHAIRPERSON ANDERSON: All right, so
5	we're to move Applicant's Exhibit 3 in the
6	record.
7	MR ZEWDIE: Can I say a few words?
8	CHAIRPERSON ANDERSON: Go ahead.
9	MR. BIANCO: Mr. Zewdie -
10	(Simultaneous speaking.)
11	MR. BIANCO: I would like to go
12	back to -
13	CHAIRPERSON ANDERSON: I'm sorry,
14	who's speaking? Someone else said something?
15	I'm sorry.
16	MR ZEWDIE: Mr. Bianco?
17	CHAIRPERSON ANDERSON: I'm sorry, Mr.
18	Zewdie, there are no questions, there is no
19	question pending. So, sir, you can't say
20	anything until a question is asked you, okay?
21	MR ZEWDIE: Yes.
22	MR. BIANCO: Yes, please wait until I
23	ask you a question, DJ, okay?
24	MR ZEWDIE: Okay.
25	MR. BIANCO: So now I would like to go

1	back to Investigator Zollerkoffer's report and
2	specifically look at the photograph that is
3	marked as Exhibit 12 to his report. And do you
4	recognize that photo?
5	MR ZEWDIE: Yes, I do.
6	MR. BIANCO: And what does that show?
7	MR ZEWDIE: That was the speaker
8	mounted with the suspension as the sound engineer
9	recommended.
10	MR. BIANCO: Okay. And that's how
11	that speaker looks today?
12	MR ZEWDIE: Yes, sir.
13	MR. BIANCO: And I just want to
14	understand, did you only do that suspension
15	installation with respect to this one speaker, or
16	did you do it to more speakers?
17	MR ZEWDIE: All of the speakers has
18	suspension like that.
19	MR. BIANCO: Okay. So as of today,
20	all of the speakers in your establishment are
21	suspended?
22	MR ZEWDIE: Yes, sir.
23	MR. BIANCO: Are there any on the
24	floor?
25	MR ZEWDIE: No.

1	MR. BIANCO: Okay. Did you do
2	anything else to rearrange your speakers
3	following the sound engineer's report?
4	MR ZEWDIE: If I did what?
5	MR. BIANCO: Did you do anything else
6	to rearrange you speakers following the sound
7	engineer's report?
8	MR ZEWDIE: Yes, the volume control
9	used to be by the DJs. So we moved from the DJ
10	booths to inside the bar so we can have a
11	control. As you see, that controller was inside.
12	MR. BIANCO: Okay. And specifically
13	you're talking about this controller right here
14	that we're looking at which is Exhibit 8 to
15	Investigator Zollerkoffer's report?
16	MR ZEWDIE: Yes.
17	MR. BIANCO: And you moved that from
18	the DJ booth to behind the bar?
19	MR ZEWDIE: Yes.
20	MR. BIANCO: Okay.
21	MR ZEWDIE: So we can have a control
22	of it.
23	MR. BIANCO: Did you do anything else
24	to rearrange the speakers?
25	MR ZEWDIE: That's basically it,

whatever they recommended. 1 2 MR. BIANCO: Okay. Now 3 MR ZEWDIE: I didn't - okay. MR. BIANCO: After moving the 4 5 speakers, I'm sorry, following the sound 6 engineer's report and the work that you did to 7 the property, did you communicate with Mr. Schlom 8 about noise from your establishment? 9 MR ZEWDIE: Yes, we have with him and, 10 as well, Caroline. She lives on the second 11 floor. 12 MR. BIANCO: Okay. And how did you 13 communicate with your neighbors in the condominium? 14 15 MR ZEWDIE: I created a text group 16 where we can communicate. If they hear any loud music or any noise, so they can text it to us. 17 18 And then I add a few people in the management, just in case, if I'm not there I have a 19 20 management and the bar tenders into the group, 21 and then a few tenants who live in the building. 22 MR. BIANCO: Okay. And when you 23 receive a text message to the text message group, 24 what do you do? 25 MR ZEWDIE: We do the action and we

followup and say is it good? And, you know, most 1 2 likely most of the time it, you know, we don't 3 get response. That means it's good. MR. BIANCO: Okay. So the last thing 4 5 I want to look at is, and there's been some testimony from Investigator Zollerkoffer on this, 6 7 is his Exhibit Number 11 to his report which is a 8 photograph of headphones. Can you explain the 9 significance of that? This is the 10 MR ZEWDIE: Yes. 11 headphone that I got after the, after our 12 suspension because the music cannot be allowed 13 and people cannot hear loud music. And we come 14 up with headphones so everybody can have it. And 15 since then, the music was very low. 16 inspector is still coming and said a noise 17 complaint. But, you know, basically they don't hear nothing. Because it's more like a silent 18 19 party. 20 MR. BIANCO: Okay. And were you using 21 these pre-COVID, or you just started using these 22 during the pandemic? 23 I just started using it. MR ZEWDIE: 24 MR. BIANCO: Okay. And how many pairs 25 of headphones did you buy?

1	MR ZEWDIE: I bought 50.
2	MR. BIANCO: Okay. How much did that
3	cost?
4	MR ZEWDIE: About \$3,500.
5	MR. BIANCO: Okay, great. Thank you.
6	Okay. I don't have anymore questions for you at
7	this time. Mr. Schlom and Mr. Stoecklein may
8	have some questions for you. So please listen
9	and answer their questions accordingly.
10	CHAIRPERSON ANDERSON: All right, Mr.
11	Bianco. Please stop sharing your screen.
12	Okay, Mr. Schlom, your Witness.
13	MR. SCHLOM: Thank you very much. DJ,
14	good afternoon. I have a few clarifying
15	questions from what Mr. Bianco was asking you.
16	Now, you had said in your testimony that the
17	condominium building was built in 2016. Is that
18	right?
19	(No audible response.)
20	CHAIRPERSON ANDERSON: You're on mute,
21	sir. We can't hear you.
22	MR ZEWDIE: Oh, I'm sorry. So 2016,
23	that's when people are buying the property and
24	moving into the building.
25	MR. SCHLOM: Sure, great. And you

applied for the license that you currently have, 1 2 you applied for that in 2016, right, the ABRA 3 license? 4 2016, yes. MR ZEWDIE: 5 MR. SCHLOM: Got it. And then you signed a settlement agreement with the AMC in 6 7 January of 2017, right? 8 MR ZEWDIE: I believe, yes. It was in 9 117. 10 MR. SCHLOM: Okay. Sure. So you 11 signed the agreement after people started buying 12 condominiums, correct? 13 MR ZEWDIE: True. Some of them is in 14 already. No, actually, most of them are in. I 15 know you moved in in 2017. 16 MR. SCHLOM: Sure, okay. Now, Mr. 17 Bianco asked a few questions. You were 18 testifying about changes you say you made to the 19 property based on an engineer's report. Now you 20 don't have any training in sound engineering, 21 right? 22 MR ZEWDIE: No, I don't. But the 23 building owner, he hired a sound engineer. 24 wasn't be hired by me. The building owner, he 25 hired a sound engineer. He gave a suggestion,

and he sent all the tenants. And he got somebody 1 2 who was working at his building. They came in 3 and installed it. MR. SCHLOM: 4 I see. Now, who paid the 5 person to install the changes in your property? Was that you or was that the developer of 1932 6 7 9th Street NW? 8 MR ZEWDIE: That was me. 9 MR. SCHLOM: Okay. So you hired the 10 contractor? 11 MR ZEWDIE: He suggested, Mr. Paul 12 suggested, and he would say he's going to pay all 13 expense. And at the end, nowhere to be found. 14 So I had to pay for it. 15 MR. SCHLOM: But I'm trying to 16 understand, are you the one that signed the 17 contract with the contractor? Did you hire the 18 contractor? 19 MR ZEWDIE: No, Mr. Paul hired a 20 contractor. So assuming, on the email he sent 21 out, he said that he's willing to cover expense. 22 Ms. Caroline and Tom, they know about it. 23 MR. SCHLOM: Okay. So did you 24 supervise the installation of the sound changes? 25 MR ZEWDIE: Yes, I did.

1	MR. SCHLOM: But you just said you're
2	not an expert in sound engineering. So how do
3	you know what was actually being done?
4	MR ZEWDIE: I mean, I can read
5	English. So based on the description, I see what
6	they ordered. I see what they put in. And
7	that's how I know. I mean, none of us is a sound
8	engineer.
9	MR. SCHLOM: Do you know what a QSC
10	K-10 yoke is?
11	MR ZEWDIE: Yes.
12	MR. SCHLOM: What is it?
13	MR ZEWDIE: Thats the, the QSC is a
14	speaker.
15	MR. SCHLOM: So what is a K-10 yoke?
16	MR ZEWDIE: The K-10 yoke, I think, is
17	the mounting bracket.
18	MR. SCHLOM: Okay. What's the
19	difference between a K-10 and a K-8 yoke?
20	MR ZEWDIE: The size.
21	MR. SCHLOM: Okay. Do you know which
22	is appropriate for your space.
23	MR ZEWDIE: It's the ten.
24	MR. SCHLOM: Okay. So you say that
25	you implemented all of these recommendations in

1	the report, correct?
2	MR ZEWDIE: Yes.
3	MR. SCHLOM: But did you direct the
4	contractor to do those things or did Paul So
5	direct the contractor to do those things?
6	MR ZEWDIE: Actually, the sound
7	engineer, and Paul So was there as well.
8	MR. SCHLOM: I'm not sure that answers
9	my question. DJ. You seem to be saying that Paul
10	So and the engineer directed the contractor on
11	what to install, not you?
12	MR ZEWDIE: How to install it, yes.
13	I was there.
14	MR. SCHLOM: No, no, no. Not whether
15	you saw it, whether you said to the contractor do
16	this, do this, do this, pay for this, buy this,
17	install this, you didn't do that?
18	MR ZEWDIE: No.
19	MR. SCHLOM: Okay.
20	MR ZEWDIE: No, I gave -
21	(Simultaneous speaking.)
22	MR ZEWDIE: pay for that.
23	MR. SCHLOM: That answers my question.
24	And you don't have the invoice from all of that
25	work, do you?

1	MR ZEWDIE: No, I don't.
2	MR. SCHLOM: Okay. Now, how many
3	times would you say, if you know the answer, if
4	you don't that's okay, how many times would you
5	say you've been inside the condominium building
6	at 1932 9th Street NW?
7	MR ZEWDIE: Maybe two times or three
8	times. I think I was in your apartment once.
9	And then I was -
10	MR. SCHLOM: Yes.
11	MR ZEWDIE: and Caroline, and Tom's
12	apartment.
13	MR. SCHLOM: Okay, so two or three
14	times, more or less?
15	MR ZEWDIE: Right.
16	MR. SCHLOM: Okay. Now do you recall
17	how many of those visits were during MK Lounge
18	business hours?
19	MR ZEWDIE: How many what?
20	MR. SCHLOM: How many of those visits
21	were while MK Lounge had customers inside?
22	MR ZEWDIE: It was, two times, one
23	time there was nobody there.
24	MR. SCHLOM: Okay. Now, I want to
25	talk about Mr. Bianco asking you about those Blue

1	Tooth headphones. Now, you said you bought those
2	after your license suspension in 2020, correct?
3	MR ZEWDIE: That's correct.
4	MR. SCHLOM: Okay. And are they given
5	to all patrons, or do patrons have to request
6	them?
7	MR ZEWDIE: They have to request them.
8	MR. SCHLOM: Okay. And you said you
9	bought 50 pairs, correct?
10	MR ZEWDIE: Yes.
11	MR. SCHLOM: But your certificate of
12	occupancy under normal times is 122. Is that
13	right?
14	MR ZEWDIE: Yes, we're not talking
15	about normal times. This is after COVID.
16	MR. SCHLOM: No, normal time, not
17	COVID, correct. Normal time is 122.
18	MR ZEWDIE: One hundred twenty-two.
19	MR. SCHLOM: Okay. Now, DJ, does MK
20	Lounge sell Hookah?
21	MR ZEWDIE: Yes, we do. Everyone
22	does.
23	MR. SCHLOM: When did you begin to
24	sell, sorry, go ahead. I didn't mean to
25	interrupt you, I apologize.

1	MR ZEWDIE: No, everyone does. I
2	started doing that 2000, I think when we opened
3	up it was 2012.
4	MR. SCHLOM: You've been selling
5	Hookah since 2012?
6	MR ZEWDIE: Since 2012, and then they
7	stopped us. And then went to Jim Graham. Jim
8	Graham allow us to do the Hookah. That was,
9	2000, I think, '16 or '17.
10	MR. SCHLOM: Okay. Has the Department
11	of Health ever ordered you to stop selling
12	Hookah?
13	MR ZEWDIE: It was in the news, yes.
14	I mean what does this have to do with -
15	MR. SCHLOM: Did they order you in
16	2018 to stop selling Hookah?
17	MR ZEWDIE: No, they didn't order it,
18	nobody came and ordered.
19	MR. SCHLOM: You never received an
20	inspection report in 2018 ordering you to cease
21	and desist Hookah?
22	MR ZEWDIE: We did, and they told us
23	we need to get exempt. And I prepared all the
24	documentation, and then went to the HUD
25	Department. And they said right now we're not

So I did not submit it. 1 taking. 2 MR. SCHLOM: Okay. So you did receive 3 the cease and desist order, and then in response 4 to that you asked for an exemption, but you have 5 not received an exemption. Is that correct? MR ZEWDIE: 6 No, yes. 7 MR. SCHLOM: Okay. So yes, that is 8 correct, no you do not have an exemption. 9 MR ZEWDIE: No. 10 MR. SCHLOM: Okay. Now, I want to 11 talk a bit about the outdoor space, the parklet 12 that you had in 2020. You had an outdoor space 13 in 2020, is that right? 14 MR ZEWDIE: That's correct. 15 MR. SCHLOM: Okay. And did you file 16 the application for that outdoor space? 17 MR ZEWDIE: Yes, I did. 18 MR. SCHLOM: Did you ask the residents 19 to support your application, the residents of 20 1932 9th Street NW? 21 MR ZEWDIE: As the Sugar Shack has 22 been shut down, so we don't need, this is a 23 public street. So we don't need to ask, because 24 of the Sugar Shack has been shut down. And we're

not doing it on the sidewalk, we're doing it on

the main street.

MR. SCHLOM: I want to get away we'll talk about whether permission is required
in a second, but what I was asking was did you
ask residents for their support, to file a letter
of support, or to tell DDOT that we were in
support of the parklet? Did you ever ask for
that?

MR ZEWDIE: I did not need to. I mean, this Mr. Padrow will know. So DDOT already gave me a permission. So if any further questions, they could have asked that they gave me and then revoke it.

MR. SCHLOM: Right. So I understand all that. And I'll get into that in a second. But my question was did you, even if you didn't have to, did you ask the residents of 1932 9th Street NW to support your application?

MR ZEWDIE: No, I didn't.

MR. SCHLOM: Okay. Now

MR ZEWDIE: They're the ones who protest it -- so it doesn't make any difference asking the building owners. Because they are the ones who protesting.

MR. SCHLOM: Okay. So you're saying

1	you didn't ask because of the ABRA protest?
2	MR ZEWDIE: No. It's not because of
3	that. It's because you sent an email to the DDOT
4	so I can get my license to be revoked. Then it
5	not make sense to come to the building and asking
6	people to give me permission.
7	MR. SCHLOM: But, DJ, I'm asking
8	before you filed the application did you ask for
9	our support?
10	MR ZEWDIE: No.
11	MR. SCHLOM: Okay.
12	MR ZEWDIE: If it was needed, the DDOT
13	will know that. They could have asked me for it.
14	MR. SCHLOM: Okay. So we're going to
15	talk about where the parklet is. Mr. Chairman,
16	can I share my screen, please?
17	CHAIRPERSON ANDERSON: Ms. Andrews,
18	can you give him permission to share his screen,
19	please?
20	MS. ANDREWS: Sure, stand by.
21	Mr. Schlom, you now can share your
22	screen.
23	MR. SCHLOM: All right, do you see
24	all right, can you see my screen?
25	MR. ZEWDIE: Yes, I can.

1	MR. SCHLOM: Okay. Now your, sorry,
2	one second. Now this reflects what the parklet
3	looks like today, correct?
4	MR. ZEWDIE: Yes.
5	MR. SCHLOM: Okay. Now, it runs in
6	front of the residential entrance of 1932 9th
7	Street NW, correct?
8	MR. ZEWDIE: Not in front of, it's on
9	the street of 1930 to 1932.
10	MR. SCHLOM: Right. On the street but
11	in front of the residential entrance?
12	MR. ZEWDIE: Residential and MK, yes.
13	MR. SCHLOM: Okay. Now you said that
14	you didn't ask for permission because Sugar Shack
15	was a vacant space, is that correct?
16	MR. ZEWDIE: That's correct.
17	MR. SCHLOM: Okay. How did you know
18	that the space was vacant?
19	MR. ZEWDIE: It's been shut down.
20	Because it's been sold to the different company.
21	I saw the sign. It's never open.
22	MR. SCHLOM: Did you know that there
23	was an active lease still on the property when
24	you opened the parklet in July of 2020?
25	MR. ZEWDIE: If I know what. I'm

1	sorry?
2	MR. SCHLOM: Did you know that their
3	lease was still active in July of 2020 when you
4	opened your parklet?
5	MR. BIANCO: Objection. Assumes facts
6	not in evidence. There is no testimony about
7	leases or whether or not they're active.
8	MR. SCHLOM: I'm asking for his
9	knowledge. Did he know?
10	MR. BIANCO: You're stating something
11	you propose to be a fact and then asking him
12	about it. It's not in evidence.
13	MR. SCHLOM: I'll rephrase
14	CHAIRPERSON ANDERSON: All right, hold
15	on.
16	MR. SCHLOM: I'll rephrase the
17	question. I'll rephrase it.
18	CHAIRPERSON ANDERSON: Go ahead. All
19	right.
20	MR. SCHLOM: I'll rephrase it. Mr.
21	Zewdie, did you investigate whether there was an
22	active lease on that property when you opened
23	your parklet in July of 2020?
24	MR. ZEWDIE: No, I didn't.
25	MR. SCHLOM: Okay. So you didn't know

1	whether that space had simply temporarily closed
2	or whether it was permanently closed?
3	MR. ZEWDIE: I know it's temporarily,
4	I mean, permanently closed because Sugar Shack
5	has been gone. So I know
6	MR. SCHLOM: But you didn't
7	MR. ZEWDIE: it was out. I don't
8	know when the license is active or not.
9	MR. SCHLOM: Did you ask the property
10	owner whether there was an active lease?
11	MR. ZEWDIE: No. I don't have any
12	contact with them.
13	MR. SCHLOM: Okay. Now, when did you
14	learn that the DDOT permit for the parklet had
15	been revoked?
16	MR. ZEWDIE: Right after about a month
17	of the, once we set up. I'm not sure exactly the
18	dates. Exact date, I'm not sure, I'm not aware
19	of.
20	MR. SCHLOM: Okay. Now, did you
21	remove all of your items from the public space
22	once you learned that the permit had been
23	revoked?
24	MR. ZEWDIE: We moved all the tents.
25	MR. SCHLOM: That doesn't answer my

1	question. Did you remove everything from the
2	public space once you learned that the permit was
3	revoked?
4	MR. ZEWDIE: Not everything because we
5	were trying to get a paper from the owner, from
6	the new leaser to 1932.
7	MR. SCHLOM: So do you have a parklet
8	permit currently from DDOT?
9	MR. ZEWDIE: No, I don't.
10	MR. SCHLOM: Okay. But your bike rack
11	is still in the parking lane in front of your
12	business, is that correct?
13	MR. ZEWDIE: Yes.
14	MR. SCHLOM: All right. Mr. Chairman,
15	I have nothing further. DJ, thank you very much.
16	MR. ZEWDIE: You're welcome.
17	CHAIRPERSON ANDERSON: All right,
18	thank you. Mr. Stoecklein, do you have any
19	questions for this witness?
20	Mr. Schlom, can you please close your
21	screen. Please.
22	MR. SCHLOM: Yes.
23	MR. ZEWDIE: Yes.
24	MR. STOECKLEIN: Yes, Mr. Chairman, I
25	have just a few questions.

1	CHAIRPERSON ANDERSON: Go ahead, sir.
2	Close your screen.
3	MR. STOECKLEIN: Okay.
4	CHAIRPERSON ANDERSON: Yes, go ahead.
5	MR. STOECKLEIN: Okay, thank you.
6	Regarding the sound engineer's report, which was
7	labeled Applicant's Exhibit 3, did you conduct or
8	contract with anyone to conduct sound abatement
9	testing following the work that you say was
10	performed?
11	MR. ZEWDIE: No. We did it based on
12	the
13	MR. STOECKLEIN: That's fine. Thank
14	you, DJ. And is it correct then that no sound
15	engineer has determined whether the speaker
16	suspension modifications, as I believe you
17	described them, made any material difference in
18	sound abatement that was addressed in that
19	report?
20	MR. ZEWDIE: It made a lot of
21	difference. That I know because
22	MR. STOECKLEIN: No, no, that wasn't
23	my question, DJ.
24	MR. ZEWDIE: Well, I
25	MR. STOECKLEIN: Mr. Chairman, could

you please instruct the Witness to answer the 1 2 questions asked? 3 CHAIRPERSON ANDERSON: I'm --MR. BIANCO: Mr. Chairman, I'm going 4 5 to request that he allow the Witness to finish his answer. 6 7 CHAIRPERSON ANDERSON: Yes. I was 8 about to say, if you want to withdraw the 9 question, sir, withdraw the question. have asked him a question and he is the answering 10 11 the way he interprets it. 12 MR. STOECKLEIN: Mr. Chairman, my 13 question required a yes or no answer and he is 14 providing additional testimony as he sees fit. 15 Which is not within the scope of my question. 16 CHAIRPERSON ANDERSON: Well, can you 17 rephrase the question so he can only answer it, 18 and then if Mr. Bianco on cross examine, on 19 redirect, wants to redefine it. 20 So, can you please ask the question. 21 Answer the question that, all right, I know that 22 he --23 I wasn't aware we MR. STOECKLEIN: 24 were allowing redirect either, Mr. Chairman. 25 we redirecting?

