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DISTRICT OF COLUMBIA
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    ALCOHOLIC BEVERAGE CONTROL BOARD
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                MEETING
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IN THE MATTER OF: :
Family, LLC, t/a :
MK Lounge & Restaurant :
1930 9th Street, N.W. :
License #88787 : Protest Hearing
Retailer CT - ANC 1B :
Case #20-PRO-00024
(Application to Renew :
the License) :
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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

## CONTENTS

WITNESSES PAGE
Jeremy Zollercoffer. ..... 9
Alex Padro ..... 152
Zalarias Belachew. ..... 176
Frank Chauvin ..... 203
Evan Schlom. ..... 220
CLOSING ARGUMENTS
Page
By Mr. Bianco. ..... 270
By Mr. Stoecklein ..... 274
By Mr. Schlom ..... 280
EXHIBITS
FOR THE PROTESTANTS
No. Description ..... IDed RECD
1 Settlement Agreement, March 2017 ..... 222 ..... 258
2 Page from DC Department of Health website ..... 226 ..... 258
3 Food Establishment Inspection Report, 8/28/2018 ..... 229 ..... 259
4 Food Establishment Inspection Report, 11/06/2018 ..... 229 ..... 259
5 Printout of MK Lounge's website ..... 230 ..... 260
6 Hookah page ..... 230 ..... 260
7 Instagram Post ..... 231 ..... 265
8 Instagram Post ..... 231 ..... 265
10 Instagram Post, 7/17/2020 ..... 233 ..... 265
11 Instagram Post, 7/22/2020 ..... 233 ..... 265
12 Instagram post, 9/05/2020 ..... 234 ..... 265
13 DC Outdoor Garden Space Guidelines ..... 235 ..... 266
14 Email Chain ..... 236 ..... 266
15 Email Chain with Jenkins and Chamberlin ..... 237 ..... 267
16 Emals to Bianco ..... 238 ..... 267
17 Permit Revocation ..... 240 ..... 267
18 Instagram Post, 9/5/2020 ..... 241 ..... 265
20 Security Camera Screenshot, 3/6/2021 ..... 242 ..... 268
P-R-O-C-E-E-D-I-N-G-S
10:10 a.m.

CHAIRPERSON ANDERSON: The first case on our calendar is a protest hearing, case number 20-PRO-00024, MK Lounge \& Restaurant, license number 88787.

Ms. Andrews, can you please elevate the rights of the participants in this case, please.

MS. ANDREWS: Sure. Stand by. Mr. Schlom, your rights have been elevated. Ms. Johnson, your rights have been elevated. Mr. Stoecklein, your rights have been elevated. Mr. Bianco, your rights have been elevated. Mr. Zollarcoffer, your rights have been elevated.

Mr. or Ms. Zewdie, your rights have been elevated. Mr. Schivan, your rights have been elevated. Mr. or Ms. Belachew, your rights have been elevated.

And we do have a Mr. McMullen on the line. I can only unmute his line, can't make him a panelist. That's all.

CHAIRPERSON ANDERSON: All right, thank you. Thank you very much, Ms. Andrews. 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. DJ, can you please announce yourself and spell your last name, please?

CHAIRPERSON ANDERSON: You need to unmute yourself, sir. And spell your first and last name, please.

MR. ZEWDIE: My first name is Derege, D-E-R-E-G-E. Last name is Zewdie, Z-E-W-D-I-E.

CHAIRPERSON ANDERSON: Thank you, Mr. Zewdie. Who else is with you, Mr. Bianco?

MR. BIANCO: And also with me is the manager of the establishment, Zack Belachew. Mr. Belachew, can you please announce yourself and spell your last name?

MR. BELACHEW: My name is Zekarias Belachew. It's spelled Z-E-K-A-R-I-A-S, last name $B-E-L-A-C-H-E-W$.

CHAIRPERSON ANDERSON: Thank you, Mr. Belachew.

MR. BIANCO: And, Mr. Anderson, I do have one other witness. I don't think he has logged in yet. He's somebody that should probably be fairly well-known to the Board, Mr. Alex Padro. And I did not hear Ms. Andrews say that she elevated his rights. I don't know
if he has not logged on yet. But I don't anticipate needing him as a witness for a little bit of time yet.

CHAIRPERSON ANDERSON: All right.
Ms. Andrews, if you see at some time Mr. Alex Padro, can you please elevate his rights if you see him. Yes, he is not on the line, but I have alerted her that if you expect him at whatever point, Mr. Bianco, please let him know and Ms. Andrews will elevate his rights.

MS. ANDREWS: Mr. Chair, he just logged on.

CHAIRPERSON ANDERSON: I'm sorry, Ms. Andrews?

MS. ANDREWS: He just logged on. CHAIRPERSON ANDERSON: Okay, thank you. Mr. Padro, can you unmute your line and please spell and state your name for the record, please.