1	MR. BIANCO: Yes.
2	CHAIRPERSON ANDERSON: Well, I'm not
3	sure how far afield we're going to go because
4	it's 1:23 and we have two more cases to go. So
5	there is going to be a point where if I allow you
6	guys to redirect then we have to go whole, we
7	have to go back through a whole bunch of
8	MR. STOECKLEIN: Oh, I agree. I
9	thought that at the beginning we had established
10	there would be no redirect, I was just
11	clarifying. Thank you, Mr. Chairman.
12	CHAIRPERSON ANDERSON: Trust me,
13	that's what I'm saying. No, but I'm saying, but
14	it's Mr. Bianco's witness of course, he is going
15	to have an opportunity to, because remember, the
16	Witness is on cross
17	MR. STOECKLEIN: No, I understand. I
18	understand.
19	CHAIRPERSON ANDERSON: Right. So Mr.
20	Bianco will have one opportunity to go back to
21	his Witness.
22	MR. STOECKLEIN: Sure. I think I can
23	make this simple.
24	CHAIRPERSON ANDERSON: Yes.
25	MR. STOECKLEIN: Yes.

1	CHAIRPERSON ANDERSON: So, all right,
2	hold on. All right. All right. Please ask him
3	a question. And you need to put him in a box.
4	You cannot give him wiggle room because, to
5	answer the question the way that he wants to. So
6	you have to ask him
7	MR. STOECKLEIN: I understand, Mr.
8	Chairman. I will repeat the question, which I
9	believe required a yes or no answer, and if you
10	disagree then of course I understand. It's
11	within your discretion to allow further
12	testimony.
13	CHAIRPERSON ANDERSON: All right,
14	thanks. Go ahead.
15	MR. STOECKLEIN: DJ?
16	MR. ZEWDIE: Is it going to be yes or
17	no? Yes.
18	MR. STOECKLEIN: DJ.
19	CHAIRPERSON ANDERSON: Sir, hold on.
20	Sir, he's going to ask you a question, sir, and
21	answer the question. Answer the question that's
22	directed to you, sir. Okay? All right.
23	MR. ZEWDIE: Okay.
24	MR. STOECKLEIN: DJ, is it correct
25	that no sound engineer has determined whether the

speaker modifications made any material 1 difference in sound abatement? 2 3 Is it correct that you have had no 4 sound engineers on the premises following the 5 speaker modifications that you made? MR. ZEWDIE: I mean, I have to 6 7 explain, it's not like it's a yes or no. 8 MR. STOECKLEIN: I'm baffled. 9 CHAIRPERSON ANDERSON: Sir --MR. BIANCO: Mr. Anderson? 10 11 CHAIRPERSON ANDERSON: Yes, Mr. 12 Bianco. 13 (Simultaneously speaking.) MR. STOECKLEIN: Mr. Zewdie did not 14 15 have a sound study performed and that's all I'm 16 trying to get was, did he do anything to follow 17 up on the work that was done or not. I think 18 that it's a simply question. 19 MR. BIANCO: He's asked that question 20 and it's been answered. And he keeps asking it 21 and the Witness is trying to answer it to the 22 best of his understanding. I mean, I'm sorry --23 CHAIRPERSON ANDERSON: All right. 24 Objection --25 MR. BIANCO: -- saying that the --

1	CHAIRPERSON ANDERSON: All right.
2	MR. BIANCO: Mr. Stoecklein wants
3	him to.
4	CHAIRPERSON ANDERSON: All right.
5	MR. BIANCO: That's not how this
6	works.
7	CHAIRPERSON ANDERSON: I'm sorry, only
8	one person can speak at a time. All right.
9	Lets, all right.
10	Mr. Zewdie, please answer the, Mr.
11	Zewdie, you can't ask him a question, okay. And
12	you can't say to him
13	(Simultaneously speaking.)
14	CHAIRPERSON ANDERSON: Sir? Sir?
15	Sir, you can't say to him, this is not a yes or
16	no answer. You can't say that to him, sir.
17	He asked you a question, and answer
18	the question to the best of your ability, sir.
19	So you can't ask him a question and you can't
20	tell him that you can't answer it yes or no.
21	I mean, if you, either you say yes or
22	no or you say that I can't answer it or I need
23	further explanation. But answer the question,
24	sir, that's addressed to you to the best of your
25	ahility.

1	MR. ZEWDIE: Okay.
2	MR. STOECKLEIN: Mr. Chairman, would
3	you like me to repeat the question?
4	CHAIRPERSON ANDERSON: Yes. For
5	clarity, please repeat the question.
6	MR. STOECKLEIN: Okay.
7	CHAIRPERSON ANDERSON: And, Mr.
8	Zewdie, listen to the question, answer the
9	question to the best of your ability, sir. All
10	right?
11	MR. STOECKLEIN: Mr. Zewdie, did you
12	have a sound engineer come to the premises
13	following your speaker modifications and
14	MR. ZEWDIE: Yes.
15	MR. STOECKLEIN: and conduct any
16	further testing?
17	MR. ZEWDIE: Yes.
18	MR. STOECKLEIN: And can you tell me
19	when that sound engineer came and performed
20	further testing?
21	MR. ZEWDIE: Right after the
22	inspection was over.
23	(Simultaneously speaking.)
24	MR. STOECKLEIN: Do you have the
25	results of those sound tests?

1	MR. ZEWDIE: No, there is no written
2	document.
3	MR. STOECKLEIN: Ah, interesting. Who
4	performed those sound tests, Mr. Zewdie?
5	MR. ZEWDIE: The same company that Mr.
6	Paul suggested.
7	MR. STOECKLEIN: Hm. Would you be
8	willing to provide us with any kind of
9	confirmation, written or otherwise, that this was
10	in fact performed?
11	MR. ZEWDIE: I don't have any written.
12	He came in and he just, he just came into the
13	building once everything was done and that was, I
14	think it was 2017.
15	MR. STOECKLEIN: So you have no
16	evidence, you have nothing that you can provide
17	to us or the Board that would verify what you're
18	claiming here?
19	MR. ZEWDIE: Yes. I have no evidence
20	because I don't know this question was going to
21	come up and I did not have any login information
22	about this.
23	MR. STOECKLEIN: Okay. Let's assume
24	for the sake of argument that that's all
25	accurate. Did the sound engineer perform a test

1	of any kind when they returned to the property,
2	as you suggest they did?
3	MR. ZEWDIE: They did not have any
4	test. He make sure whatever he ask is in place.
5	MR. STOECKLEIN: Okay. That's fine.
6	Thank you, DJ. Sir, a few more questions for
7	you.
8	Are you aware that hookah is
9	prohibited in the District of Columbia without an
10	exemption?
11	MR. ZEWDIE: Yes.
12	MR. STOECKLEIN: Do you have an
13	exemption?
14	MR. ZEWDIE: No.
15	MR. STOECKLEIN: So you know it is
16	prohibited and you don't have an exemption but
17	you continue to serve hookah, is that correct?
18	MR. ZEWDIE: Yes. Everybody is doing
19	this.
20	MR. STOECKLEIN: Okay, thank you. No
21	further questions.
22	CHAIRPERSON ANDERSON: Thank you. Any
23	questions by the Board Members?
24	MEMBER SHORT: Yes, Mr. Chair.
25	CHAIRPERSON ANDERSON: Yes, Mr. Short.

1	MEMBER SHORT: Good afternoon, Mr.
2	Zewdie.
3	MR. ZEWDIE: Good afternoon, sir.
4	MEMBER SHORT: Mr. Zewdie, how many
5	years have you been in business?
6	MR. ZEWDIE: Over 20 years.
7	MEMBER SHORT: Over 20 years. Do you
8	believe in the laws of the District of Columbia?
9	MR. ZEWDIE: Yes, I do.
10	MEMBER SHORT: Okay. You are no,
11	thank you very much.
12	Mr. Zewdie, the Mayor, after the
13	pandemic, the worldwide pandemic hit the District
14	of Columbia put out orders for public safety, the
15	pandemic involves mainly your lungs. Smoking
16	involves your lungs.
17	You knew this and yet you still serve
18	hookah after the Mayor's order, yes or no?
19	MR. ZEWDIE: Yes.
20	MEMBER SHORT: Do you think that that
21	violation makes you a good business man or a bad
22	business man?
23	MR. ZEWDIE: Not a good business man,
24	but I needed to survive. That's all it is.
25	MEMBER SHORT: What about the citizens

who come in and spend money in your location, 1 2 does their health mean anything to you? 3 MR. ZEWDIE: Yes, it does. MEMBER SHORT: And you still sold them 4 hookah knowing that hookah can harm them? 5 MR. ZEWDIE: They not smoking the 6 7 hookah, they have their own new fresh hose for each one of them. 8 9 MEMBER SHORT: I understand that. We 10 understand that each cigarette burns and gives 11 off what it gives off, we won't go there. 12 I will ask you this. Like a person 13 driving a car, like you're sitting in right now, 14 in your leisure clothing knowing that the hearing 15 is today, were to come and hit you right now and 16 ruin your car, should they pay a consequence for 17 breaking the law and running into you? 18 MR. ZEWDIE: If it's not my mistake, 19 yes. 20 MEMBER SHORT: So, if one of your 21 customers were to come in and get harmed in your 22 place, would you be responsible for that 23 customer? 24 MR. ZEWDIE: Yes, I am. 25 MEMBER SHORT: Would you be

responsible to the District of Columbia for 1 causing harm to one of its citizens or one of the 2 3 business persons who comes and helps the City functions? 4 5 Do you hold any responsibility for the breaking of the law? 6 7 I think I do. MR. ZEWDIE: 8 MEMBER SHORT: You paid a fine and you 9 were closed for several days during the pandemic 10 for breaking the Mayor's order. Were you guilty 11 of that? 12 MR. ZEWDIE: Yes, I was. Mr. Anderson, I'm going 13 MR. BIANCO: 14 to object at this point. I don't think we're 15 covering any relevant admissible evidence. 16 The information is in the record, the 17 record speaks for itself. And Mr. Zewdie's opinion about the impact of any legal infractions 18 19 is not relevant to the issue. 20 CHAIRPERSON ANDERSON: I'm going to 21 overrule the objection, Mr. Bianco. Go ahead, 22 Mr. Short. 23 MEMBER SHORT: Mr. Zewdie? 24 MR. ZEWDIE: Yes. 25 MEMBER SHORT: The citizens of the

District of Columbia elected Mayor Muriel Bowser. 1 The citizens of the District of Columbia also 2 3 appointed each one of us Board Members on the ABC 4 Board and is responsible in ABRA, which comes 5 under the Mayor's authority. Just like the Mayor's order for you to 6 7 stop doing business during the COVID as you have 8 been doing business. Are you, do you have any 9 responsibility at all as a business owner to 10 comply with Mayor's orders of the District of 11 Columbia? 12 MR. BIANCO: I'm going to object 13 again, Mr. Anderson, this has been asked three 14 times now. Can we get to the end of this? 15 CHAIRPERSON ANDERSON: Once again, Mr. 16 Bianco, I'm going to overrule the objection. 17 Short. 18 MEMBER SHORT: Still waiting for an 19 answer, Mr. Chair. 20 CHAIRPERSON ANDERSON: What was the, 21 repeat the question, Mr. Short. 22 MEMBER SHORT: The question was, since the citizens of the District of Columbia elected 23 24 Muriel Bowser, our Mayor, appointed this Board to 25 uphold the arbor laws, and the arbor laws have

1	found that Mr. Zewdie is guilty, and he's
2	admitted his guilt, what responsibilities does he
3	have to this city for his violations?
4	Mr. Zewdie, what responsibility do you
5	take for breaking the rules and the laws of this
6	city?
7	MR. ZEWDIE: I have no wording.
8	MEMBER SHORT: I didn't hear your
9	answer.
10	MR. ZEWDIE: I have no wording to say.
11	MEMBER SHORT: Do you have any
12	responsibility?
13	MR. ZEWDIE: Yes, I do have a
14	responsibility.
15	MEMBER SHORT: That's all I have, Mr.
16	Chair. Thank you very much.
17	CHAIRPERSON ANDERSON: Thank you, Mr.
18	Short. Any other questions by any of the Board
19	Members?
20	All right, Mr. Schlom, do you have any
21	questions to ask the Witness based on the
22	question that was asked by the Board?
23	MR. SCHLOM: No I do not, Mr.
24	Chairman.
25	CHAIRPERSON ANDERSON: All right,

1	thank you. Mr. Stoecklein, do you have any
2	questions to ask of the Witness based on the
3	questions that was asked by the Board?
4	MR. STOECKLEIN: No, Mr. Chairman.
5	CHAIRPERSON ANDERSON: Thank you. Mr.
6	Bianco, you have an opportunity to redirect off
7	your Client.
8	MR. BIANCO: We're way out at left
9	field, Mr. Anderson. I'm going to decline and
10	spare us all.
11	CHAIRPERSON ANDERSON: All right. Mr.
12	Zewdie, thank you for your testimony. Thank you,
13	sir.
14	Mr. Bianco, do you have another
15	witness?
16	MR. BIANCO: Yes, I do. Alex Padro.
17	CHAIRPERSON ANDERSON: Mr. Padro, do
18	you have a camera, sir?
19	MR. PADRO: Yes. Let me activate it.
20	It's apparently being used by another
21	application. One second.
22	CHAIRPERSON ANDERSON: Mr. Bianco, I
23	believe you have about, is this your last
24	witness, sir?
25	MR. BIANCO: I did have one more

1	witness. Depending on how much time I have left
2	I can, I may use him or not. But I definitely
3	want to go forward with Mr. Padro and see
4	CHAIRPERSON ANDERSON: All right.
5	MR. BIANCO: Actually, if you can warn
6	me when I have five minutes left, I want to
7	reserve that for my last witness.
8	CHAIRPERSON ANDERSON: All right. You
9	have, I will say you have 25 minutes. You have
10	25 minutes left in your case, sir, okay?
11	MR. BIANCO: Very well. I will go as
12	quickly as I possibly can.
13	CHAIRPERSON ANDERSON: All right. Can
14	you raise your right hand please?
15	Do you swear or affirm to tell the
16	truth and nothing but the truth?
17	MR. PADRO: I do swear.
18	CHAIRPERSON ANDERSON: All right.
19	MR. BIANCO: Okay.
20	CHAIRPERSON ANDERSON: Mr. Bianco, go
21	ahead.
22	MR. BIANCO: Mr. Padro, what do you do
23	for a living?
24	MR. PADRO: I am the executive
25	director of Shaw Main Streets, the congressional

1	revitalization organization that serves the 7th
2	and 9th Street commercial corridors in Central
3	Shaw. Which includes the subject location.
4	MR. BIANCO: And how long have you
5	been doing that?
6	MR. PADRO: I've been the executive
7	director since December of 2004.
8	MR. BIANCO: Okay. And you previously
9	been an ANC Commissioner, correct?
10	MR. PADRO: Yes. I was an ANC
11	Commissioner in ANC 2C and ANC 6C from January of
12	2001 through January of this year.
13	I'm sorry, I'm not hearing anything.
14	I don't know if being
15	CHAIRPERSON ANDERSON: I believe that
16	Mr. Bianco is offline. So we're off the record.
17	We're off the record. I think Mr. Bianco is
18	having some technical difficulties.
19	(Whereupon, the above-entitled matter
20	went off the record at 1:37 p.m. and resumed at
21	1:45 p.m.)
22	CHAIRPERSON ANDERSON: All right, go
23	ahead, Mr. Bianco. We can't see you but I guess
24	your video will come back up. But you can go
25	ahead.

1	MR. BIANCO: Okay. Mr. Padro, are you
2	familiar with MK Lounge at 1930 9th Street
3	Northwest?
4	MR. PADRO: Yes, I am.
5	MR. BIANCO: Okay. And how are you
6	familiar with them?
7	MR. PADRO: In my role as executive
8	director I frequently visit all of the
9	establishments in our service area. And I
10	maintain email contact and phone contact with
11	most of the businesses in the area when they have
12	issues that are related to District government
13	compliance.
14	I'm often asked to provide advice or
15	guidance as to how to resolve them. Form of
16	technical assistance.
17	MR. BIANCO: Okay. And what are your
18	general impressions of the establishment?
19	MR. PADRO: In the time that I have
20	been visiting the establishment I have found it
21	to be well managed and well maintained.
22	Basically rebuilt, redecorated in the last six
23	years.
24	And from my observations from the
25	exterior, driving by, walking by during the

evenings, it does seem to be a popular location 1 from time-to-time. 2 3 I have seen customers waiting to be 4 admitted after their having IDs checked by 5 bouncers at the door. And I have not received community complaints about the establishment. 6 7 MR. BIANCO: Okay. And have you had 8 the opportunity to observe the establishment in 9 operation? 10 MR. PADRO: Yes, I have but not since 11 the imposition of the Mayor's health. 12 MR. BIANCO: Okay. And in terms of 13 the operation, how does it compare to the other 14 establishments in proximity? 15 MR. PADRO: It's very comparable in terms of the offerings, services and products. 16 17 And I would say better managed than some of the established that had similar involvement. 18 19 MR. BIANCO: Okay. Did you ever have, 20 did you ever receive any complaints about this 21 establishment in your capacity with Shaw Main 2.2 Streets? 23 MR. PADRO: No, I have not. 24 MR. BIANCO: How about when you were 25 with the ANC, any complaints there?

	MR. PADRO: No. 1 was the
2	Commissioner in the immediate adjacent ANC across
3	the, no, I did not.
4	MR. BIANCO: Okay. Now, do you
5	receive complaints in general about licensees in
6	your capacity with Shaw Main Streets?
7	MR. PADRO: On a daily and nightly
8	basis I get phone calls at all hours of day and
9	nights on my personal cell phone, which I make
10	available to the community. So it's not unusual.
11	And in some cases, if it was within my
12	ANC jurisdiction, I would actually go out to the
13	premises to investigate.
14	MR. BIANCO: Okay. Do you know the
15	Protestant, Evan Schlom?
16	MR. PADRO: I have communicated with
17	him via telephone and via email, but I have not
18	had the pleasure.
19	MR. BIANCO: Okay. And was that
20	communication with respect to a specific issue?
21	MR. PADRO: Yes. It was related to
22	the parklet application which Shaw Main Street's
23	filed on behalf of this establishment. And we
24	were the permit holder on.
25	MR. BIANCO: Okay. And could you,

first of all, what is a parklet?

MR. PADRO: A parklet, for instances, parking spaces in the low bed. But it can also be a lane of through traffic that is made available to businesses during the pandemic by the District Department of Transportation so that outdoor space can be provided to a business to provide the same goods and services that normally would be provided indoors.

But in the instance of when indoor capacity was not available, the outdoor seating was the only seating that was often available to bars and restaurants. They're also available to different types of retailers as well.

MR. BIANCO: And --

MR. PADRO: And there is no charge for the use of the space.

MR. BIANCO: Okay. And you worked with MK Lounge on their parklet application?

MR. PADRO: That's correct. We prepared the permit drawings and we collected the necessary documents from MK Lounge. And we filed the online application in the DDOT's tops permitting system. And we were issued the permits and we provided a copy to the licensee.

We printed out and laminated the 1 2 necessary emergency no parking signs and 3 installed them to allow the space to be reserved 4 for that use. 5 MR. BIANCO: Okay. And you may have been here when Mr. Zewdie was testifying about 6 7 whether or not he sought permission from Mr. Schlom and the other residents at ArtView. 8 9 you involved in that process at all? 10 MR. PADRO: So yes. We were the 11 responsible parties. We determined that there 12 was not a tenant currently operating a business in the retail business at 1932 9th Street 13 14 Northwest. 15 We were very familiar and in regular 16 contact with the operators at Sugar Shake, Dunkin 17 Donuts, the previous tenant. And we're sorry to see them leave in March of 2020. 18 19 MR. BIANCO: Okay. And Mr. Schlom 20 indicated that nobody reached out to the 21 residential residents of that particular 22 building. Is that the case, and if so, why? 23 Yes. At the time the MR. PADRO: 24 Department of Transportation did not require any permission or any consultation with residential 25

tenants of adjacent properties. The regulations were such that the permission of any affected business owners had to be submitted.

We had completed a number of applications for other parklets and streeteries. And none had ever, no residential support had ever been requested nor was it found in any of the guidelines or publications in the District on transportation related to the process for applying for and receiving permission for parking.

MR. BIANCO: Okay. And at some point the permit either expired or was revoked. Do you know which is the case?