MR. PADRO: Yes. Good morning,
Mr. Chairman. I am Alexander M. Padro. I am Executive Director of Shaw Main Streets. My first name is spelled A-L-E-X-A-N-D-E-R. My last name is spelled $P$ as in Peter, $A, D$ as in David, R-O (P-A-D-R-O).

CHAIRPERSON ANDERSON: Thank you, Mr. Padro. All right, and as I remind everyone, if you're not speaking, please mute your telephone.

All right, so we'll go with the protest. And so, there let's go with the abutted property owner, Mr. Schlom.

MR. SCHLOM: Yes. Good morning, Mr. Chairman, members of the Board. My name is Evan Schlom. That's E, V as in Victor, A, N as in Nancy (E-V-A-N). Last name is $S$ as in Sam, C as in Charlie, H-L-O, M as in Mary (S-C-H-L-O-M), and I'm abutting property owner protecting.

CHAIRPERSON ANDERSON: Is there anyone with you who will be testifying along with you, sir?

MR. SCHLOM: No. In the interest of time and avoiding repetitive testimony, 1 will be the only one testifying for my protest.

CHAIRPERSON ANDERSON: All right. Thank you, Mr. Schlom. Mr. Stoecklein, can you please spell and state your name for the record, please, and who do you represent, sir?

MR. STOECKLEIN: Yes. Pierson Stoecklein, spelled P-I-E-R-S-0-N, last name

S-T-O-E-C-K-L-E-I-N. I'm here on behalf of the Westminster Neighborhood Association.

CHAIRPERSON ANDERSON: And do you have any witnesses who will testify today at this hearing, sir?

MR. STOECKLEIN: Yes. With me today is Frank Chauvin. Last name's spelled C-H-A-U-V-I-N.

CHAIRPERSON ANDERSON: Is Mr. Chauvin on the line?

MR. STOECKLEIN: I do not know if Mr. Chauvin's rights have been elevated.

CHAIRPERSON ANDERSON: Yes, yes. Mr. Chauvin, can you please identify yourself for the record by spelling and stating your name, please. Unmute your line, Mr. Chauvin.

MR. CHAUVIN: Yes. My name is Frank Chauvin. Frank, F-R-A-N-K, last name C-H-A-U-V-I-N.

CHAIRPERSON ANDERSON: All right, thank you, Mr. Chauvin. Who else is with you, Mr. Stoecklein?

MR. STOECKLEIN: There's nobody else here that will be a witness.

CHAIRPERSON ANDERSON: All right,
thank you very much. So, I see that the applicant will have two witnesses, and each protester will have one witness, along with the representative. All right, that's fine.

Mr. Zollarcoffer, can you please spell and state your name for the record, please.

MR. ZOLLARCOFFER: My name is Jeremy Zollarcoffer, J-E-R-E-M-Y, last name Z-O-L-L-E-R-C-O-F-F-E-R.

CHAIRPERSON ANDERSON: Good morning. And who are you, sir?

MR. ZOLLARCOFFER: I'm an investigator for ABRA.

CHAIRPERSON ANDERSON: Thank you. All right. Again, good morning everyone. Let's approach this hearing. So, I just want to remind everyone that each side will have one hour to present your case. Your hour starts once you start your case.

So, once you start your case, be reminded that the time that you spend in crossexamining another side, that takes away from your case. But I think it might not be a problem, at least in this particular case, since we don't have a whole lot of witnesses.

So, I'm hoping that it's not an issue in the sense that $I$ have to remind folks of their time constraints. So, that's the only thing I want to remind, and I do appreciate for that parties, that we do not have repetitive testimony.

So, by not having a lot of witnesses, I hope that I'm assuming correctly that we won't have repetitive testimony by witnesses.

All right, are there any preliminary motions that need to be addressed by the Board before we start?

MR. SCHLOM: None from the applicant.
CHAIRPERSON ANDERSON: From the abutting property owner? Mr. Schlom?

MR. SCHLOM: None from me, Mr. Chairman.

CHAIRPERSON ANDERSON: Mr. Stoecklein?
MR. StOecklein: None from us, Mr. Chairman.

CHAIRPERSON ANDERSON: All right, thank you. All right, the way the process is going to work is that the applicant will make an opening statement. I'll give you five minutes to 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 without further condition. And that's our ask in the matter. Thank you.

CHAIRPERSON ANDERSON: Thank you,
Mr. Bianco. Mr. Schlom?
MR. SCHLOM: Yes. Thank you very much, Mr. Chairman, members of the Board. Good morning, and thank you for the opportunity to be here today.

My name is Evan Schlom and, as Mr. Bianco noted, I live next door to MK Lounge at 1932 9th Street, NW.

I'm here today protesting the establishment Class CT license renewal application for one reason. My neighbors and I who live next door to MK Lounge feel as though we think we have no choice but to go through this process.