MR. PADRO: Yes. So the permit had been renewed after the initial inquires had been made by Mr. Schlom. And Straw Main Streets was requested to provide documentation at that point of support of the residential property owners, which we knew would not be forthcoming.

We advised Mr. Zewdie that we would not be involved in obtaining any documentation of that type. We advised him that if there was anything further to be obtained that he would be responsible for that.

That not having been submitted by us, 1 2 or by him, the permit was revoked just after the 3 middle of the month of October 2020. MR. BIANCO: Okay. Thank you very 4 5 much, Padro, I don't have any further questions. CHAIRPERSON ANDERSON: All right. 6 7 Stoecklein, do you have, are you -- all right. 8 Do you have, this is a, I know this is a little 9 out of, do you have a preliminary matter you want to raise, sir? 10 11 MR. STOECKLEIN: Yes. I have a, I 12 appreciate your question, Mr. Chairman. I was in 13 touch with the Assistant General Counsel, April 14 Reynold, just now because I have a substantial 15 moveable conflict from 2:30 to 3 o'clock that I'm 16 obliged to participant in. Obviously we've been at this for quite 17 awhile now but on behalf of WNA we do have a 18 19 witness that we need to present and a closing statement we need to make. So I'm not sure how 20 21 to handle that procedurally. 22 CHAIRPERSON ANDERSON: So you're 23 saying that you're unavailable between 2:30 and 3 24 o'clock? 25 MR. STOECKLEIN: That is correct.

1	CHAIRPERSON ANDERSON: And is that
2	2:30, you will you be available at 3 o'clock,
3	sir?
4	MR. STOECKLEIN: I will.
5	CHAIRPERSON ANDERSON: All right. All
6	right, so what would you all right. So, Mr.
7	Schlom, you don't have a witness, is that
8	correct?
9	You're the only person testifying, is
10	that correct?
11	MR. SCHLOM: That is correct, Mr.
12	Chairman.
13	CHAIRPERSON ANDERSON: And you have
14	one witness, sir, is that correct?
15	MR. STOECKLEIN: Correct.
16	CHAIRPERSON ANDERSON: Mr. Bianco, do
17	you have any other witnesses?
18	MR. BIANCO: Yes. I have one. We're
19	going to call Zak Belachew, who is the manager of
20	the establishment. It should be a very short
21	witness. Depending on cross.
22	CHAIRPERSON ANDERSON: Would the
23	parties be agreeable if we were to take the
24	break, and the Board would probably go into
25	executive session?

Do you have to get offline at 2:30? 1 2 Or how much time do you need? 3 MR. STOECKLEIN: I need 30 minutes, Mr. Chairman. 4 5 CHAIRPERSON ANDERSON: Well, no, that's not the question of mine. I'm trying to 6 7 figure out how to, when to have the break. 8 2:25, or too far exceeding, five minutes to get 9 on for 2:30, that's what I meant. 10 MR. STOECKLEIN: I appreciate that, 11 No, if I could be, if I could Mr. Chairman. 12 leave for 30 minutes, 2:30 to 3 o'clock, I can 13 commit to being back on at 3:00. 14 CHAIRPERSON ANDERSON: I meant you can 15 leave, I'm just trying to figure out whether or 16 we have to have a break or just continue on until 17 you come back. 18 MR. STOECKLEIN: Well obviously being 19 unable to hear testimony that's provided it would 20 be somewhat prejudice to WNA's ability to fully 21 avail ourselves of our right to participate in 22 the hearing, but I also understand that this is a scheduling conflict that I have so at the same 23 24 time we just didn't plan for multiple hours of --25 CHAIRPERSON ANDERSON: All right.

We'll take, okay, we'll take a break at 2:25. 1 2 I'm hoping that we'll be a, I will take a break as close to 2:30 as possible, but the break is 3 not going to be in the middle of testimony. 4 5 So hopefully around 2:25, close to 2:30, we're at a break where it's appropriate to 6 7 take a break. And we can take a break for 30 8 minutes, sir. Okay? 9 I appreciate that MR. STOECKLEIN: 10 very much. And I appreciate --11 CHAIRPERSON ANDERSON: All right. So 12 that's what I'll do. So what we'll do is that, 13 so people need to look, I'm not asking either 14 side to cut down on their cross examination, but 15 I'm hoping that we'll be, I'm hoping that, I 16 don't know how long, we'll discuss this again once mister, I'm sorry, would all parties agree 17 18 to us taking a half an hour break to allow Mr. 19 Stoecklein to take care of some matters between 20 2:30 and 3 o'clock? 21 No objection for the MR. BIANCO: 22 Applicant. That's fine with us. CHAIRPERSON ANDERSON: Mr. Schlom? 23 24 MR. SCHLOM: No objection from me, Mr. 25 Chairman.

CHAIRPERSON ANDERSON: 1 Thank you. 2 Thank you very much. So what we will do is that 3 I will keep track of the time and that we'll try to, I will, I'm not going to take a break in the 4 5 middle of cross examination of a witness, okay, so we need to finish with the witness. 6 7 So I will try to work as quickly as 8 possible with pressing any of the parties to take 9 a break as close to 2:30 as possible. 10 All right. So, Mr. Schlom, you can 11 question, it's your opportunity to question Mr. 12 Padro. Thank you very much, Mr. 13 MR. SCHLOM: 14 Chairman. Good afternoon, Mr. Padro. 15 MR. PADRO: Good afternoon. 16 MR. SCHLOM: Mr. Padro, very quickly, 17 before I get into my more substantive questions, 18 just so I understand your position, vis-a-vis MK 19 Lounge, is MK Lounge a member of Shaw Main 20 Street? 21 MR. PADRO: Shaw Main Streets is a not 22 a membership organization. We are a nonprofit 23 that works under a grant agreement with the 24 District of Columbia governments. 25 Specifically, departments of small

local business development, to provide services 1 to business and the community regarding 2 3 commercial revitalization. MR. SCHLOM: Got it. So business do 4 5 not pay dues to Shaw Main Street, is that correct? 6 7 MR. PADRO: That's correct. 8 MR. SCHLOM: Okay, got it. I was a 9 little confused on that so I appreciate you 10 clearing that up. You mentioned under, in response to 11 12 questions from Mr. Bianco, that you filed the 13 DDOT application for MK Lounge's parklet, is that 14 correct? 15 MR. PADRO: That is correct. I did it 16 personally. 17 MR. SCHLOM: Got it. Now, as you 18 noted, there is commercial space on the ground 19 floor of 1932 9th Street Northwest, is that 20 right? 21 MR. PADRO: Correct. 22 MR. SCHLOM: But you're aware that the 23 commercial space does not take up the entire 24 ground floor of 1932 9th Street Northwest? 25 MR. PADRO: I am aware of that.

1	MR. SCHLOM: Okay. So you're aware
2	that on the ground floor there is a residential
3	entrance?
4	MR. PADRO: Yes.
5	MR. SCHLOM: Are you aware that the
6	residential mailboxes are on the ground floor?
7	MR. PADRO: I am not personally aware
8	of that.
9	MR. SCHLOM: Okay. Are you aware that
10	the residential elevator is on the ground floor?
11	MR. PADRO: I am not personally aware
12	of that.
13	MR. SCHLOM: All right. And before
14	filing this application you did not investigate
15	the extent of the residential property on the
16	ground floor of 1932 9th Street Northwest, did
17	you?
18	MR. PADRO: No because there was no
19	requirement to do so at the time by the District
20	Department of Transportation.
21	MR. SCHLOM: Okay. All right. We're
22	going to get to that in a second.
23	So, I want to talk about this
24	commercial space on the ground floor. You said
25	under questioning from Mr. Bianco that you

1	"determined" that there was not a tenant in that
2	space. Is that your testimony?
3	MR. PADRO: Yes. I personally went to
4	the location and saw that it was unoccupied.
5	There were no fixtures, there was no merchandise
6	and the doors were locked during what would be
7	normal hours of operation.
8	MR. SCHLOM: Okay. Now, do you recall
9	the date that you went there to look at that?
10	MR. PADRO: It would have been in June
11	of 2020. So I would say probably in the first
12	half of the month of June.
13	MR. SCHLOM: So was still while there
14	was a ban on indoor dining in Washington, D.C. or
15	was that after Phase 1 had begun?
16	MR. PADRO: My recollection is that it
17	was already during Phase 1.
18	MR. SCHLOM: Okay. But early
19	MR. PADRO: That transition happened
20	either at the end of May or the very beginning of
21	June of last year.
22	MR. SCHLOM: Okay. So if it was
23	during Phase 1 it was certainly early in Phase 1,
24	you would agree with that?
25	MR. PADRO: Yes.

1 MR. SCHLOM: Okay. And you said you 2 looked through the windows and that's how you 3 determined that it was a vacant property, do I 4 have that right? 5 MR. PADRO: Correct. MR. SCHLOM: Okay. Did you contact 6 7 the owner of the commercial space to ask whether 8 it was vacant? 9 MR. PADRO: No, I did not. 10 MR. SCHLOM: Did you contact the owner of the business to ask if it was vacant? 11 12 MR. PADRO: Yes. I had spoken with 13 Mr. Krupicka who was the owner of Sugar Shack Donuts back in March. 14 15 I then sent an email to him at the 16 beginning of the process where we were working on 17 the MK Lounge parklet application to ask whether 18 or not there had been any further leasing 19 activity that he was aware of or whether there 20 was a contact that he thought I should reach out 21 to for leasing of the property, and I did not 22 receive a response. 23 I see. But you did not MR. SCHLOM: 24 talk to the property owner as to whether or not 25 Sugar Shack's lease was still active at that

1	time?
2	MR. PADRO: No.
3	MR. SCHLOM: Okay. And as you noted,
4	in the lead up to filing the application, you
5	didn't reach out to any of the residents in the
6	building, is that correct?
7	MR. PADRO: That is correct. Because
8	there was not a requirement.
9	MR. SCHLOM: Okay. And you also
10	didn't reach out to the Condominium Association
11	about the parklet application?
12	MR. PADRO: Same reason.
13	MR. SCHLOM: Okay. But you could have
14	reached out to either residents or the
15	association to ask for their support in the
16	parklet, could you not?
17	MR. PADRO: It was not required by
18	DDOT to do so.
19	MR. SCHLOM: But that's not my
20	question. My question is, you could have asked
21	for our support but you choose not to?
22	MR. PADRO: There was no requirement
23	so we did not.
24	MR. SCHLOM: Okay. I'll take that as
25	a no, you did not.

Now, when did you learn that the park 1 2 -- strike that, I apologize. 3 You learned, you said that the parklet permit had been revoked some time around the 4 5 middle of October, is that right? MR. PADRO: That's correct. 6 7 Okay. And upon learning MR. SCHLOM: 8 that the permit had been revoked, did you tell MK 9 Lounge that they needed to take down their 10 parklet? 11 Yes, I did. MR. PADRO: 12 MR. SCHLOM: Okay. And do you know 13 whether they complied with that? I saw that furniture had 14 MR. PADRO: 15 been removed but I did not see the bike racks. 16 MR. SCHLOM: Okay. And are you aware 17 that the bike racks are still in place today? The last time that I drove 18 MR. PADRO: 19 by, this month, I did see them outside. 20 MR. SCHLOM: Okay. And just a final 21 question or two. Have you ever been inside of 22 1932 9th Street Northwest? 23 MR. PADRO: I was inside Sugar Shack 24 Donuts and Nocturne but not the residential 25 portion. I have never been in it.

1	MR. SCHLOM: Okay. Thank you very
2	much, Mr. Padro. That's all I have, Mr.
3	Chairman, in the interest of time. Thank you.
4	CHAIRPERSON ANDERSON: Thank you. Mr.
5	Stoecklein, do you have any questions for this
6	Witness?
7	MR. STOECKLEIN: I do, Mr. Chairman.
8	CHAIRPERSON ANDERSON: Go ahead
9	please.
10	MR. STOECKLEIN: Good afternoon, Mr.
11	Padro.
12	MR. PADRO: Good afternoon.
13	MR. STOECKLEIN: I have just a few
14	short questions for you. I believe that you
15	testified that you have not, you are not aware of
16	any complaints from the ANC or others whose
17	interests are represented here today about MK
18	Lounge, is that correct?
19	MR. PADRO: What I stated was that
20	none had been communicated to Shaw Main Streets.
21	MR. STOECKLEIN: Okay. Have you and
22	I ever spoken about issues on the 9th Street
23	Corridor?
24	MR. PADRO: Absolutely.
25	MR. STOECKLEIN: Okay. And based on

your recollection, can you tell me who else was a 1 2 part of those phone calls? 3 MR. PADRO: I don't recall who else was on a call between the two of us. I know that 4 5 we had at least two conversations. But if anyone else was I would say 6 7 that perhaps Lynn Johnson, who is the president 8 of WNA, might have been the other party. 9 honestly don't know. 10 MR. STOECKLEIN: Sure. Do you recall, 11 I'll try to refresh your recollection, might you 12 recall a conversation convened between yourself, 13 Westminster Neighborhood Association, 14 Councilmember Nadeau, and representatives of 15 Councilmember Nadeau, Mayor, night Mayor Shaw 16 Townsend, representatives of night Mayor Shaw Townsend, and multiple other parties? 17 18 MR. PADRO: That does sound familiar, 19 yes. Thank you. 20 MR. STOECKLEIN: Yes. And on that 21 call, do you remember multiple issues being 22 raised about concerns that have been addressed 23 here today pertaining to Mk Lounge and the 24 immediately surrounding bars? 25 MR. PADRO: I don't recall that about

MK Lounge in particular, but about the general 1 conditions related to businesses on the block, 2 3 traffic concerns, trash concerns. Crime. MR. STOECKLEIN: Sorry, so, just so 4 5 I'm clear, you recall traffic concerns and trash concerns but you recall no other concerns being 6 7 raised during the time of that call? MR. PADRO: I believe that those were 8 9 the two main issues, crime and traffic. But I 10 don't recall other operational issues related to 11 businesses. 12 It has been some time. I would have 13 to refer back to any notes that I might have in 14 the meeting. 15 Do you recall any MR. STOECKLEIN: aspect of that conversation in which a 16 17 reimbursable detail of MPD was discussed? MR. PADRO: Yes, that's what I'm 18 19 talking about was a crime. 20 MR. STOECKLEIN: Okay. And have you 21 taken any steps since that conversation, in your 22 capacity as the executive director of Shaw Main 23 Streets, to try to resolve the concerns raised 24 during that call through the establishment of a 25 bid or anything else of that sort?

I've actually been 1 MR. PADRO: Yes. 2 working with Director Townsend and a potential 3 contractor that would provide management of the reimbursable detail. We have received a 4 5 proposal, but we suspended those investigations and those actions upon the initiation of the 6 7 Mayor's health emergency because of the change in 8 conditions. 9 MR. STOECKLEIN: Okay. Was MK Lounge 10 involved in any of your work with the Night 11 Mayor's office on establishment of this bid or 12 the MPD detail? 13 MR. PADRO: They were one of the businesses that we contacted. We did outreach to 14 15 most of the businesses in the area, either by 16 phone or in person, by email in January and 17 February of 2020. So, yes. And they have 18 indicated that they would be supportive. 19 MR. STOECKLEIN: I'm sorry, that they 20 would be supportive of what, could you please 21 clarify? 22 MR. PADRO: The reimbursable detail 23 would have resulted in a cost to be incurred by 24 the businesses. And MK Lounge's owner, who

testified previously, was one of the business

25

1	owners that indicated that they would be
2	supportive financially of the initial.
3	MR. STOECKLEIN: Okay. So, again,
4	just so that I am very clear, am I understanding
5	your testimony to be that the, DJ, the owner of
6	MK Lounge, has indicated to you a willingness to
7	be financially responsible for an MPD
8	reimbursable detail?
9	MR. PADRO: Yes. Along with the other
10	businesses in the area. Not solely responsible.
11	MR. STOECKLEIN: Fine. Thank you very
12	much, Mr. Padro. I have no further questions,
13	Mr. Chair.
14	CHAIRPERSON ANDERSON: Okay, thank
15	you. Any questions by any Board Members? No
16	questions by any Board Members.
17	Mr. Bianco, do you have any redirect
18	of your Witness?
19	MR. BIANCO: No, I don't.
20	CHAIRPERSON ANDERSON: All right,
21	thank you. We still have time. Do you wish to
22	call your final witness, sir?
23	MR. BIANCO: Yes, I do. We call
24	Zekarias Belachew.
25	CHAIRPERSON ANDERSON: Mr. Belachew,

1	if you have a camera can you, if you have a
2	camera, or if you don't have a camera, please let
3	me know.
4	MR. BELACHEW: I do have a camera.
5	CHAIRPERSON ANDERSON: Can you raise
6	your right hand, sir?
7	Do you swear or affirm to tell the
8	truth and nothing but the truth?
9	MR. BELACHEW: Yes, I do.
10	CHAIRPERSON ANDERSON: Your Witness,
11	Mr. Bianco.
12	MR. BIANCO: Thank you very much.
13	Simone, are you able to allow me to share the
14	screen so that I can bring up my exhibits?
15	MS. ANDREWS: Sure. Standby.
16	MR. BIANCO: Thank you very much.
17	MS. ANDREWS: Okay, Mr. Bianco, you
18	can now share your screen.
19	MR. BIANCO: Thank you very much.
20	Okay, could you please state your name and spell
21	your last name for the record?
22	MR. BELACHEW: Zekarias Belachew,
23	Z-E-K-A-R-I-A-S, last name, B-E-L-A-C-H-E-W.
24	MR. BIANCO: Okay, Mr. Belachew, where
25	do you work?

1	MR. BELACHEW: MK Lounge.
2	MR. BIANCO: Okay. And how long have
3	you worked at MK Lounge?
4	MR. BELACHEW: I want to say four and
5	a half years.
6	MR. BIANCO: Okay. And what are your
7	duties there?
8	MR. BELACHEW: Manager.
9	MR. BIANCO: Okay. And as the
10	manager, what does your day-to-day look like?
11	What do you do every day?
12	MR. BELACHEW: Just make sure like
13	everything is running smoothly according to the
14	law.
15	MR. BIANCO: Okay.
16	(Simultaneously speaking.)
17	MR. BIANCO: Do you have any job
18	duties with respect to the music in the
19	establishment?
20	MR. BELACHEW: I control the music.
21	MR. BIANCO: Okay, good. And what
22	type of music, let's talk about the pre-COVID
23	period. What type of music do you have in the
24	establishment?
25	MR. BELACHEW: Do you mean like the

-	geine or
2	MR. BIANCO: Well, let me ask you a
3	more specific question. Do you have, do you play
4	recorded music or do you have a DJ come in and
5	play music? Pre-COVID.
6	MR. BELACHEW: We do have DJs that
7	came late night, but we have recorded music for
8	happy hour.
9	MR. BIANCO: Okay.
10	MR. BELACHEW: Sometimes we have DJs
11	too.
12	MR. BIANCO: And when you say you're
13	in charge of controlling the music, are you
14	talking about when DJs are there or when the
15	recorded house music is being played?
16	MR. BELACHEW: Both times. So I
17	control the level of the music after the DJ start
18	playing, then I control the music for the DJs.
19	MR. BIANCO: Okay. And I'm going to
20	show you what is Exhibit Number 8 to Investigator
21	Zollarcoffer's report. Which is a photograph.
22	Do you recognize that?
23	MR. BELACHEW: Yes.
24	MR. BIANCO: And what is that?
25	MR. BELACHEW: That's the music

1	controller board.
2	MR. BIANCO: Okay. And where is that
3	located?
4	MR. BELACHEW: On the first floor.
5	MR. BIANCO: Okay. Where on the first
6	floor?
7	MR. BELACHEW: Inside the bar.
8	MR. BIANCO: Okay. And do you have
9	access to that at all times?
10	MR. BELACHEW: Yes.
11	MR. BIANCO: And are you able to turn
12	down the music even when the DJ is playing?
13	MR. BELACHEW: Yes, sir.
14	MR. BIANCO: Okay. And how do you, or
15	do you, monitor the music level throughout the
16	course of the night?
17	MR. BELACHEW: Yes. We do have like
18	a sound measuring equipment that measures the
19	decibels.
20	MR. BIANCO: Okay. And how often do
21	you use that sound measuring equipment?
22	MR. BELACHEW: I would say at least
23	like twice a day.
24	MR. BIANCO: Okay. And who uses that
25	sound measuring equipment?

1	MR. BELACHEW: I do.
2	MR. BIANCO: Okay. And what
3	CHAIRPERSON ANDERSON: Hold on, Mr.
4	Bianco. I'm sorry. Mr. Belachew?
5	MR. BELACHEW: Yes.
6	CHAIRPERSON ANDERSON: Can you please
7	use your outside voice when you testify, sir?
8	I need you to raise your voice when
9	you answer the questions, okay?
10	MR. BELACHEW: Okay.
11	CHAIRPERSON ANDERSON: Go ahead, Mr.
12	Bianco. All right.
13	MR. BELACHEW: Okay.
14	MR. BIANCO: And what level do you
15	keep the music at when you check with your sound
16	measuring equipment?
17	MR. BELACHEW: Like the maximum, I
18	would say, 80 decibels.
19	MR. BIANCO: Okay.
20	MR. BELACHEW: For the music.
21	MR. BIANCO: If it's exceeding, and
22	this is pre-COVID we're talking about, correct?
23	MR. BELACHEW: Yes.
24	MR. BIANCO: Okay.
25	MR. BELACHEW: Yes.

1	MR. BIANCO: And if it exceeds 80
2	decibels what do you do?
3	MR. BELACHEW: I have to turn it from
4	this controller right here. The max level.
5	MR. BIANCO: And do you have any
6	policies in place with respect to controlling
7	volume levels when DJs are on the premises?
8	MR. BELACHEW: We only control the
9	music from here because it depends like, every DJ
LO	and every song has like a different bass and
L1	sound. So we only control the music from here.
L <b>2</b>	Like it doesn't get higher, if one
L3	beat is playing, we have to turn it down from
L <b>4</b>	here.
L5	MR. BIANCO: Okay. And were you
L6	present at the establishment on February the
L7	17th, 2021 when Investigator Zollarcoffer did his
L8	walkthrough?
L9	MR. BELACHEW: Yes, I was there.
20	MR. BIANCO: And did you participate
21	in a test of the sound equipment on that day?
22	MR. BELACHEW: Yes. I was the one who
23	was controlling the sounds.
24	MR. BIANCO: I'm sorry, did you say
25	you were the one that was controlling the sounds?

1	MR. BELACHEW: Yes.
2	MR. BIANCO: Okay. And what, for that
3	test, what level did you put the sound at?
4	MR. BELACHEW: So, you see the one
5	that says, master level?
6	MR. BIANCO: Yes.
7	MR. BELACHEW: The third notch on the
8	right, that's the highest volume we go, like
9	before COVID, like the middle level.
10	MR. BIANCO: So the notch where the
11	Investigator placed the label that says max
12	volume level, that's where you turned it up to?
13	MR. BELACHEW: No, no. Right where it
14	is now. The middle one.
15	MR. BIANCO: Oh, in the middle.
16	MR. BELACHEW: Yes.
17	MR. BIANCO: Okay.
18	MR. BELACHEW: That's the highest we
19	go. If you go more than that, the speakers is
20	going to burst.
21	MR. BIANCO: Okay. So where it's set
22	right now is where you had it set for the sound
23	test?
24	MR. BELACHEW: Yes.
25	MR. BIANCO: Okay. And is that sound

1	level a sound level you used pre-COVID or is that
2	the
3	MR. BELACHEW: Yes.
4	MR. BIANCO: sound level that you
5	use now when music can't be above a
6	conversational level?
7	MR. BELACHEW: No, that's pre-COVID.
8	No.
9	MR. BIANCO: Okay. And now that there
10	are additional restrictions on music, what level
11	do you set this dial at for your operations?
12	MR. BELACHEW: The first dot.
13	Actually, the second one.
14	MR. BIANCO: Okay.
15	MR. BELACHEW: So the first one is
16	zero, so the second one. The second dot.
17	MR. BIANCO: Okay. So on the
18	left-hand side of the dial?
19	MR. BELACHEW: Yes.
20	MR. BIANCO: Okay. And (technical
21	difficulties) Mr. Schlom?
22	MR. BELACHEW: I'm sorry, I didn't
23	hear you?
24	MR. BIANCO: Do you participate in a
25	group text chat with Mr. Schlom?

1	MR. BELACHEW: Yes. We do have a
2	WhatsApp group.
3	MR. BIANCO: A WhatsApp
4	(Simultaneously speaking.)
5	MR. BIANCO: Okay.
6	MR. BELACHEW: Yes.
7	MR. BIANCO: And what is that text
8	chat group for?
9	MR. BELACHEW: So basically, we used
10	to use it for any days or like if the sound is
11	over the specific amount, it used to like, it
12	used to be like active, till last year February.
13	MR. BIANCO: Okay.
14	MR. BELACHEW: Like they used to text
15	us like when the volume was high, the bass was
16	high. So we can turn it down.
17	MR. BIANCO: Okay. And when such a
18	text came, would it come directly to you or did
19	you have to hear about it from someone else?
20	MR. BELACHEW: No, it comes from my
21	phone.
22	MR. BIANCO: It comes to your phone,
23	okay.
24	MR. BELACHEW: Yes.
25	MR. BIANCO: And when you receive such

1	a text, what do you do?
2	MR. BELACHEW: We take action
3	according to the text. Whether it's the bass or
4	the sound.
5	MR. BIANCO: Okay. And when is the
6	last time that you received a text complaining
7	about the volume level?
8	MR. BELACHEW: The volume level was
9	last year, February 27th. That was the last day
10	because we had a complaint about the noise.
11	MR. BIANCO: Okay. When is the last
12	
13	(Simultaneously speaking.)
14	MR. BIANCO: So, through this text
15	chat, did you ever receive any complaints that
16	were unrelated to noise?
17	MR. BELACHEW: Yes. Like not the
18	music, like we used to get complaints about the
19	music, but one day, I'd say on May 30th, we had a
20	complaint about the exhaust fan. Like the
21	exhaust fan was on the roof from the kitchen.
22	MR. BIANCO: Okay.
23	MR. BELACHEW: We had a complaint that
24	it was too loud.
25	MR. BIANCO: And what did you

1	MR. BELACHEW: And there was nothing
2	we could do about it because it's a switch. Like
3	it's on and off.
4	MR. BIANCO: Okay. And what did you
5	do with respect to that particular complaint?
6	MR. BELACHEW: I mean, we had to take
7	a video and send it back to group chat because
8	that's the exhaust fan. Like either, like we
9	stay inside like with the smoke that's coming
10	through the kitchen inside or you have to exhaust
11	the air.
12	MR. BIANCO: Okay. And when is the
13	last time you received a complaint on the group
14	chat?
15	MR. BELACHEW: The last day would be
16	August 29th.
17	MR. BIANCO: Okay. Of 2020?
18	MR. BELACHEW: Yes.
19	MR. BIANCO: Okay. And what was that
20	about?
21	MR. BELACHEW: That complaint was
22	about, actually about a group of people that was
23	like standing outside the door on 1932.
24	MR. BIANCO: And how did MK deal with
25	that issue?

1	MR. BELACHEW: That was not our
2	problem because those people didn't come to MK or
3	didn't leave from MK. It was just a group of
4	people hanging out on their side.
5	So that was a public space. We can't
6	tell people to move. That was like at 6:00 p.m.
7	Earlier.
8	MR. BIANCO: Okay. And did you ever
9	receive a complaint through the text chat about
10	people standing in front of the condominium that
11	were waiting in line to go to MK Lounge?
12	MR. BELACHEW: Yes. And then we had
13	
14	MR. BIANCO: When was
15	MR. BELACHEW: For that complaint we
16	had to put like the barrier so it can like avoid
17	people standing on their line. On their door.
18	MR. BIANCO: Okay. And was that your
19	
20	MR. BELACHEW: And then we had a
21	security.
22	MR. BIANCO: Okay. And was that your
23	response to the complaint via text message?
24	MR. BELACHEW: Yes. And then we give
25	them the, we gave them the phone number for the

security just in case of anything so they could 1 2 call them. Like move people if they are on their 3 door. 4 MR. BIANCO: Okay. And after that 5 situation where you received the complaint via text chat about people standing in front of their 6 7 door and you addressed it, did you ever receive 8 any complaints after that? 9 MR. BELACHEW: No. 10 MR. BIANCO: And that was in August of 11 2020, correct? 12 MR. BELACHEW: August, yes, 2020. 13 MR. BIANCO: Okay. Great. Thank you 14 very much, Belachew. Mr. Schlom and Mr. 15 Stoecklein will likely have some questions for 16 you at this point. 17 All right, thank you. MR. BELACHEW: 18 CHAIRPERSON ANDERSON: Mr. Bianco, please close your screen. All right, it's 2:22 19 20 and so since Mr. Stoecklein had a 2:30, so let's 21 take a break. We'll go off the record until five 22 minutes after 3:00. 23 So that should give Mr. Stoecklein, 24 Mr. Stoecklein? 25 Yes, Mr. Chairman? MR. STOECKLEIN:

1	CHAIRPERSON ANDERSON: You said 3
2	o'clock? We're coming back at
3	MR. STOECKLEIN: Yes, sir.
4	CHAIRPERSON ANDERSON: on the
5	record at five after 3:00, sir.
6	MR. STOECKLEIN: Yes, sir. Thank you
7	very much.
8	CHAIRPERSON ANDERSON: All right. So
9	we'll be off the record until 3:05. And I'm
10	going to direct the Board Members.
11	Mr. Belachew, please during this
12	period of time, please do not discuss this case
13	with your attorney. You are still under, you're
14	still under cross examination. And please do not
15	discuss this case with Mr. Bianco.
16	And as a Member of the Bar, I am
17	hoping that Mr. Bianco will not contact you. But
18	I'm telling you, not to discuss it with him or
19	anyone else, until you are off the stand, okay?
20	So we'll be in recess until 3:05. And
21	I'll ask the Board Members to return to executive
22	session for further business. So we're in recess
23	until 3:05.
24	(Whereupon, the above-entitled matter
25	went off the record at 2:24 p.m. and resumed at

1	3:14 p.m.)
2	CHAIRPERSON ANDERSON: We're back on
3	the record. All right. So we were Mr.
4	Belachew, you're under you're still under oath
5	and Mr and I'm going to get it right one of
6	these days, Mr. Schlom. I am going to get it
7	right one of these days, okay? So Mr it's
8	something with the tongue, okay? I've seen your
9	name
10	MR. SCHLOM: You're saying it
11	perfectly.
12	CHAIRPERSON ANDERSON: I've seen
13	your name enough times that I should be know how
14	to pronounce it, so I apologize but I'll get it
15	
16	MR. SCHLOM: It's all right.
17	CHAIRPERSON ANDERSON: I will get it.
18	Don't take it's not personal but I will get
19	it
20	MR. SCHLOM: Of course.
21	CHAIRPERSON ANDERSON: right one of
22	these days, okay?
23	MR. SCHLOM: All right. Not a
24	problem, Mr. Chairman. I appreciate it.
25	CHAIRPERSON ANDERSON: All right.

1	Thank you. All right. It's your witness.
2	MR. SCHLOM: Thank you very much, Mr.
3	Chairman. Good afternoon, Mr. Belachew.
4	MR. BELACHEW: Yes.
5	MR. SCHLOM: Quick question to start
6	off. How many days a week do you work?
7	MR. BELACHEW: I work five days a
8	week, but I usually be there
9	MR. SCHLOM: Okay.
10	MR. BELACHEW: most every day.
11	MR. SCHLOM: Sorry, I didn't catch the
12	end of that. There was interference.
13	MR. BELACHEW: I work five days a week
14	but I usually be there almost every day.
15	MR. SCHLOM: So on the days you're not
16	working, you're there as a customer?
17	MR. BELACHEW: Well, yes, cause I'll
18	just look around the same bars throughout the
19	block.
20	MR. SCHLOM: Okay. So you talked
21	about the sound measurements that you take. Now
22	do I have it right you said you take decibel
23	measurements twice per night when you're working?
24	MR. BELACHEW: Yes. That was before
25	COVID.

1	MR. SCHLOM: Before COVID. And is
2	there a schedule on which you take those; do you
3	always take them at the same time every night or
4	is it just whenever you feel like taking them?
5	MR. BELACHEW: Whenever, cause like it
6	gets busier sometimes so it doesn't have a rigid
7	time so.
8	MR. SCHLOM: Okay. And you take these
9	decibel measurements at specific times, so it's
10	not a constant decibel measurement; is that
11	right?
12	MR. BELACHEW: Yes.
13	MR. SCHLOM: Okay. And what
14	decibel-reading equipment do you use to take
15	these measurements?
16	MR. BELACHEW: We got it off Amazon.
17	I can't recall the name right now.
18	MR. SCHLOM: Okay. So and then did
19	have you been trained in how to use that?
20	MR. BELACHEW: I mean I read the
21	manuals.
22	MR. SCHLOM: Okay. And how often is
23	that machine calibrated?
24	MR. BELACHEW: Just like I said, like
25	at least twice a day.

1	MR. SCHLOM: You recalibrate it each
2	time you use it?
3	MR. BELACHEW: Oh, no no no.
4	MR. SCHLOM: How often is it
5	calibrated?
6	MR. BELACHEW: Probably once a week.
7	MR. SCHLOM: Calibrated once a week?
8	MR. BELACHEW: Yes.
9	MR. SCHLOM: Okay. And where do you
10	take these decibel readings from?
11	MR. BELACHEW: So I'll be like right
12	by the door outside. I start going
13	MR. SCHLOM: Right by the door to 9th
14	Street Northwest?
15	MR. BELACHEW: Yes.
16	MR. SCHLOM: The door to get outside?
17	MR. BELACHEW: Yes.
18	MR. SCHLOM: Okay. Are you inside the
19	door, inside the establishment, or are you on the
20	street?
21	MR. BELACHEW: On the not on the
22	street but outside the door, right outside the
23	door.
24	MR. SCHLOM: Okay. So you're not
25	inside the establishment, you're standing

directly outside? 1 Yes. And then I start 2 MR. BELACHEW: 3 walking inside, and then I'll go all the way out 4 to the back side. I just make sure it's not --5 MR. SCHLOM: Okay. Now -- and you said that you try to 6 7 reach a maximum or keep a maximum of 80 to 90 8 decibels; did I get that right? 9 Eighty. MR. BELACHEW: 10 MR. SCHLOM: Eighty. Now where -- you 11 said you take readings at various places through 12 the establishment. Where are you trying to read the maximum of 80 decibels? 13 14 MR. BELACHEW: Like right between the 15 speakers. So we have like three upstairs. I'11 16 just pick a point that's midpoint for the speakers. That should be the max cause it's 17 18 coming -- I get like a loud volume right in the 19 middle, cause I can't stand in the middle of the 20 street speakers. 21 Okay. Do you take -- is MR. SCHLOM: 22 there maximum decibel reading for when you take readings outside of the establishment on the 23 24 street?

No -- no.

MR. BELACHEW:

25

I just make

1	sure like anywhere I go throughout the house,
2	like throughout the business area, then outside
3	the building, I just make sure it's not over 80.
4	MR. SCHLOM: Okay. So the maximum of
5	80, okay. Are you aware of whether D.C. has
6	noise laws that limit the decibels that are in
7	particular places?
8	MR. BELACHEW: Yes. But I think it
9	was like 2017 when we start using the decibel
10	measurement. I can't recall the name that one
11	guy from ABRA came in and told us that was the
12	range, 80, average. So that's why I put it down
13	to 80.
14	MR. SCHLOM: Okay. So you're saying
15	that ABRA told you you can have a maximum of 80
16	decibels?
17	MR. BELACHEW: Yes. That's the
18	average.
19	MR. SCHLOM: Okay. You're not aware
20	of any DCRA rule that limits it to 60 or 65
21	decibels?
22	MR. BELACHEW: No.
23	MR. SCHLOM: Okay. Now have you ever
24	taken a decibel measurement inside a home?
25	MR. BELACHEW: No.

1	MR. SCHLOM: So you've never taken a
2	decibel measurement inside of any of the
3	condominiums next store to MK Lounge?
4	Okay. Was that a no?
5	MR. BELACHEW: Yes, that's a no.
6	MR. SCHLOM: Okay. Sorry, I just want
7	to make sure the court reporter can take that
8	down. I apologize. And then do you ever measure
9	the base levels, or is it just decibels?
10	MR. BELACHEW: Decibels.
11	MR. SCHLOM: Okay. Those, I believe,
12	are all of the questions I have at this time.
13	Thank you, Mr. Chairman, in the interest of time.
14	CHAIRPERSON ANDERSON: All right.
15	Thank you. Mr., Stoecklein, your witness.
16	MR. STOECKLEIN: I apologize, Mr.
17	Chairman, that took a second. I have just a few
18	more questions for this witness.
19	Actually, you know, Mr. Chairman, no
20	further questions.
21	CHAIRPERSON ANDERSON: All right.
22	Thank you. Excuse me, any questions by the Board
23	members?
24	MEMBER SHORT: Mr. Chair, I just had
25	a couple.

1	CHAIRPERSON ANDERSON: Yes, Mr. Short.
2	MEMBER SHORT: Again, the witness's
3	name is?
4	CHAIRPERSON ANDERSON: Mr. Belachew.
5	MEMBER SHORT: Mr. Belachew.
6	CHAIRPERSON ANDERSON: Belachew.
7	MEMBER SHORT: Yes. Belachew, yes.
8	Good afternoon, Mr. Belachew.
9	MR. BELACHEW: Good afternoon.
10	MEMBER SHORT: Okay. Mr. Belachew, I
11	do know that the D.C. government noise regulated
12	for DCRA have to go through training, and they
13	don't calibrate their own equipment because the
14	manufacturer assist them in that. So you can do
15	the same thing that a manufacturer technician can
16	do?
17	MR. BELACHEW: No. So we have a sound
18	engineer that works we have another venue out
19	in VA, so we have a sound engineer. We have him
20	check instruments here.
21	MEMBER SHORT: Your sound engineer
22	from Virginia?
23	MR. BELACHEW: Yes.
24	MEMBER SHORT: Is he certified in
25	Virginia or the District of Columbia?

I am not sure where he 1 MR. BELACHEW: 2 is certified, but I know he's a sound engineer, 3 so he comes and checks for everything, like when we have like speakers, problems, he just comes in 4 and checks for us --5 MEMBER SHORT: He has no 6 7 certifications? Did you have a copy of his 8 certification in your establishment? 9 MR. BELACHEW: No. 10 MEMBER SHORT: I think that you should 11 get one in case DCRA or somebody who's in charge 12 of that for the District, because I've been 13 hearing about calculations for noise meters going 14 back seven or eight years ago. We had a big 15 problem down on Connecticut Avenue Northwest, and 16 they brought in sound engineers and corrected the 17 situation. But professionals had to do that 18 because we wouldn't even allow anybody to testify 19 back then about sound engineers or sound 20 technicians or calibrating unless they were an 21 So you are not an expert? expert. 22 No, I'm not. MR. BELACHEW: 23 MEMBER SHORT: But you do all the 24 testing?

Yes.

MR. BELACHEW:

1	MEMBER SHORT: Now one last question.
2	MR. BELACHEW: Yes.
3	MEMBER SHORT: We saw the knobs on
4	your equipment
5	MR. BELACHEW: Yes.
6	MEMBER SHORT: on how you regulate
7	it
8	MR. BELACHEW: Yes.
9	MEMBER SHORT: so if you're not
10	changing the volume
11	MR. BELACHEW: Yes.
12	MEMBER SHORT: you never change the
13	volume, correct?
14	MR. BELACHEW: Yes.
15	MEMBER SHORT: You do change? When
16	I thought you testified you left the buttons on a
17	certain setting?
18	MR. BELACHEW: Yes. The reason that
19	we use the sound measurement is like different
20	DJs and different songs have like different like
21	base levels, and then the
22	MEMBER SHORT: So you let the DJs
23	bring their own equipment in, their own speakers?
24	MR. BELACHEW: Not the speakers. So
25	the boards, like I don't' know, like how to

1	explain it. Like so the boards they use, they
2	have like different base. I guess you like I
3	don't know if you, like, if you know about music
4	or
5	MEMBER SHORT: But there is one
6	central sound system, correct?
7	MR. BELACHEW: Yes.
8	MEMBER SHORT: For all your own
9	speakers?
10	(Simultaneous speaking.)
11	MR. BELACHEW: Yes.
12	MEMBER SHORT: And you can't regulate
13	what the outside people do when they come in?
14	MR. BELACHEW: Not their sound systems
15	cause their level of sound, like their they
16	control their own board, but we control the main
17	one. So their boards transfer the music to our
18	board, and then we control the level of the
19	music.
20	MEMBER SHORT: Thank you. That's all
21	I have, Mr. Chair. Thank you very much, for your
22	testimony.
23	CHAIRPERSON ANDERSON: Thank you. Any
24	other witness I'm sorry any other questions
25	by any other Board members?

1	Hearing none, Mr. Schlom, any
2	questions any follow-up questions of the
3	witness based on the questions that were asked by
4	the Board?
5	MR. SCHLOM: No, Mr. Chairman.
6	CHAIRPERSON ANDERSON: Mr. Stoecklien,
7	any questions any follow-up questions based on
8	question that were asked by the Board?
9	MR. STOECKLEIN: No, Mr. Chair.
10	CHAIRPERSON ANDERSON: Mr. Bianco, any
11	redirect of your witness there?
12	MR. BIANCO: No redirect, sir.
13	Thanks.
14	CHAIRPERSON ANDERSON: Mr. Belachew,
15	thank you very much for your testimony, and you
16	are dismissed from testifying today. You can
17	stay on line or you can go back to your business.
18	It's your call.
19	MR. BELACHEW: Thank you.
20	CHAIRPERSON ANDERSON: All right.
21	Thank you. Mr. Bianco, do you have another
22	witness?
23	MR. BIANCO: I do not. The applicant
24	rests.
25	CHAIRPERSON ANDERSON: All right.

Thank you. Mr. -- well, you don't have a witness, Mr. Schlom, okay, is that correct?

MR. SCHLOM: It's just me, correct,
Mr. Chairman.

CHAIRPERSON ANDERSON: And Mr. Stoecklein, you do have a witness, is that correct?

MR. STOECKLEIN: That is correct.

CHAIRPERSON ANDERSON: All right. So

I'll have you -- I think your witness has been

waiting all day, so let me have you call your

witness then, and so at least that person can go

on with their life if they so want -- if they so

-- that they're -- if they don't want to be here,

I'll say. But I think the witness wants to -
MR. STOECKLEIN: This witness is

passionate, Mr. Chairman, very passionate but --

CHAIRPERSON ANDERSON: But there is a difference between a witness who is here, because I'm very much interested and I'm listening and someone -- okay, I'm just waiting to get this out. Okay. I want to say that I'm waiting. So I think most of you, like, okay, let me get it over with and then I can sit back and enjoy the hearing. But I don't -- so that's -- but, you

1	know what I mean. All right. So who's your
2	first witness, sir.
3	MR. STOECKLEIN: My one and only
4	witness is Frank Chauvin.
5	CHAIRPERSON ANDERSON: Mr. Chauvin?
6	MR. CHAUVIN: Yes, Mr. Chairman.
7	CHAIRPERSON ANDERSON: Can you raise
8	your right hand, please? Do you swear or affirm
9	to tell the truth and nothing but the truth?
10	MR. CHAUVIN: I swear.
11	CHAIRPERSON ANDERSON: All right.
12	Your witness, sir.
13	MR. STOECKLEIN: Thank you very much.
14	Mr. Chauvin, thank you for taking your time today
15	with us. Could you please state for the record
16	where it is your live and how long you've lived
17	there?
18	MR. CHAUVIN: Yes. I have lived in
19	the 1800 block of 9th Street Northwest adjacent
20	to the 1900 block, which is where the bar is
21	located, for 17 years.
22	MR. STOECKLEIN: Okay. And when you
23	say the bar, just for the record, you're
24	referring to MK Lounge?
25	MR. CHAUVIN: Yes, sir.

1 MR. STOECKLEIN: Okay. Thank you. 2 And in your 17 years as a resident, is it fair to 3 say that you have some familiarity with the area but also, you know, specific activities at MK 4 5 Lounge? MR. CHAUVIN: 6 Yes, sir. 7 MR. STOECKLEIN: Okay. 8 MR. CHAUVIN: I was. 9 MR. STOECKLEIN: Okay. Could you 10 please share some of your observations or 11 activities at MK? 12 MR. CHAUVIN: Well, noting a deterioration of conditions over the last several 13 14 years, I started to pay more attention. And, you 15 know, neighbors who have been in the neighborhood 16 longer than myself, I've have sort of been, you 17 know, chatting with them. You know, it's 18 impossible to park. It's -- we -- even though we 19 have reserved parking for residential parking 20 permits, every night, I have eight cars right in 21 front of my house that are from Maryland and 22 Virginia, and they go unattended and not fined, not ticketed. 23 24 Let's see, specifically, over -- oh,

you know, I do live in the ARTS 2 -- right

outside the ARTS 2 Overlay which is where MX is located, in the ARTS 2 Overlay. And I'm just wondering why and how, as a two-year member serving on the ANC/ABR Committee to try to understand these issues, which I've been struggling with for two years, trying to understand why the density and the noise has gotten so bad, so loud, and made it so difficult to enjoy our homes. And so, you know, I study that once a month with the ABR Committee and, you know, trying to resolve some of these matters.

And just recently, over the, you know -- let's say March 12th, Friday night, March 12th at 8:30, I walked by MK. There was about 15 folks congregated outside, probably waiting to get in. Half of them were unmasked, and they were blocking the sidewalk. I couldn't get by to go to the grocery store, which I do on Friday night sometimes. This is at 8:30. I had to go out into the street and around the parklet facing the oncoming traffic. And --

MR. STOECKLEIN: Mr. Chauvin, can I
just -- can I stop you there for just one second?

MR. CHAUVIN: Yes.

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MR. STOECKLEIN: Thank you. I just

want to clarify. A few minutes ago, you 1 2 referenced MX. Were you referring to MK? 3 MR. CHAUVIN: I'm sorry, MK. MX is an 4 abbreviation in my repertoire. Sorry. 5 MR. STOECKLEIN: That's okay. MR. CHAUVIN: In my professional life. 6 7 I appreciate that. MR. STOECKLEIN: 8 So --9 MR. CHAUVIN: Yes. 10 MR. STOECKLEIN: -- and just so that 11 we kind of focus your testimony a little bit 12 more, can you tell me in terms of what you 13 observed on March 12th, is there anything else 14 that you observed with respect to patrons of MK, 15 you know, waiting to be let in or inside the 16 lounge? We'll go on to the next day in a second. 17 MR. CHAUVIN: Just that half the 18 patrons were maskless, and I couldn't get -- I 19 had -- I couldn't get through and had to walk out 20 in the street. So that was it on March 12th. 21 MR. STOECKLEIN: Okay. And is that 22 representative of prior experiences, or was that 23 an isolated instance, or --24 MR. CHAUVIN: It's a persistent 25 condition -- it's a persistent condition.

1	MR. STOECKLEIN: Okay. Thank you.
2	And on March 13th, which is the next day, did you
3	have occasion to observe behavior or patrons at
4	MK once again, and if so, can you tell us what
5	you observed?
6	CHAIRPERSON ANDERSON: Can I Mr.
7	Stoecklein, what year are we talking about so we
8	have a clear record
9	MR. STOECKLEIN: Sure.
10	CHAIRPERSON ANDERSON: (inaudible),
11	okay?
12	MR. STOECKLEIN: Apologize. Mr.
13	Chauvin, are you referring with the
14	aforementioned dates, are you referring to the
15	current year, 2021?
16	MR. CHAUVIN: Yes, sir, March 12,
17	2021.
18	MR. STOECKLEIN: Thank you. So back
19	to March 13th. We're just going to the next day.
20	Did you have occasion to observe activities of
21	patrons, you know, at MK or in proximity to MK
22	and if so, what did you observe?
23	MR. CHAUVIN: Well, I was woken up at
24	12 o'clock and for 20 minutes, there was this
25	screaming like I was at a football game; looked

out my window. There was 12 drunk patrons sitting on the stoops across the street in the 1800 block of 9th Street, the opposite side of where I live, and they're falling all over the sidewalk and screaming, sitting on the stoop.

And I had to call the police. Police had to come break them up. Police were called by several neighbors the same time.

MR. STOECKLEIN: Okay. And you -- I think I heard you say that you were aware that other neighbors had called the police; is that correct?

MR. CHAUVIN: Yes, that's correct.

MR. STOECKLEIN: Okay. And is this a common occurrence?

MR. BIANCO: I'm going to interpose an objection at this point. We're getting into an area that I thought we might go with this testimony, and I'd like to nip it in the bud. If Mr. -- my objection would be the witness testifying to anything that he does not have personal knowledge of, so other people telling him what they say or if they called the police is hearsay. It's not admissible and he should limit his testimony to firs-hand knowledge only.

1	MR. STOECKLEIN: Mr. Chauvin is, I
2	believe, testifying to conversations that he had
3	with neighbors and to a phone call that he made
4	personally to the police. That matter is
5	first-hand knowledge and is not hearsay.
6	MR. BIANCO: No. What the neighbor
7	told him is absolutely hearsay. He can testify
8	that he called the police, absolutely. But as to
9	what a neighbor told him who is not here
10	MR. STOECKLEIN: (inaudible)
11	MR. BIANCO: to testify, I
12	MR. STOECKLEIN: (inaudible)
13	testifying (inaudible)
14	CHAIRPERSON ANDERSON: Gentlemen,
15	gentlemen, gentlemen
16	MR. BIANCO: I can't cross-examine
17	that.
18	CHAIRPERSON ANDERSON: All right.
19	This is an administrative hearing and hearsay is
20	not we're not in a court of law in the sense
21	that we're going to strictly (inaudible) the rule
22	of evidence that we're not going to say that's
23	hearsay. Can we have just have the witness
24	testify about his personal knowledge? I mean I
25	think that would be beneficial for us (inaudible)

determination, okay? All right. 1 2 MR. STOECKLEIN: Mr. Chauvin, on March 3 13, 2021, you witnessed a group of 12 -- roughly 12 persons in the 1800 block of 9th Street --4 5 MR. CHAUVIN: 1800 block. MR. STOECKLEIN: -- okay, the 1800 6 7 block of 9th Street; can you describe again from 8 your knowledge alone what you observed? 9 MR. CHAUVIN: There was 12 drunken 10 patrons who were falling all over the sidewalk, sitting on the stoops, two stoops of my neighbors 11 12 across the street, their house, and screaming and 13 fighting and falling into the street until broken 14 up by the police about 25 minutes later. 15 MR. STOECKLEIN: Okay. And is this an 16 occurrence that is isolated to March 13th, or 17 have you, in your first-hand knowledge, experienced similar instances of drunk and 18 19 disorderly conduct outside your home? 20 MR. CHAUVIN: Yes. It's a consistent 21 condition, yes. 22 MR. STOECKLEIN: Okay. Can you 23 please tell me if there's anything else -- can 24 you please tell me if you have ever observed any 25 sales of advertisements of or use of hookah on or

about MK's property?

MR. CHAUVIN: Sure. Just last night, the 24th of March -- today is the 25th -- at about 10:15 in the evening, I walked by MK and on -- broadcast on the sidewalk by a spotlight was advertising for hookah. I thought I took a picture but it actually flashed too quick as I was walking by. I didn't want to be obvious. I was walking with my camera down.

MR. STOECKLEIN: Okay. Last question for you. Going back to March 13th, that group that was outside your office, can you describe the experience you had; can you describe the volume levels; can you describe, you know, kind of how that made you feel in your home?

MR. CHAUVIN: Well, I stuck my camera out and I have it on video. I wish I could share it, but I just can't seem to upload it from my phone to this device. Sorry. But, you know, we were all shaken. I mean we were all just feel like it's getting harder and harder to live here even though I've been in the neighborhood for 17 years. And so, you know, we sometimes talk is it a lost cause? Do we have to move? And so, you know, I mean my peace and quiet and enjoyment

seems to be slipping more and more and, you know, it's -- it doesn't seem like there's a residential balance even though this is a widely residential neighborhood right here all around me up to the -- you know, right up to 10 doors from MX Lounge.

MR. STOECKLEIN: That you, Mr.

Chauvin. And this is the last question, but what about the use of weapons? Have there -- have you personally observed, ever seen or otherwise been impacted by weapons and if so, can you tell us about those experiences?

MR. CHAUVIN: Sure. I never heard gunfire til I moved in the neighborhood. You know, I guess it comes with the territory I've heard, I understand. You know, just actually the night of the -- night of -- actually, the morning of March 13th, Saturday, when I saw the drunkenness, there was actually gunshots in front of my house, and my house mate heard it. I had gone back to bed. I didn't call the police. I should have cause I know it's important to obtain the -- this evidence and file it for future use. However, my -- I wanted to ignore it cause I was sleeping, and I should have made the call that

1	second time to the police that evening. However,
2	my house mate was right in front of the window
3	when it happened. And so I mean, yes, and I
4	intermittently hear gunfire on this street, and
5	there's been cases of a homicide over the last
6	four years. There's been case of, you know, gun
7	possession and on this street, you know, right
8	in front of my house.
9	MR. STOECKLEIN: Okay. Thanks very
10	much, Mr. Chauvin. I have no further questions.
11	MR. CHAUVIN: Thank you.
12	CHAIRPERSON ANDERSON: Mr. Schlom, do
13	you have any questions of this witness?
14	MR. SCHLOM: I do not, Mr. Chairman.
15	Thank you.
16	CHAIRPERSON ANDERSON: Okay. Mr.
17	Bianco?
18	MR. BIANCO: Yes, I do. Good
19	afternoon, Mr. Chauvin.
20	MR. CHAUVIN: Good afternoon.
21	MR. BIANCO: Let's take your last
22	issue first. So this was a couple of nights ago
23	that you heard gunfire in your residence, and you
24	didn't report it to the police; is that correct?
25	MR. CHAUVIN: Yes, because I yes,

2 -- would have been my second call to the police 3 that night, and I was exhausted. I'd had a hard 4 day at work. 5 Okay. What, if any, MR. BIANCO: facts do you have to suggest that the gunfire was 6 7 in any way related to MK Lounge? 8 MR. CHAUVIN: Well, you know, I had 9 just been by there. I saw, you know, how crowded 10 and packed it was and, you know, I'm attributing 11 -- you know, it's been quiet during COVID 12 predominantly, and so this uptick, you know, I 13 can make an association as a person who walked by 14 seeing, you know -- viewing entries into the 15 club. 16 MR. BIANCO: Okay. So it was the 17 March the 12th that you heard the gunfire, which 18 is the same night --19 MR. CHAUVIN: No -- no. It was the 20 morning, March 13th, after I had walked by at 21 8:30 p.m. on the 12th. 22 Okay. So on March 13th, MR. BIANCO: 23 you heard gunfire and you believe it is related 24 to MK Lounge because there was a crowd of people 25 on the sidewalk outside of MK Lounge; is that the

that's correct. I have so many times and it was

1	testimony?
2	MR. CHAUVIN: You know, there was a
3	murder in front of there, you know, four or five
4	years ago, yes, so I'm tying it, you know, to
5	what I visually, you know, saw that evening.
6	MR. BIANCO: Okay. So let's then talk
7	about earlier that evening before the gunshots.
8	And you live on the 1800 block of 9th Street,
9	correct?
LO	MR. CHAUVIN: That's correct.
L1	MR. BIANCO: And MK is about a block
L2	up from you on the 1900 block, right?
L3	MR. CHAUVIN: That's correct
L <b>4</b>	MR. BIANCO: And the people that were
L5	screaming, just to make sure the testimony is
L6	clear, they were across the street from you on
L <b>7</b>	the 1800 block?
L8	MR. CHAUVIN: Yes.
L9	MR. BIANCO: Okay. And what facts, if
20	any, indicate to you that the screaming people
21	had any relationship to MK Lounge?
22	MR. CHAUVIN: You know, again, my
23	walking by at 8:30 seeing crowds, and it seemed

to be the place that was attracting all the

attention that evening.

24

Okay. But it's possible 1 MR. BIANCO: 2 that the screaming people on the 1800 block could have been patrons of any of the 68 other 3 establishments in the area, correct? 4 5 MR. CHAUVIN: Sure. I asked the cop -- I asked the policemen when they responded if 6 7 they might inquire, but I guess that's now 8 allowable -- when they responded, so you're 9 correct. 10 MR. BIANCO: Okay. I don't have 11 anything further. Thank you. 12 CHAIRPERSON ANDERSON: Thank you, Mr. 13 Bianco. Any questions by any Board members? Ι 14 just want to ask you a question, Mr. Chauvin. 15 You talked about the fact that you saw there were 16 like 12 people sitting on the steps. How do you 17 know that they were -- they came from this 18 establishment or they were patrons of this 19 establishment? 20 MR. CHAUVIN: Well, as I noted, Mr. 21 Chairman, you know, I'm just tying it because I 22 had walked by at 8:30 p.m. to go to the grocery 23 store and couldn't get by, and that seemed the 24 place that was hopping and having all the

pedestrians come to the neighborhood, cause it's

1	been quiet during COVID mostly.
2	CHAIRPERSON ANDERSON: Any questions
3	by any other Board members?
4	(No response.)
5	CHAIRPERSON ANDERSON: All right. Mr.
6	Bianco, any questions of the witness based on the
7	questions that were asked by the Board?
8	MR. BIANCO: No, sir.
9	CHAIRPERSON ANDERSON: Mr. Schlom, any
10	questions of the witness based on the questions
11	that were asked by the Board?
12	MR. SCHLOM: No, Mr. Chairman.
13	CHAIRPERSON ANDERSON: Mr. Stoecklein,
14	any questions of the witness based on the
15	questions that were asked? You can I'm sorry,
16	it's your witness. You can redirect if you so
17	desire.
18	MR. STOECKLEIN: Thank you, Mr.
19	Chairman. Just one question. Mr. Chauvin, in
20	your experience, is it common for patrons of MK
21	Lounge and the immediately surrounding bars to
22	congregate before and after their time at the
23	establishment?
24	MR. CHAUVIN: Yes yes, congregate
25	in front of the house, in their cars, and on the

	sidewalks.
2	MR. STOECKLEIN: And what kind of
3	behavior is exhibited during those periods of
4	time?
5	MR. CHAUVIN: You know, it's loud and
6	disturbing to my residents and neighbors.
7	MR. STOECKLEIN: And if you don't
8	follow these people, if you don't literally come
9	out of your door and follow these people that you
10	don't know, these strangers, if you don't follow
11	them to the bar, how are you to know exactly what
12	bar they're going to?
13	MR. BIANCO: Objection, calls for
14	speculation.
15	MR. STOECKLEIN: I'm now sure how it's
16	speculation based on it's a statement of fact.
17	CHAIRPERSON ANDERSON: Right. I'm
18	going to
19	MR. STOECKLEIN:
20	3:45:59(simultaneously speaking) perceive not
21	perceive where these individuals are going or not
22	going.
23	CHAIRPERSON ANDERSON: I'm going to
24	overrule the objection. Answer the question,
25	sir, if you can ask if you can answer the

1 question.

MR. CHAUVIN: You know, I mean you're right. I would have to personally walk, you know, them after sitting in front of my house, you know, booming their stereo. I would have to follow them and, you know, maybe I need to do more of that. I just -- you know, it's a time-consuming endeavor to (simultaneously speaking) --

MR. STOECKLEIN: And would you say you'd feel safe if you were to follow these strangers into or out of MK Lounge; would you say that you'd feel comfortable doing that?

MR. CHAUVIN: Of course not, you know, of course not.

MR. STOECKLEIN: Thank you. No further questions.

CHAIRPERSON ANDERSON: Mr. Chauvin, thank you very much for your participation here today. You're free to go.

MR. CHAUVIN: Thank you, sir.

CHAIRPERSON ANDERSON: Or you can hang around and listen but at least you will not be called as a witness as far as that you've said your peace. Thank you very much for being here

1	today to testify, sir. All right.
2	MR. CHAUVIN: Thank you, sir.
3	CHAIRPERSON ANDERSON: Do you have
4	Mr. Stoecklein, do you have another witness?
5	MR. STOECKLEIN: I do not, Mr.
6	Chairman.
7	CHAIRPERSON ANDERSON: Do you rest or
8	do you are you going to testify, or do you
9	rest?
10	MR. STOECKLEIN: The WNA rests.
11	CHAIRPERSON ANDERSON: All right. Mr.
12	Schlom, it's you are you going to testify,
13	sir?
14	MR. SCHLOM: Yes, I am.
15	CHAIRPERSON ANDERSON: Can you raise
16	your right hand, please? Do you swear or affirm
17	to tell the truth and nothing but the truth?
18	MR. SCHLOM: I do.
19	CHAIR ABAIR: All right. Go ahead,
20	sir.
21	MR. SCHLOM: All right. Mr. Chairman,
22	may I share my screen, please, so I can prepare
23	I have a number of exhibits and would rather
24	just prepare them now if that's all right?
25	CHAIRPERSON ANDERSON: Ms. Andres, can

1 you allow him to share his screen, please? 2 MS. ANDREWS: Sure. Stand by. What's 3 the last name? MR. SCHLOM: Schlom, S-C-H-L-O-M. 4 5 MS. ANDREWS: Okay. Stand by. Mr. Schlom, you can now share your screen. 6 7 All right. Are people MR. SCHLOM: 8 able to see my screen? 9 CHAIRPERSON ANDERSON: Yes. 10 MR. SCHLOM: Okay. Thank you. 11 My name is Evan Schlom. I live at afternoon. 12 1932 9th Street N.W., otherwise known as the 13 ArtView Condominium building. That's directly to 14 the north of MK Lounge, which is located at 1930 15 9th Street N.W. I have lived in my condominium 16 unit which abuts MK Lounge since June 30, 2017. 17 I am protesting MK Lounge's Class CT license 18 renewal application because MK Lounge has 19 negatively impacted the peace, order, and quiet 20 of the neighborhood, particularly that of my 21 condominium building, negatively impacted 22 residential parking, real property values and 23 because of their noncompliance with their 24 settlement agreement, DC laws and regulations,

and the Mayor's emergency order during the

pandemic.

Noise is the primary concern that my neighbors and I have had with MK Lounge over the last 3-1/2 years. The exhibit that's on the screen, that's Protestant's Exhibit 1, is the establishment's existing settlement agreement which was approved by the Board, as you can see here, in March of 2017, March 8th of 2017. Provisions 3(b), section 3(b) states that the applicant shall take, quote, "all necessary actions to ensure that music, noise, and vibration from the establishment are not audible in any residential premises including but not limited to making architectural modifications to the establishment."

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 1.)

MR. SCHLOM: However, despite this requirement, prior to the pandemic, loud music and of particular importance, strong base vibration from the establishment was felt routinely, if not on a nightly basis, until 2:00 a.m. or 3:00 a.m.

My neighbor and I have attempted to

resolve the noise and base issues with MK
Lounge's owner directly and through the ABRA
enforcement process, but neither has resulted in
a long-term resolution. When we've attempted to
work with Mr. Zewdie or his staff directly, the
music volume may sometimes be lowered for a brief
period and then raised again or at times, nothing
is done at all. If we call the ABRA enforcement
hotline, if an enforcement agent does indeed show
up to investigate, which I would not does not
always happen, MK Lounge may lower the volume of
its music while the investigator is there but
then simply raise it again once the investigator
leaves.

To be clear, the incredibly disruptive noise was happening on a nightly basis prior to the pandemic-related closures and the Mayor's emergency order. Fridays, Saturdays, and Sundays would be the most severe days, but this was happening every single night. In an effort not to overload ABRA investigators with complaints, my neighbors and I have come to essentially throttle our complaints limiting them both with -- throttle our complaints both to the establishment itself and to ABRA investigators

limiting them only to the most severe episodes.

Put differently, we've been basically forced to
accept continuous disruption to our lives caused
boy MK Lounge notwithstanding a settlement
agreement that is supposed to protect us.

And despite the temporary

COVID-related rules requiring music to be played only at a conversational level, we still hear music and steel base vibration on a regular basis. Indeed MK Lounge has been cited three times by ABRA during the pandemic solely for having noise above a conversational level.

Now I am extremely confident that the vast majority of noise and vibration we experience in my building comes from MK Lounge. First, I regularly traced the noise and vibration starting in our lobby, then working my way up the stairs to my unit on the third floor. I can trace both the music and the pattern of vibration caused by the base. Before I file an ABRA noise complaint against any establishment, including MK Lounge, I always attempt to locate the source of the noise or vibration.

Second, while MK Lounge's license was summarily suspended from September 18, 2020 to

October 3, 2020, my neighbors and I did not hear any significant noise or vibration coming from the south side of our building even though other lounges and clubs on our block remained open.

This natural experiment proves that the source and vibration causing the disturbance in our condominium primarily comes from MK Lounge.

I personally have no personal knowledge of any architectural modification to their space or installed sound mitigation measures in recent years in spite of persistent noise complaints from my neighbors and me. And I can also tell you that I am not aware of any sound tests that have been conducted, certainly not in my unit and not from my personal knowledge since I moved into -- sound tests in my building that have been performed since I moved in.

Another concern that we, as neighbors, have with MK Lounge is their sale of hookah. As the Board has recently noted, under DC law, tobacco smoking, including hookah, is allowed inside an establishment only with an exemption from the DC Department of Health. Furthermore, as the Board has also recently noted, while the public health emergency orders related to

COVID-19 are in effect, hookah smoking in all 1 2 ABC-licensed establishments, including those with 3 exemptions, is banned. Protestant Exhibit 2 is the page of 4 the DC Department of Health website that lists 5 establishments who are exempt from the tobacco 6 7 I printed out this web page myself on March 8 16, 2021. And Mr. Zewdie admitted he does not 9 have an exemption, and he does not appear on this list. 10 11 (Whereupon, the above referred to 12 document was marked for identification as 13 Protestant's Exhibit 2.) 14 I'm sorry, Mr. Anderson. MR. BIANCO: 15 I'm not objecting. I just am asking whether Mr. Schlom intends to move exhibits into evidence and 16 17 allow for objections as he talks about them or if 18 he's going to wait til the end and move them all 19 in. I think the former is probably an easier way 20 to handle it, but I'll defer to the Chair. 21 CHAIRPERSON ANDERSON: Well, I'm --22 I'm happy to defer to the MR. SCHLOM: 23 Chair as well. 24 CHAIRPERSON ANDERSON: -- at the end 25 once both -- all sides -- I've not asked any side

-- I know that you have -- I know that you've moved one document into evidence, and I've not asked the other parties if they plan to move other documents in evidence. So if that's the case, we can go through that now, or we can wait til the end and go through the documents and hear what -- hear if there is objections.

MR. BIANCO: Well, I mean -- well, in presentation of my case in chief, I used essentially two documents; one, the investigator's report which I didn't move into evidence, but I assume the Board is going to accept as evidence. Number two was what was marked as Applicant's Exhibit Number 3, and we've already had our admissibility argument on that particular documents. So as far as the applicant's evidence goes, we're done. I don't know about -- I can't speak for Mr. Stoecklien or Mr. Schlom, but I think just having some understanding of how we're going to handle it probably makes the most sense.

CHAIRPERSON ANDERSON: Mr. Schlom, do you -- are you -- do you plan to move these documents into evidence?

MR. SCHLOM: Yes, Mr. Chairman, my

plan was to move all -- was to mark them now, 1 2 discuss them, lay the foundation, and move them at the end of my testimony but --3 CHAIRPERSON ANDERSON: Sure. 4 5 MR. SCHLOM: -- I am happy to defer to the Chair if you wish to do it document by 6 7 document in the middle of my testimony. 8 CHAIRPERSON ANDERSON: No, sir. We 9 can -- have to go back again over the documents, but I can wait until the end. 10 11 MR. SCHLOM: All right. 12 CHAIRPERSON ANDERSON: Okay. 13 ahead, sir. 14 MR. BIANCO: That's fine. 15 MR. SCHLOM: Okay. Thank you. What has been marked as Protestant's Exhibit 3 -- I 16 17 should say -- strike that. 18 MK Lounge has twice been ordered by 19 the Department of Health to cease and desist 20 smoking of hookah within the establishment. 21 Protestant's Exhibit 3 is a Department of Health 22 Food Inspection report from August 28, 2018. 23 This is a public document that I printed from a 24 link provided at the DC Department of Health 25 website. I printed the document, as you can see,

with the timestamp on March 16, 2021. As you can see here on page three, the health inspector ordered MK Lounge to cease and desist the practice of smoking hookah within the establishment. Again, this is August 28, 2018.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 3.)

MR. SCHLOM: What's been marked as Protestant's Exhibit 4 is another Food Establishment Inspection Report from a few months later on November 6, 2018. Again, this is a public record that was pulled from the same website (inaudible) of 2021. Again, on page three, the inspector orders MK Lounge to cease and desist the practice of smoking and selling hookah within the establishment. But as you heard from Mr. Zewdie himself is he admitted -- don't take my word for it, don't take the inspector's word for it, MK Lounge has not complied with either of these cease and desist orders. It still sells hookah today.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 4.)

MR. SCHLOM: What's been marked as Protestant's Exhibit 5 is a printout of MK Lounge's website that I made on March 16, 2021. The formatting is a little strange but that, I couldn't make any changes to that. I've highlighted all of the references to hookah and hookah lounge. It is clear that MK Lounge advertises itself as a hookah lounge. These are multiple passages that include hookah, etcetera.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 5.)

What's been marked as Protestant's

Exhibit 6 is the hookah page on MK Lounge's

website that I also printed to a pdf, pulled and

printed to a pdf on March 16, 2021. It lists all

of the available hookah flavors and says, "Our

upscale lounge is home to the highest quality of

hookah in Washington, DD MK Lounge is the place

to smoke." I won't belabor this point, because

Mr. Zewdie has already admitted that Hookah has

and is sold within the equipment.

(Whereupon, the above referred to document was marked for identification as Exhibit 6.)

MR. SCHLOM: What's been marked as 1 2 Protestant's Exhibit 7 is an Instagram post that 3 I printed from June 23, 2021 from MK Lounge's Instagram account. You can clearly see the 4 5 hookah. Excuse me. Sorry, I'm trying to get the scrolling correct. Here we go. 6 7 (Whereupon, the above referred to document was marked for identification as 8 9 Protestant's Exhibit 7.) 10 MR. SCHLOM: Protestant's Exhibit 8, 11 also this is from December of 2020, December 19, 12 You can also see the hookah, and I would 13 also note this woman here in the picture on the 14 left, the second woman from the left, has a mask 15 around her chin, which would clearly indicate 16 that this photograph was taken during the 17 pandemic, during the Mayor's emergency order. 18 (Whereupon, the above referred to 19 document was marked for identification as 20 Protestant's Exhibit 8.) 21 I will skip Protestant's MR. SCHLOM: 22 Exhibit -- what had been marked as 9 for the sake of time. 23 24 The smoking of hookah has had a 25 negative impact on me and my neighbors and on the public health. The fact -- well, the fact that MK Lounge was illegally selling hookah had always bothered us, it was not really a top priority until we witnessed it take place during this deadly pandemic that involved a virus spread through the air.

MK Lounge's choosing to allow customers to smoke hookah which, by its very nature, involves maskless customers blowing into the air during a deadly pandemic is worrisome to us. In fact, many of my neighbors and I now avoid walking out the front door of our building during MK Lounge's business hours because we want to avoid being near MK Lounge's customers who have been exposed to that dangerous environment.

Okay. Another major issue that's been brought up today that's been an issue for me and my neighbors has been the illegal parklet that MK Lounge has operated directly in front of our condominium building without our consent. On July 17, 2020, MK Lounge opened a parklet in the parking lane on the west side of 9th Street N.W. Protestant's Exhibit 10 is an Instagram post that I printed from MK Lounge's Instagram account dated July 17, 2020. I printed it on March 16,

2021. It shows what the parklet looked like on the date that it was open, and you can see that it extends -- this photograph was taken from in front of MK Lounge -- in front -- and extends in front of our building.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 10.)

MR. SCHLOM: Protestant's Exhibit 11 is another Instagram post I printed from MK Lounge's Instagram account on July 22, 2020. I printed it on March 16, 2021. It shows the parklet with umbrellas in front of the entirety of our condominium building. You can see the building is here. The umbrellas extend across the entirety of our condominium building even though the entrance of our building is right here where my cursor is.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 11.)

MR. SCHLOM: Protestant's Exhibit 12 is an Instagram post from MK Lounge's Instagram account for September 5, 2020 that I printed, again, on March 16. 2021. It shows food being

cooked on a grill inside the parklet. Here is our residential entrance as well as a white tent that had been erected inside the parklet. I do not know whether cooking was or is allowed inside a parklet.

As the Board knows, in the summer of 2020, as part of DC's Phase 1 reopening, licensed establishments without and with existing summer garden endorsements were permitted to set up outdoor dining seeing on public spaces such as sidewalks, alleys, and parking lanes. They were permitted to use the space immediately in front of their establishments as well as adjacent spaces with written consent from the adjacent ground floor business owner or property owner.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 12.)

MR. SCHLOM: What's been marked as
Protestant's Exhibit 13 is the official DC Phase
1 Outdoor Space Guidelines. To the best of my
knowledge, there are no other official guidelines
or regulations other than this document, at least
none that are publicly available.

(Whereupon, the above referred to

document was marked for identification as Exhibit 13.)

MR. SCHLOM: On page one of the document, under "use of public space," you can clearly see that for parklets to be set up in parking spaces, they may be set up in parking lanes immediately in front of the restaurant and adjacent spaces with written consent from the adjacent grown floor business or property owner. There is no reference to the ground floor having to be a business and not residential at all.

When I saw the parklet being set up on July 17, 2020, that was the first time I had any notice whatsoever that MK Lounge intended to have a parklet. MK Lounge never contacted me nor the ArtView Condominium Association to notify us that they were erecting a parklet nor to ask us permission or nor -- even for our support.

Indeed I would have actually been inclined to support the parklet depending on where it was set up and the restrictions and would have been very happy to write DDOT a letter of support under the right conditions, but we were never even given that opportunity.

Immediately upon seeing the parklet

being set up for the first time, I went to the DC TOPS permitting page to see if and when the Department of Transportation had issued a permit. I saw that a permit was issued to Alexander Padro and Shaw Main Streets for a parklet beside the two parking spaces. Because the parklet was erected in front of our building without our consent and because it was larger than the allotted two parking spaces, I emailed Mr. Padro that very evening to inform him of the ArtView residents' concerns. This is what's been marked as Protestant's Exhibit 14.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 14.)

MR. SCHLOM: This is a printout that I made of the email exchange that I had with Mr. Padro beginning, as you can see, on July 17, 2020 at 7:26 p.m. Mr. Padro very quickly responded saying that DDOT had told him that because the retail space on the ground floor was, quote, "vacant," no letter of authorization was required to extend the parklet. I then notified him, in email, of two facts. One, the retail space was indeed not vacant. Rather the establishment at

that point had simply temporarily closed due to the pandemic. And two, the retail space does not take up the entirety of the ground floor, only part of it, and the part that extended in front of the residential portion of the ground floor as well.

Mr. Padro responded quickly assuring me that he was, quote, "certain that if DDOT amends the permit, MK Lounge will immediately make any necessary adjustments to the parklet."

The parklet remained operational throughout the summer including July, August, September, and October. It was very loud, full of patrons, many of whom were maskless.

On October 20, 2020, DDOT revoked the permit for MK Lounge's parklet. This has been marked as Protestant's Exhibit 15.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 15.)

MR. SCHLOM: This is an email that I received, I along with a number of others including ABRA's legal department and Martha Jenkins, ABRA General Counsel, inform -- from Anna Chamberlin, Associate Director of Planning

and Sustainability at the Department of
Transportation informing everybody that the
permit had been revoked earlier that day and that
MK Lounge would need to reapply for a parklet no
more than 20 feet wide immediately in front of
their business. She then said that ABRA would
need to take any further action. However, the
parklet was not removed.

On October 24th, four days later, I emailed Mr. Bianco, the attorney for Mr. Zewdie, informing him that the permit had been revoked and asking him under what authority the parklet and tent continued to exist on public space.

This is Protestant's Exhibit 16, which shows that email here on October 24th. Mr. Bianco did not respond.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 16.)

MR. SCHLOM: On October 28th, I emailed Mr. Bianco again asking him to assure the illegal parklet and tent were taken down but again, Mr. Bianco did not respond and the parklet remained. On November 2, strong winds blew over the illegal tent causing a major public safety

hazard. This here is part of Protestant's

Exhibit 16 is a photograph that shows what the

tent looked like after it had been blown over.

You can see the poles are in the street pointing
all sorts of directions. It was a day with

particularly strong winds, and this was right

outside of our door. We were extremely concerned

for our safety.

So I emailed Mr. Bianco again, a third time, but he did not respond and indeed has never responded to that email.

MK Lounge employees deconstructed the tent a day or two later but again, the parklet still remained. Today, over five months since the permit was revoked, the parklet is still there. The bicycle rack and the bollards are still there. You so those photographs in the investigator's report, Investigator's Exhibit 4 and 5. While customers are not served in the parklet, the bike rack and bollards continue to block multiple public parking spaces, limited public parking spaces, and members of the public, including those waiting to enter MK Lounge, congregate in that space.

What's been marked here as

Protestant's Exhibit 17 is a printout I made on March 17, 2021 from the DC TOPS website which shows the permit as revoked. You can see it here in red.

(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 17.)

MR. SCHLOM: The third issue I want to raise is the queuing that regularly blocks our condominium doorway and prevents us from entering and exiting our building safely through the front MK Lounge intentionally directed patrons to enter and queue from the north in front of our building. The queue to enter both before and during the pandemic has been quite long at times. But during the pandemic, we don't not only have the issue of physical access to our door, but we must also encounter unmasked patrons in close proximity. Indeed due to these conditions, most of my neighbors and I do not feel safe using our front door during MK Lounge's business hours and are forced to use our back door through the alley to come and go from our homes.

MR. SCHLOM: Protestant's Exhibit 18, what's been marked as Protestant's Exhibit 18 is

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a printout I made of an Instagram post from MK 1 2 Lounge's Instagram account, which they posted on September 5, 2020, and that I printed on March 3 4 16, 2021. 5 (Whereupon, the above referred to document was marked for identification as 6 7 Protestant's Exhibit 18.) 8 MR. SCHLOM: You can clearly see our 9 building entrance here and here, and you can see 10 the queue extending far passed our doorway. You 11 can also see, if you look closely, that a 12 majority of the patrons here are not wearing 13 masks. Those waiting in line are not wearing 14 masks. 15 Protestant's Exhibit 19 -- pardon me 16 -- is an -- is a -- sorry, I'm skipping 17 Protestant's Exhibit 19. What's been marked as Protestant's 18 Exhibit 20 is a screenshot taken form one of our 19 20 condominium building security cameras pointed 21 from the inside at our front door. 22 (Whereupon, the above referred to document was marked for identification as 23 24 Protestant's Exhibit 20.) 25 MR. SCHLOM: As you can see from the

timestamp in the bottom right, the video screenshot was from March 6, 2021, at 11:05 p.m. You can clearly see patrons waiting to go inside MK Lounge blocking the door, making it impossible for us to get in or out without having to ask them to move and coming into close contact with them. This situation in this photograph, in this screenshot is representative of how things normally are during the evening during MK Lounge's business hours.

My neighbors and I moved into our condominium building in mid-2017, early 2017 to mid-2017 and from the beginning, we had hoped to have a positive relationship with Mr. Zewdie. In fact, that's how it started out. He was responsive to our communications, and we felt he was trying to work with us in good faith. However, over time, that relationship has deteriorated because we did not see any long-term improvement or resolution to our concerns. And MK Lounge's record during the pandemic has undermined much of what was left of any confidence we had that they will come into compliance with their agreement and with the law on their own without the Board taking any further

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action.

According to public ABRA records, MK
Lounge has received five separate citations for
pandemic-related violations. Based on public
record, that makes them tied for the second most
cited establishment in the entire District of
Columbia. Now we understand that Mr. Zewdie
wants to help his business, and we can understand
he wants to help his business to survive. But he
is causing massive risk to public health and
hasn't followed the basic procedures that the
District has deemed, the District and this Board
indeed, have deemed necessary to keep his
customers and the community safe.

A warning was not enough to encourage compliance with the rules. A \$1,000.00 fine was not enough to encourage compliance with the rules. And even a 25-day suspension was not enough to encourage them to come into compliance, and there's currently a pending case with the Office of Attorney General against them. And I would note this is what they've been doing when the public health risk and the risk of enforcement is at its highest. So we don't have a doubt that unless the Board takes some sort of

action here, this pattern will continue.

In conclusion, I want to make clear that this protest is not personal for me, but it seems to be for Mr. Zewdie. I've learned that apparently, he's been speaking ill of me to other owners in the community. So if there is anything I have said in the past or a characterization I've made that makes it seem as though this is personal about him, I want to clarify that that is not the case. I suspect it is personal for him, in part at least, because he's invested personally in his business which is understandable. And in fact, I don't think Mr. Zewdie is a bad person. In fact, I actually think he's one of the better owners on this block, although I think that is a pretty low bar.

But even saying all of that, by the same token, there is a significant history of problems in our relationship with him as neighbors, and that history bears out that the only way to get these problems resolved or attempt to resolve them is through ABRA or the DC Government.

A problem for Mr. Zewdie is that he has built a nightclub, effectively, in what you

heard from Investigator Zollarcoffer, is a mixed use area, an R-2 zone that the District has encouraged more residential development in and one that is indeed becoming more residential every single day. So whether or not Mr. Zewdie likes dealing with residents as his neighbors, there will be more residents in the future as DC has created this overlay specifically to encourage residential development in a formerly commercial corridor.

rom my perspective and that of my neighbors, we are looking forward to the best partners we can in the community, and I actually think Mr. Zewdie happens to be one of the best in this area. So it's particularly frustrating when he, for example, puts up a parklet in front of our building without notice, or consent or refuses to respond to our settlement agreement proposal, or turns other business owners against me.

Because I have a lot of respect for the businesses he has built in our area and the area that has been built by his businesses, I don't want to be here, and my neighbors don't either. In fact, we moved to this neighborhood

because of the environment that he has helped create. Our frustration comes from this idea that seems to be pervasive that because they were here first, they can operate under the standards they used to operate under, not under the standards that reflect the community as it exists today. And the standard that ABRA must use is the area that exists today.

To be clear, my neighbors and I do not want MK Lounge to close. We are not -- we do not want to regulate them out of business but because the relationship has broken down and previous attempts to address our concerns directly with Mr. Zewdie have not worked, this ABRA protest process is our only avenue in which to be heard. Thank you.

CHAIRPERSON ANDERSON: All right. Why don't you -- all right. Once we do cross-examination, then I'll come back to the exhibits. So I'll go with Mr. -- Mr. Stoecklein, do you have any questions of Mr. Schlom?

MR. STOECKLEIN: I do not, Mr.

Chairman.

CHAIRPERSON ANDERSON: Mr. Bianco?

MR. BIANCO: Yes. I do have some

points of clarification that I'd like to get to. 1 2 Mr. Schlom, if I understood you correctly, or 3 your -- I suppose your questioning earlier, it's your position that MK Lounge opened first in 4 5 2017; is that correct? MR. SCHLOM: No, Mr. Bianco. 6 7 position is that they signed the settlement 8 agreement which was for a new license application 9 in July of 2017. The Board ordered -- Board 10 issued an order approving that settlement 11 agreement and issuing the new license in March of 12 2017. That is my testimony. 13 MR. BIANCO: Okay. Looking at your 14 Exhibit Number 1, which is the Board order 15 approving the settlement agreement, doesn't that 16 indicate that it is a renewal application and not 17 a new application? 18 MR. SCHLOM: Yes. I do see that, yes. 19 I apologize. 20 MR. BIANCO: Okay. So you would agree 21 that as of the approval of the settlement 22 agreement date in 2017, that that was a renewal and not a new establishment, correct? 23 24 MR. SCHLOM: I agree with that 25 statement, yes.

MR. BIANCO: Okay. Thank you. 1 2 just trying to streamline this as much as 3 possible so just bear with me as I go through the sort of areas that I wanted to cross on. 4 T'm 5 trying to take out whatever I can to get us the heck out of here today. 6 7 So you moved into your condominium in 8 mid-2017, correct? 9 MR. SCHLOM: That is correct. Ι 10 entered into a contract in late 2016, moved in 11 and -- closed and moved in in June of 2017. 12 MR. BIANCO: Were you the first person 13 to move in, or were there other residents there 14 before you? 15 I believe I was the MR. SCHLOM: second or the third resident to move in. 16 17 to wait because the number of units in the condominium had to be closed before anybody could 18 19 move in. I believe I was the second or third. 20 The earliest may have been in May or June but 21 certainly not before then. But the building had 22 been complete for a number of months. 23 MR. BIANCO: Okay. Great. Thank you 24 very much. And as a purchaser of a new 25 condominium unit, that unit came with a warranty,

1	correct?
2	MR. SCHLOM: Yes. I believe I
3	understand what you're referencing, yes.
4	MR. BIANCO: Okay. Did you ever make
5	a claim against the developer?
6	MR. SCHLOM: For anything at all?
7	Yes.
8	MR. BIANCO: Okay. Was any of it
9	related to the party wall between 1930 and 1932
10	9th Street?
11	MR. SCHLOM: I don't believe it was,
12	but I don't remember for sure.
13	MR. BIANCO: Okay. Was anything in
14	your warranty claim related to soundproofing of
15	the property?
16	MR. SCHLOM: I believe it might have
17	been but again, I don't remember.
18	MR. BIANCO: Okay. And what was the
19	
20	MR. SCHLOM: It doesn't come to mind.
21	MR. BIANCO: Okay. What was the
22	outcome of your warranty claim?
23	MR. SCHLOM: The developer paid for a
24	number of modifications to our unit for various
25	things.

MR. BIANCO: Okay. And who did that 1 2 work; did the developer do the work, or did you 3 hire someone and the developer paid them? MR. SCHLOM: The developer was the one 4 5 who engaged in the contract with the contractor consulting with us on who would be used. 6 7 MR. BIANCO: Okay. And did anything 8 in the course of -- I'm sorry -- did any of that 9 work relate to the party wall between the 10 properties? 11 MR. SCHLOM: Again, as far as it 12 relates to my unit, I do not think so. I can't 13 speak to any of the other units -- condominium 14 units in my building. 15 MR. BIANCO: Okay. And prior to your 16 purchase, did the developer disclose to you the 17 potential for noise infiltration from the 18 neighborhood? 19 MR. SCHLOM: I don't remember what 20 disclosures the developer did or did not make but 21 having been to that neighborhood and looked at 22 the property both during the day and the evening, 23 I was aware of the character of the neighborhood. 24 MR. BIANCO: Okay. And just a couple 25 of more things that I'd like to cover. Number

one, I just want to make sure your testimony is clear, at least in my mind with respect to the parklet. It's my understanding that MK operated the parklet from roughly July until October, served customers there, and had a permit to do so; is that correct?

MR. SCHLOM: My recollection is that it served from July -- July 17, 2020 I remember is the date that it opened. My recollection is that they stopped serving customers sometime in October, but I do not remember and I'm forgetting -- and there was a DDOT permit. I do not agree that their parklet necessarily complied with the permit. I believe their parklet was larger than the permit allowed, but there was a parklet permit issued to MK Lounge.

MR. BIANCO: Okay. Great. That clarifies things a lot, actually. So then your claim is that after the revocation of that permit, you're not saying they kept operating a parklet. You're saying that they just left the stuff there essentially, right?

MR. SCHLOM: My recollection is that they -- is that your characterization is correct.

I do not recall. Before I emailed you on the

24th, my recollection is that they had ceased 1 2 serving customers but as you saw, the tent and 3 the bike rack was all there. Indeed the bike 4 rack is still there. 5 MR. BIANCO: Okay. So the -- as of today, the furniture and the tents are removed 6 7 from the parklet but the bike rack surrounding 8 the parklet remains, right; that's the issue? 9 MR. SCHLOM: The bike -- that is The bike rack and there is a 10 11 water-filled bollard on the north side and a 12 number of bollards that are on the south side 13 that are blocking off approximately three parking 14 Those are still there. places. 15 Okay. And the last area MR. BIANCO: 16 that I'd like to go into briefly is with respect 17 to the testimony you heard about the Whatsapp 18 text chat group; do you recall that testimony? 19 MR. SCHLOM: Yes, I do, some of it. 20 MR. BIANCO: Okay. And is it -- it's 21 true, isn't it, that you participated in a text 22 chat group with MK Lounge to deal with noise and 23 other issues, right? 24 I was part of a Whatsapp MR. SCHLOM: 25 group that is with MK Lounge ownership and

1 employees, correct. 2 MR. BIANCO: And -- okay, great. And 3 Mr. Belachew's testimony was that the last 4 communication from you on that chat group was in 5 August of 2020; is that correct? MR. SCHLOM: I'm simply looking down 6 7 at my phone, because I'm actually at when it was, 8 and that -- I'm looking at the Whatsapp. There 9 was a conversation on August 29 of 2020. 10 MR. BIANCO: Okay. Great. Now I'm 11 glad you're looking at that to refresh your 12 recollection. And it's my understanding that on 13 August 29 of 2020, essentially you raised an 14 issue on the chat group about the queuing in 15 front of your building, right? 16 MR. SCHLOM: Yes, I did. 17 Okay. And within 15 or MR. BIANCO: 18 20 minutes, MK had addressed that issue by 19 putting up a stanchion at your request, right? 20 MR. SCHLOM: I would not say it 21 addressed the issue permanently, but they did put 22 up the stanchion that they had previously done within a few minutes of me raising the issue. 23 24 And he sent me --

Okay.

MR. BIANCO:

MR. SCHLOM: -- took a photograph to 1 2 show that it had been put in place. 3 MR. BIANCO: Okay. Great. And so 4 having -- you would agree though the issue on 5 that particular evening was resolved by the putting up of the stanchion, right? 6 7 MR. SCHLOM: I would agree that it was 8 improved. I don't know if it was fully resolved 9 10 MR. BIANCO: Okay. 11 MR. SCHLOM: -- on that evening. 12 MR. BIANCO: Okay. Thank you, 13 appreciate that. And is there a reason that in 14 the time since August 20th where queuing has 15 become an issue you did not simply go back onto 16 that group chat and notify MK? 17 MR. CHAUVIN: Well, there's a few 18 reasons. One, we try to -- I think part of it is that we have other things that we're trying to 19 20 deal with and frankly, we've become kind of fed 21 up and just try to use the back door and avoid it 22 completely. That's the honest truth. And I also 23 -- it gets kind of annoying to have to ask them 24 to do it every single day. That's why we haven't

done it.

I don't --

1	MR. BIANCO: Okay.
2	MR. SCHLOM: to not become a
3	long-term solution because it wasn't being done
4	every day and, in fact, wasn't solving the issues
5	completely.
6	MR. BIANCO: Okay. Now in your
7	testimony strike that. Nothing further.
8	Thank you.
9	CHAIRPERSON ANDERSON: All right. Mr.
10	Bianco, I find the chat that Mr. Stoecklein had
11	stated that he wanted to ask some
12	cross-examination, and so I told all right, so
13	go ahead, Mr. Stoecklein.
14	MR. STOECKLEIN: Thank you, Mr.
15	Chairman. Mr. Schlom, we heard earlier Mr.
16	Bianco's client that after the modifications, the
17	structural modifications were made to his sound
18	system, that he had a reinspection performed by
19	the sound engineer. Do you recall that
20	testimony?
21	MR. SCHLOM: I recall that testimony,
22	yes.
23	MR. STOECKLEIN: Okay. And were you
24	ever made aware of any such reinspection,
25	restudy, reassessment following the modifications

that were claimed? 1 2 MR. SCHLOM: No. I was not made aware 3 of that ever, neither in my personal capacity nor 4 my capacity on the Board of the R-2 Condominium 5 Association. MR. STOECKLEIN: Did any -- did Mr. 6 7 Bianco's client or any representative of Mr. 8 Bianco's client ever come to your apartment to 9 perform any testing? 10 MR. SCHLOM: Never. 11 Did Mr. Bianco's MR. STOECKLEIN: 12 client or any employee of -- representative of 13 Mr. Bianco's client, to your knowledge, ever come 14 to any of your neighbors' apartments to perform 15 that retesting following installation of these modifications? 16 17 Not to my knowledge. MR. SCHLOM: 18 MR. STOECKLEIN: Okay. Thank you. No 19 further questions. 20 CHAIRPERSON ANDERSON: Thank you. Any 21 questions by the Board members? 22 (No response.) 23 CHAIRPERSON ANDERSON: All right. No 24 questions by any Board members. Mr. Schlom, 25 thank you for your testimony. All right.

let's now go -- you're the only witness, sir. 1 2 you rest? 3 MR. SCHLOM: That's correct, Mr. 4 Chairman. I rest pending discussion of moving 5 into evidence of my various exhibits that have been marked. 6 7 CHAIRPERSON ANDERSON: All right. So 8 let's do that now. So Ms. Andrews, can you give 9 him the ability again to share his screen? And 10 so let's now go through the documents and -let's go through the documents that you want to 11 12 admit into evidence. 13 MS. ANDREWS: Sure. Stand by. Okay, 14 Mr. Schlom, you have the rights to share your 15 screen. 16 MR. SCHLOM: All right. 17 CHAIRPERSON ANDERSON: All right. we can move forward from Exhibit 1. Exhibit 1 is 18 19 P1, that's part of the Board record, so we don't 20 need to discuss that one. That's already part of 21 the record.\ 22 MR. SCHLOM: All right. 23 MR. BIANCO: No objection. 24 (Whereupon, the above referred to 25 document was received in evidence as Protestant's Exhibit 1.)

CHAIRPERSON ANDERSON: I'm sorry to do that but that's a Board record so I know there will be no discussion. That's already part of the Board record. So all right, what's P2?

MR. SCHLOM: P2 is a printout that I made on March 16, 2021 of the DC Department of Health website where it lists all of the establishments who have received new exemptions to the DC tobacco laws.

MR. BIANCO: No objection.

(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 2.)

MR. BIANCO: And just sort of going forward, most of these I'm not going to object. I think the only place where we're going to have an issue is with social media posts. So as we go through these, we can bear that in mind, then we can move quicker.

CHAIRPERSON ANDERSON: All right. So with that, Mr. -- I'm sorry -- Mr. Stoecklein, if at some point, you have an objection, please let me know also. All right. So we have P1, P2. What's the next, P3. What's P3?

1	MR. SCHLOM: P3 is a printout of the
2	Food Inspection Food Establishment Inspection
3	Report from August 28, 2018.
4	CHAIRPERSON ANDERSON: Any objection
5	to P3?
6	MR. BIANCO: No objection.
7	CHAIRPERSON ANDERSON: So moved.
8	(Whereupon, the above referred to
9	document was received in evidence as Protestant's
10	Exhibit 3.)
11	CHAIRPERSON ANDERSON: P4?
12	MR. SCHLOM: P4 is a Food
13	Establishment Inspection Report from November 6,
14	2018.
15	CHAIRPERSON ANDERSON: Any objections
16	to P4?
17	MR. BIANCO: No objection.
18	CHAIRPERSON ANDERSON: So moved.
19	(Whereupon, the above referred to
20	document was received in evidence as Protestant's
21	Exhibit 4.)
22	CHAIRPERSON ANDERSON: P5?
23	MR. SCHLOM: P5 is a printout of MK
24	Lounge's website
25	MR. BIANCO: No objection.

1	MR. SCHLOM: website home page.
2	MR. BIANCO: Without objection.
3	(Whereupon, the above referred to
4	document was received in evidence as Protestant's
5	Exhibit 5.)
6	CHAIRPERSON ANDERSON: 06?
7	MR. SCHLOM: P6 is the Service, Hookah
8	page from MK Lounge's website.
9	MR. BROGAN: No objection.
10	CHAIRPERSON ANDERSON: Without
11	objection.
12	(Whereupon, the above referred to
13	document was received in evidence as Protestant's
14	Exhibit 6.)
15	CHAIRPERSON ANDERSON: P7?
16	MR. SCHLOM: P7 is a printout I made
17	to PDF of a social media Instagram post from MK
18	Lounge's Instagram account posted on June 23,
19	2020. The printout was made by me on March 16,
20	2021.
21	MR. BROGAN: This I object to and my
22	objection is going to be the same for all of the
23	social media posts that Mr. Schlom is proffering.
24	The basis of my objection is that the exhibits
25	cannot be authenticated. Mr. Schlom cannot

did not take the pictures. He was not there when
the picture was taken. He can't say when the
picture was taken. Although it's shared on
social media with a date, the date that the post
was shared does not necessarily correspond to the
date that the photograph was taken. And there is
no connection between the photograph and what
conditions may or may not have existed at MK
Lounge on the date. Indeed there's no testimony
even, other than the name, that these are
pictures of MK Lounge. Mr. Schlom's not been
inside and he's not said this is what was going
on at that time in MK Lounge. So the photographs
from this Exhibit and all social media can't be
authenticated and are not admissible.
MR. SCHLOM: Mr. Chairman, may I be
heard on that?
CHAIRPERSON ANDERSON: All right. So
how many exhibits are we talking about? So it's
P7, whichever one, 7?
MR. SCHLOM: Yes, 7
CHAIRPERSON ANDERSON: 8
MR. SCHLOM: 10
CHAIRPERSON ANDERSON: P9? Is that
I'm sorry, tell me

1	MR. SCHLOM: Nine I did not include.
2	CHAIRPERSON ANDERSON: So P7, P8, P
3	what's the next one?
4	MR. SCHLOM: P10.
5	CHAIRPERSON ANDERSON: P10.
6	MR. SCHLOM: P11.
7	CHAIRPERSON ANDERSON: P11.
8	MR. SCHLOM: P12.
9	CHAIRPERSON ANDERSON: P12. The next
10	one is P18.
11	MR. SCHLOM: And that's
12	CHAIRPERSON ANDERSON: Those are all
13	the social media?
14	MR. SCHLOM: That is correct.
15	CHAIRPERSON ANDERSON: And it's the
16	same objection, Mr. Bianco?
17	MR. BIANCO: That's correct. It's the
18	same objection for all the social media posts.
19	MR. SCHLOM: If I may be heard, Mr.
20	Chairman?
21	CHAIRPERSON ANDERSON: Just hold on,
22	please. Just
23	MR. SCHLOM: Sure.
24	CHAIRPERSON ANDERSON: Go ahead, sir.
25	MR. SCHLOM: So I would make a few

different points. First, we haven't -- the Board has not asked authentication of anything else today including the sound report that we had no objection to whatsoever. I would --

CHAIRPERSON ANDERSON: Just going to stop you. I'm sorry. Hold on. Mr. Zewdie, can you put your phone on mute, please? Go ahead, sir.

MR. SCHLOM: All right. So that's the first point. Second, I am perfectly happy to concede -- and I am not attempting -- by entering these exhibits into evidence, I am not attempting to show that the photograph reflects what was taking place on the date on which it was posted. That is not my intent and I am perfectly happy to stipulate that just because a photograph was posted to social media on a particular day does not mean that it was taken on that day or reflects the activity on that day. I simply say the date to show when it was posted to give some context.

I am more than happy. These -- I have been inside of MK Lounge, contrary to Mr.

Bianco's assertion. I'd be happy to testify under oath to that and to testify to reflect my

understanding from my personal knowledge of what it looks like or looked like inside and outside of MK Lounge. Finally, I would also note, as this

Board has noted, many times the Chairman has noted, the normal rules of evidence don't apply. I'm perfectly happy for -- to allow these in. Ιf Mr. Bianco wishes to, he's welcome to cross-examine me or raise whatever concerns he wishes about the weight of this evidence, but I do believe that for that, whatever purpose the Board chooses to view them, they should be allowed in. You'd -- I'd also note that Mr. Bianco did not deny that this is from his client's Instagram account.

CHAIRPERSON ANDERSON: I think you anticipated the question I was going to ask, so -- is that -- there is -- is there agreement, at least agreement that this is from the Instagram account of MK Lounge?

It purports to be but I MR. BIANCO: honestly have no idea. Mr. Zewdie can answer I suppose. DJ?

> CHAIRPERSON ANDERSON: Mr. Zewdie? MR. ZEWDIE: Yes.

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CHAIRPERSON ANDERSON: Are these 1 2 pictures from your -- just -- the pictures that we're talking about, are they your Instagram 3 account; is this your Instagram account? 4 5 Yes, it is. MR. ZEWDIE: CHAIRPERSON ANDERSON: Yes, it is. 6 7 All right then I'm going to allow the documents 8 in for -- I'll allow the -- I'm going to allow 9 the doc s in. It's to give the Board -- y es, I'll -- I will allow the documents in that they 10 11 are actual pictures of -- pictures on a public 12 domain and they were confirmed by the licensee 13 that this was his Instagram account. So I will allow the documents in the record. So I will 14 15 allow -- the photographs are P7, P8, P10, P11, 16 P12, and P18, all those documents are moved --17 are now part of the record. 18 (Whereupon, the above referred to 19 documents were received in evidence as Protestant's Exhibits 7, 8, 10, 11, 12, and 18.) 20 21 CHAIRPERSON ANDERSON: What's the next 22 document that we are -- that we were --MR. SCHLOM: What had been marked P13 23 24 is a -- is the re-imagining outdoor space phase 1 25 reopening quideline.

1	CHAIRPERSON ANDERSON: Any objection?
2	MR. BIANCO: No objection.
3	CHAIRPERSON ANDERSON: So moved.
4	(Whereupon, the above referred to
5	document was received in evidence as Protestant's
6	Exhibit 13.)
7	MR. SCHLOM: All right. P I skip
8	something? P14 is a printout of an email
9	exchange between myself and Alexander Padro
10	regarding the parklet.
11	MR. BIANCO: No objection.
12	CHAIRPERSON ANDERSON: P14 without
13	objection.
14	(Whereupon, the above referred to
15	document was received in evidence as Protestant's
16	Exhibit 14.)
17	CHAIRPERSON ANDERSON: What's P15?
18	MR. SCHLOM: P15 is an email from Anna
19	Chamberlin at DDOT to me regarding the parklet
20	and that the permit had been revoked.
21	CHAIRPERSON ANDERSON: any objection?
22	MR. BIANCO: No objection.
23	CHAIRPERSON ANDERSON: Without
24	objection.
25	(Whereupon, the above referred to

1	document was received in evidence as Protestant's
2	Exhibit 15.)
3	CHAIRPERSON ANDERSON: What's P16?
4	MR. SCHLOM: P16 is an email change
5	with three emails from me to Mr. Bianco regarding
6	the parklet.
7	CHAIRPERSON ANDERSON: Any objection?
8	MR. BIANCO: No objection.
9	CHAIRPERSON ANDERSON: Without
10	objection.
11	(Whereupon, the above referred to
12	document was received in evidence as Protestant's
13	Exhibit 16.)
14	CHAIRPERSON ANDERSON: P17?
15	MR. SCHLOM: P17 is a printout I made
16	of the DDOT TOPS permitting system showing that
17	the the status of the MK Lounge parklet
18	permit.
19	CHAIRPERSON ANDERSON: Any objections?
20	MR. BIANCO: No objection.
21	CHAIRPERSON ANDERSON: Without
22	objection.
23	(Whereupon, the above referred to
24	document was received in evidence as Protestant's
25	Exhibit 17.)

1	CHAIRPERSON ANDERSON: Are those all
2	your documents, sir?
3	MR. SCHLOM: One last one is P20.
4	CHAIRPERSON ANDERSON: Did we have
5	testimony on P20?
6	MR. SCHLOM: yes. I testified that it
7	was a security camera screenshot.
8	CHAIRPERSON ANDERSON: Oh, yes, I do
9	recall. Mr. Bianco?
10	MR. BIANCO: No objection.
11	CHAIRPERSON ANDERSON: So moved.
12	(Whereupon, the above referred to
13	document was received in evidence as Protestant's
14	Exhibit 20.)
15	MR. SCHLOM: That's all of my
16	Exhibits, Mr. Chairman, and I rest.
17	CHAIRPERSON ANDERSON: All right.
18	Thank you. You can now close your screen,
19	please, sir. Mr. Stoecklein, do you have any
20	documents that you want to move into evidence?
21	MR. STOECKLEIN: I do not, Mr.
22	Chairman.
23	CHAIRPERSON ANDERSON: All right.
24	Thank you. And Mr. Bianco, you have already
25	moved your one document into evidence, that

correct?

MR. BIANCO: That's correct.

CHAIRPERSON ANDERSON: All right. We are ready for closing. Are you ready, Mr.
Bianco, to give closing, or do you want a short break?

MR. BIANCO: I could use five minutes, actually.

CHAIRPERSON ANDERSON: All right.

It's 4:43. The Board will be in recess until

4:50, and there's no need for anyone to log off.

We just -- we'll -- we are off the record until

4:50.

(Whereupon the above-entitled matter went off the record at 4:43 p.m. and resumed at 4:51 p.m.)

CHAIRPERSON ANDERSON: We're back on the record. Is everyone back, all Board members? All right. All right, folks, closing. And since I know all three parties are attorneys, but I'll stay this. You have five minutes to close. What I'm looking for, please be concise and please let the Board know what specifically are you asking the Board to do in this case. And so we will start with the applicant.

MR. BIANCO: Thank you, Mr. Anderson. The evidence in this case has shown that this -renewing this establishment's license will not
have an adverse impact on peace, order, and
quiet. I think it's -- I need to note at the
outset that the grounds of protest here included
adverse impact on real property values but no
evidence about property values has been presented
to the Board.

At the end of the day, what's going on here at this establishment is happening all over the District. Gentrification is happening faster in D.C. than almost anywhere else. This particular area at 9th and U is the epicenter of the issue. You have a concentration of night life establishments and new high dollar condos that young, rich, almost all white people move into and try to force out the establishments like MK Lounge. MK is only blocks from where the Don't Mute DC movement started a couple of years ago.

On the break earlier, I was -- just happened to be reading about Council Member

Nadeau's most resent legislation dealing with soundproofing of new construction residential

buildings. And, you know, ultimately, that might be the solution for cases like this one. But it's not going to solve this case. This is a case that we have to deal with today without any new legislation recognizing the gentrification problem that we have in this neighborhood.

The evidence here shows that MK Lounge was operating in its present location, its present iteration from 2015, that Mr. Schlom and the other owners in the condominium next door moved in sometime in mid-2017 and immediately, from the time they moved in started complaining about the noise from MK Lounge. The developer that built the condominium engaged a sound engineer to do a study. It was completed. It was provided to the licensee, and the licensee complied with the recommendations in it. He did the things that the sound engineer said to do.

And these are not the only things that he did. He wanted to get along with his neighbors, and he reached out and he worked with his neighbors in an effort to do that.

I think some important testimony that we got right at the end of this case was that -- was surrounding the group chat that my client set

up for the purpose of dealing in a civil manner with his neighbors and working together to live next to one another. And by all accounts, when complaints were made, MK Lounge dealt with the complaints.

Due to frustration, I suppose, with the situation, Mr. Schlom cut off communication on that avenue at some point in August or September of 2020. And we think this underscores the motives in this case, which is not to live undisturbed but instead to be rid of this particular establishment.

The WCNA's case, in no meaningful way, relates to this establishment. It just has nothing to do with MK Lounge. They put on one witness and that witness testified about one incident that took place between March 12th and March 13th where the witness saw some people congregated near MK Lounge, has no facts to suggest they were patrons of MK Lounge, just that they were near it. And then later, individuals who are not necessarily the same ones that he saw showed up in front of -- near his house a block away from MK Lounge and caused a disturbance.

Again, he has no facts tying any of the

individuals who caused the disturbance to MK Lounge.

The evidence that WCNA put on should be accorded no weight. It has no bearing on peace, order, and quiet in the neighborhood as it relates to operation of this particular establishment. Mr. Schlom's objectives, as he mentioned, are mostly about noise. And as he conceded, the licensee is one of the best-run establishments of the 69 that are -- although he doesn't have a terribly high opinion of any of the 69 establishments but based on his own testimony, my client's establishment is one of the best.

Now let's talk about violations. Are there violations during the public health emergency? Yes, absolutely. We can't and we don't deny that. It's not as many as has been put before the Board. Some of the violations are still, at this point, unadjudicated, have only been alleged, and cannot be considered in making the determination about whether or not my client's establishment is appropriate for this particular neighborhood.

Instead I would like to focus the

1	Board's attention on the six years of compliance
2	prior to the public health emergency where there
3	were zero violations from ABRA, zero. And I
4	understand that we live in reality, and I can't
5	ask you to simply ignore what has happened
6	because there is a pandemic going on in terms
7	of violations. I can't pretend that that does
8	not exist because it does. But I would say is
9	please don't judge my client by the things that
10	have happened while he's been trying to survive
11	in an unprecedented situation. Judge him by the
12	six previous years of compliance, renew this
13	license without further condition. Thank you.
14	CHAIRPERSON ANDERSON: Thank you, Mr.
15	Bianco. I was going to give you a couple of
16	minutes to wrap up, but well, I think you head
17	the alarm button. That's fine.
18	MR. BIANCO: I could sense the hook
19	was coming so I got out.
20	CHAIRPERSON ANDERSON: Okay. So Mr.
21	Stoecklein, you have five minutes to close, sir.
22	MR. STOECKLEIN: Thank you, Mr.
23	Chairman, members of the Board. I know this has
24	been a long day. I appreciate your brief
25	indulgence, by the way, midday, appreciate all of

your time. I have no doubt that much of what you heard today you've heard many times before. And Mr. Bianco is right. We cannot pretend that some of the limited testimony we were able to offer is clearly attributable to MK Lounge.

But as you consider this renewal application, I would urge you to look at what makes this case unique. This is the first license renewal protest that WNA has participated in in at least 10 years. And that's just based on our president's recollection. There's a good Inspector's report did not summarize reason. noise violations and complaints prior to COVID, but you know even during COVID downturn, there were numerous noise complaints. So you might be able to extrapolate from the number cited at 25 percent capacity to what the situation is like at 100 percent capacity. And the testimony given by Mr. Schlom supports it further.

You've heard that the quote, unquote, "system" residents have been forced to develop is that they have to text to the bar owner-manager to ask the music be returned to permissible levels. Let me repeat. The system being perpetuated right now is that residents have to

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beg the owners to comply with the law on a nearly weekly basis. Can you imagine having to text your neighbor on Wednesday, Thursday, Friday, and Saturday nights at 2:00 a.m. and 3:00 a.m. each week because you or your children can't sleep? And does that become the obligation of DC residents now irrespective of when they moved to the area? Can you imagine calling MPD to ask them for help with a group is screaming and belligerent people on your stoop and getting a response that they can come if weapons are involved? Or can you imagine trying to collect evidence for a hearing like this but fearing that you might be at risk, your personal safety might be at risk in doing so because you just heard a gunshot in the immediate area?

You have also heard testimony that this bar knowingly violates the District's laws prohibiting hookah as recently as just last night knowing that this hearing was occurring today. I would not to presume to know each of your opinions on the use of hookah, but that isn't the issue before you. The issue is a persistent and flagrant disregard of the owner and operators of this establishment for rules that don't suit

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them. Most egregiously, you have heard from
Inspector Zollarcoffer about not just one, two,
three, four but multiple code violations on
multiple occasions. And you yourselves have seen
fit to impose multiple penalties and yet it has
not stopped this establishment, because you also
heard from Mr. Chauvin that employees and patrons
of MK continue to violate COVID requirements as
recently as yesterday.

The DC Code requires this Board to consider the effect of the establishment on peace, order, and quiet including but not limited to noise. DC Code also imposes upon the applicant the burden of proving that a renewal is appropriate and warranted. The burden does not fall on the community to prove why it is not.

I am here on behalf of the resident members of WNA because quite simply, we don't know where else to turn. We're reliant on this Board and our elected officials to enforce the city's laws. And what you have heard here by the owner's own admission is an appalling array of instances in which Mr. Zewdie has flagrantly and persistently disregarded not just liquor license rules but also health code rules pertaining to

hookah and most significantly, violations of the COVID rules.

Make no mistake, this is not just a bar trying to get along in tough times, because to believe that and to give Mr. Zewdie's behavior a pass under that pretext is an affront to the authority of this Board and patently unjust to every other business owner in the area that manages to follow these laws, particularly during difficult COVID times when it means losing potential business.

All that being said, it is not WNA's desire or intent to seek the prohibition of this renewal. Understood, Mr. Chairman. Instead we would seek a limited number of constraints to see if finally, this owner is willing to abide by some semblance of agreed upon restrictions. Hose would include the following: reduction by one hour at the end of every evening in the hours of amplified music allowed; within 30 days of the determination by the Board, having a reputable and certified sound engineer come issue a recommendation to the establishment on how to mitigate sound to comply with the specified city ordinance; maintaining a noise log in which the

owner or the manager on duty certifies under penalty of perjury that amplified music has been maintained at or below the applicable maximum decibel level and making that available for inspection to not only this Board but to the ANC and to the WNA; and finally, participating in a reimbursable detailed subsidy program beginning at 11:30 p.m. and ending no sooner than one hour after closing on Fridays, Saturdays, and Sundays which, based on testimony you heard earlier, it sounds that the owner may already have agreed to, though not with us.

I thank you for your time and consideration.

MS. ANDREWS: Mr. Chair, you're on mute.

CHAIRPERSON ANDERSON: Thank you very much, Mr. Stoecklien. You see, that's one of the reason why I try not to put myself on mute because sometimes I forget that I'm on mute. So -- but I've been trying to mute out the background noise. All right. So thank you, Mr. Stoecklein, for your presentation. Mr. Schlom, you have five minutes to closing, sir.

MR. SCHLOM: Thank you very much, Mr.

Chairman, members of the Board for your time during this real marathon hearing today. I'll try to be very brief in my remarks, because I think we spent a lot of time on the evidence today. And I actually think the evidence for a lot of this is really uncontroverted. It's really just what the Board is going to do about it.

You know, Mr. Bianco has tried to make this hearing about me, about the developer of my condominium building who, you know, built the building in a particular way. He's tried to make it about gentrification. He's tried to make it about race. He's tried to make it about anything but his client and his client's impact on the neighborhood and on the public health.

You know, public health is theoretical 99.999 percent of the time but right now, it's not. It is very, very real. It is the most important part of operating a business in the District of Columbia and indeed in this country today, the responsibility that businesses have to their employees, to their clients, their customers, and to their communities. And when Mr. Zewdie flouts the COVID regulations, he harms

individuals. He harms his customers. He harms neighbors. He harms, as Mr. Stoecklein mentioned, law-abiding businesses by taking business from them and by helping to prolong the pandemic which will keep all of the businesses closed for longer. That's what happens when Mr. Zewdie flouts these COVID regulations.

And this extraordinary threat to individuals' health and the public health is precisely why you, the Board imposed the emergency restrictions of restaurants and bars, as Commissioner Short mentioned earlier today. That's why you imposed capacity limits. That's why you imposed social distancing requirements. That's why you imposed mask requirements, prohibitions on live entertainment and dancing. That's why the Department of Health banned all hookah, even in places that had an exemption.

In the middle of a pandemic, there is far more risk in flouting the rules than there would be at any normal times. So the Board cannot treat MK Lounge's pandemic record as they would any other record. You heard Mr. Bianco say, "Don't judge my client on their record during COVID. Judge them on the record before."

No. COVID is the time, exactly the time when they should be judged. When their responsibility and the risk is the highest, that is when they should be judged.

The Board cannot treat this as many businesses including, it seems, what Mr. Bianco and Mr. Zewdie are saying, which is that, you know, you violate, you pay the ticket. You speed, the cop pulls you over, you pay the ticket. This is not just a risk of nuisance or discomfort to residents. It is the risk of the spread of a deadly virus.

And again, as I stated in my testimony, while it may be personal for Mr.

Zewdie, it is not personal on my end. I don't think he's a bad business owner. I will say it again, much to Mr. Bianco's surprise -- now to be clear, I don't necessarily think he's one of the best to call 69 business owners in our neighborhood, but I think he's probably one of the better on our 1900 block of 9th Street. And he's a sophisticated business owner. He knows exactly what he's doing. By offering hookah, he knows exactly what he's doing.

And by the same token, he signed an

agreement after the condominium building was built, knowing the condominium building was there obligating him to take all necessary actions to prevent noise from entering a residence. He agreed to that. His license was already active. As Mr. Bianco noted, it's a renewal. Nobody was holding his license hostage pending him agreeing to that. He signed this agreement obligating him to take those steps, and he has not lived up to that.

If the Board does not act here, the record is clear that these problems will continue and we will be back here in a few years again. Mr. Bianco brings up the Whatsapp group. I think Mr. Stoecklein said very clearly what we thought about the Whatsapp grous, and we want to work. We -- the Whatsapp group can work very well, but what we were just seeing was no long-term changes. It was we have to mention something time and time and time again. Now Mr. Bianco says I want to get rid of MK Lounge. I want to regulate them out of business. That is simply The record doesn't support it. He has no false. evidence to support that. In fact, I'm here today telling the Board do not deny the renewal

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application. I'm telling the Board to grant the renewal application, but there needs to be additional restrictions to make this place appropriate.

So I ask that the Board order that no speakers be placed on any shared wall and all speakers be mounted away from the shared wall; that MK Lounge direct its queue to the south, not in front of our building; that MK place -- not be allowed to place any items in the public space in front of our building without our consent; and that it ceases and desists the sale of hookah unless it obtains and submits to the Board an exemption.

Again, the burden today is on the applicant to show that it is appropriate and it has not done that. Thank you very much, Mr. Chairman, and members of the Board.

Thank you for your presentation. You know, we started this at 10 o'clock this morning. I thought we were going to around midday, around lunchtime. I thought -- didn't realize that I had a full work day here today, but it's -- yes, but -- yes, so -- but it was -- I want to

complement the professionalism that was shared by all counsels today. I'm more -- I appreciate the hearings with lawyers and although sometimes it goes out of hand, but when I have an attorney, there's a certain expectation that I have. And so if I'm meaner with attorneys, because I said, as an attorney, you no better. Okay. With the lay people, I know that they don't know and so I'm relaxed with the rulings I make. But when I'm working with attorneys on all sides, I'm going to, you know what, as an attorney, you know better, and I expect better. So I appreciate your indulgence with me, and I appreciate the presentations that were made today.

Now do the parties wish to file proposed findings of fact and conclusions of law or rest on the presentations that were seen today?

MR. BIANCO: For the applicant, I prefer not to. If the protestants are going to, I will as well, but my initial preference will be to not file briefs.

MR. SCHLOM: Mr. Chairman, I believe it would be helpful purely for the purpose -- and again, I don't know if the Board can limit this,

the Board has asked for specifically what we want the Board to do -- I think it may be helpful to have that in writing so the Board can understand exactly what the parties are asking the Board to do, particularly the protestants because it may be complicated. But I'm willing to defer to the Board's thinking on that.

CHAIRPERSON ANDERSON: But remember proposed findings of fact and conclusions of law is basically listen to the transcript and saying this is what was proved, this is -- these are the facts, this is the law, this is what was presented today. So there is no new information you can bring. So you can't bring in new information, and I believe, based on the presentations that's here so far, that -- I believe that the Board, at least as Chair, and I am -- as Chair, I believe that we have a good understanding what the concerns are. So I'm not talking anyone out of it, but I will just point out to the parties that you're not bringing new information to us with doing the proposed findings of fact and conclusions of law.

MR. SCHLOM: And Mr. Bianco's the one that gets paid to do this. I don't. I'm

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1	perfectly happy to waive it if he's happy to
2	waive ti.
3	MR. BIANCO: Yes.
4	CHAIRPERSON ANDERSON: Well, the fact
5	is, as you know, what lawyer doesn't want more
6	work? And
7	MR. BIANCO: Me. I don't want more
8	work. I have too much. No. I'm happy to waive,
9	waive.
10	CHAIRPERSON ANDERSON: And I was
11	saying to Mr. Bianco is one of the attorneys who
12	quickly says, "I don't want any more work," so
13	Mr. Stoecklein, your view, sir?
14	MR. SCHLOM: I think
15	CHAIRPERSON ANDERSON: Is he
16	MR. SCHLOM: Mr. Chairman, he may
17	sorry, go ahead.
18	CHAIRPERSON ANDERSON: is he here?
19	I don't I've not seen him. I guess he's
20	MR. SCHLOM: He had another conflict
21	at 5:00 p.m. that, again, he couldn't move
22	because he didn't expect we would be here anytime
23	close to then. So I think he dropped, but I
24	suspect I'm happy to have him contact Ms.
25	Randall, but I suspect he'd be perfectly happy to

waive as well. But I'm --1 2 CHAIRPERSON ANDERSON: Oh, that's 3 fine. 4 MR. SCHLOM: -- fine with asking him 5 to contact --CHAIRPERSON ANDERSON: All right. 6 7 That's fine. So the Board will issue -- we'll issue a decision, I believe, within 90 days. 8 9 so let me bring closure to this. Please hold on. 10 But again, I want to thank the parties 11 for their presentation today. All right. 12 -- I've been sitting here in front of the 13 computer all day, and it doesn't feel like I've 14 been here all day. 15 MR. SCHLOM: I'll take that as a 16 complement. 17 CHAIRPERSON ANDERSON: I really No. 18 mean that, I really mean that. We're -- at least 19 -- I can't speak for the other Board members, but 20 I've been here and I've been engaged. It was 21 very engaging. And maybe that's one of the 22 reasons why I threw out the complements to the 23 attorneys as an attorney myself. So maybe that's 24 why I show my own biases and not that I don't

throw out the complements for lay people when

they present also, because I give -- I try to make sure that I give all parties the respect and have an opportunity to listen to what they have to say. But I'm just saying it's -- I've been here all day, since we've been here since 10 o'clock this morning, and at least I did not feel like I've been here all day, so it wasn't labored. And that's all I was saying. It wasn't labored because sometimes you can be in front of a computer all day and it's like you're just waiting for the day to be over. But I personally, I enjoyed my -- the presentations that were made today.

All right. As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, in accordance with DC Official Code Section 2574(b) of the Open Meetings Act, I move that the ABC Board hold a closed meeting for the purpose of seeking legal advice from our counsels on Case Number 20-PRO-00024, MLK Lounge and Restaurant, pursuant to DC Official code Section 2574(b)(4) of the Open Meetings Act and deliberating upon Case Number 20-PRO-00024, MK Lounge and Restaurant, for the reasons cited in DC Official Code Section 2574(b)(13) of the Open

1	Meetings Act. Is there a second?
2	MEMBER SHORT: Mr. Chair, I second.
3	CHAIRPERSON ANDERSON: Mr. Short has
4	seconded the motion. I will now take a roll call
5	vote on the motion that's been properly seconded
6	by Mr. Short. Mr. Short?
7	MEMBER SHORT: Mr. Short. I agree.
8	CHAIRPERSON ANDERSON: Mr. Cato?
9	MEMBER CATO: Bobby Cato, I agree.
10	CHAIRPERSON ANDERSON: Ms. Wahabzadah?
11	MEMBER WAHABZADAH: Ms. Wahabzadah.
12	I agree.
13	CHAIRPERSON ANDERSON: Ms. Crockett?
14	MEMBER CROCKETT: Rafi Crockett. I
15	agree.
16	CHAIRPERSON ANDERSON: Ms. Hansen?
17	MEMBER HANSEN: Jeni Hansen. I agree.
18	CHAIRPERSON ANDERSON: Mr. Grandis?
19	MEMBER GRANDIS: Edward Grandis. I
20	agree.
21	CHAIRPERSON ANDERSON: And Mr.
22	Anderson. I agree. As it appears that the
23	motion has passed, I hereby give notice that the
24	ABC Board will recess this proceeding to hold a
25	closed meeting, in the ABC Board conference room

pursuant to section 2574(b) of the Open Meetings

Act.

Can you give me another minute,

please, for me to officially close the record for the day? All right. As Chairperson of the Alcoholic Beverage control Board for the District of Columbia, in accordance with Title 3 Chapter 405, Office of Open Government, I move that the ABC Board hold a closed meeting on March 31, 2021, for the purpose of discussing and hearing reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations and seeking legal advice from our legal counsel on the Board's investigative agenda, legal agenda, and licensing agenda for March 31, 2021 as published in the DC Register on March 26, 2021. Is there a second?

MEMBER CROCKETT: Ms. Crockett seconds.

CHAIRPERSON ANDERSON: Ms. Crockett has seconded the motion. I will now take a roll call vote on the motion that has been properly seconded by Ms. Crockett. Mr. Short?

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1	MEMBER SHORT: Mr. Short. I agree.
2	CHAIRPERSON ANDERSON: Mr. Cato?
3	CHAIRPERSON ANDERSON: Bobby Cato. I
4	agree.
5	CHAIRPERSON ANDERSON: Ms Wahabzadah?
6	MEMBER WAHABZADAH: Rema Wahabzadah.
7	I agree.
8	CHAIRPERSON ANDERSON: MS. Crockett?
9	MEMBER CROCKETT: Rafi Crockett. I
10	agree.
11	CHAIRPERSON ANDERSON: Ms. Hansen?
12	MEMBER HANSEN: Jeni Hansen. I agree.
13	CHAIRPERSON ANDERSON: Mr. Grandis?
14	MEMBER GRANDIS: Edward Grandis. I
15	agree.
16	CHAIRPERSON ANDERSON: And Mr.
17	Anderson. I agree. As it appears that the
18	motion has passed, I hereby give notice that the
19	ABC Board will hold this aforementioned closed
20	meeting pursuant to the Open Meetings Act.
21	Notice will also be posted on the ABC Board
22	Hearing Room Bulletin Board, placed on electronic
23	calendar on ABRA's website, and published in the
24	DC Register in as timely a manner as practical.
25	Again, I would like to thank all the

1 parties for their participation today. I would 2 like to thank the members of the public who have 3 participated here, and I also want to thank the Board members who worked with me today for this 4 5 hearing. And it was -- as I said, it was a very 6 good hearing. Thank you, everyone, for your 7 participation. And we are now adjourned for the I will now direct that the Board members 8 return to executive session for further business. 9 Thank you very much and have a great day. 10 11 (Whereupon, at 5:20 p.m., the 12 above-entitled matter was adjourned.) 13 14 15 16 17 18 19 20 21 22 23 24 25

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In the matter of: MK Lounge

Before: DCABRA

Date: 03-25-21

Place: teleconference

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