MK Lounge signed a settlement agreement with the ANC 1B in 2017. 2017. It was a new license application. They signed a settlement agreement.

That agreement included a number of provisions designed to mitigate the negative 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, welldocumented 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.

CHAIRPERSON ANDERSON: All right, thank you, sir. All right, the Board will call its first witness, Mr. Jeremy Zollarcoffer. WHEREUPON,

## JEREMY ZOLLARCOFFER

was called for examination and, having first been duly sworn, was examined and testified as follows.

CHAIRPERSON ANDERSON: Again, spell and state your name for the record, please.

MR. ZOLLARCOFFER: It's Jeremy Zollarcoffer. J-E-R-E-M-Y Z-O-L-L-A-R-C-O-F-F-ER.

CHAIRPERSON ANDERSON: And where are you currently employed?

MR. ZOLLARCOFFER: ABRA.
CHAIRPERSON ANDERSON: And what are your duties and responsibilities at ABRA?

MR. ZOLLARCOFFER: I'm an investigator.

CHAIRPERSON ANDERSON: And what is the main -- you said you're an investigator. What do you investigate?

MR. ZOLLARCOFFER: I conduct inspections and investigations of licensed ABC
establishments within the District of Columbia.
CHAIRPERSON ANDERSON: All right. And how long have you been working for the Agency?

MR. ZOLLARCOFFER: Two years, sir.
CHAIRPERSON ANDERSON: All right. And are you familiar with this establishment?

MR. ZOLLARCOFFER: I am.
CHAIRPERSON ANDERSON: And how are you familiar with this establishment?

MR. ZOLLARCOFFER: I'm familiar with the area, monitoring the Shaw area and the Cardozo-U Street corridor.

CHAIRPERSON ANDERSON: And did there come a time that you had to complete a case report for guiding the specific establishment?

MR. ZOLLARCOFFER: This protest is the first time I've had an official case report with MK Lounge.

CHAIRPERSON ANDERSON: So, how did it come about that you had to write out a report regarding this establishment? Tell me, how did that come about?

MR. ZOLLARCOFFER: On February 10, 2021 I was assigned to the protest investigation of Family LLC, trading as MK Lounge and

Restaurant, regarding the renewal of their alcohol license.

CHAIRPERSON ANDERSON: All right. So, did there come a time that you wrote a case report regarding this matter?

MR. ZOLLARCOFFER: Yes, I did.
CHAIRPERSON ANDERSON: And are you able to share your screen so you can share that with the Board and the public?

If he doesn't have the opportunity, can you give him an opportunity to share his screen, please?

MS. ANDREWS: Sure. Stand by. Mr. Zollarcoffer, you can now share your screen.

CHAIRPERSON ANDERSON: All right. So, Mr. Zollarcoffer, can you identify the document that's on your screen, please?

MR. ZOLLARCOFFER: This is the protest report for MK Lounge and Restaurant.

CHAIRPERSON ANDERSON: All right. So, can you tell us, as the result, what information were you able to gather regarding this protest?

MR. ZOLLARCOFFER: I gathered the information, this establishment is located at 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?

MR. ZOLLARCOFFER: Hundreds of times, probably.

CHAIRPERSON ANDERSON: So, pre-COVID pandemic, explain to the Board and the public specifically, what is this block like?

MR. ZOLLARCOFFER: Pre-pandemic, very busy. Compared to now, it's probably a shell of itself. But it is picking back up. But this was one of the premier places to hang out, especially going out on the town. Yeah.

CHAIRPERSON ANDERSON: So, I guess I'm trying to get a flavor of the area. That's what I'm trying to get from you, to give us a flavor of what area this is. What it is.

I'm just trying to find out, is this an outliner in the area, or this is just a part of this neighborhood? That's what I'm trying to find out from you, since most of us don't necessarily are aware of this area.

MR. ZOLLARCOFFER: I would say that it has a dominant presence of being a nightlife area. It has a strong presence of Ethiopians. It does for sure.

And there's a lot of restaurants, a lot of tight taverns, close to each other, a lot
of people within very close proximity to each other. As I mentioned, there's upwards of 69 establishments within a very small area. So, it's on top of each other.
(Off-record comments.)
CHAIRPERSON ANDERSON: All right, what are the hours of operations of this establishment, sir?

MR. ZOLLARCOFFER: Well, during the phase 2 pandemic --

CHAIRPERSON ANDERSON: Mr.
Zollarcoffer --
MR. ZOLLARCOFFER: Yeah.
CHAIRPERSON ANDERSON: The Board's aware that there are short-term restrictions for all alcohol establishments in DC. But pre- -and I'm hoping that we're not going to have these measures in place forever.

We all hope that we're going to return to whatever is considered normal at some time. So, what I'm trying to find out is that we can have specific testimony at some point about the restrictions on the licensee's ability to operate during COVID.

What I care about is that under the
current license, what are the hours of operation, sir?

MR. ZOLLARCOFFER: The hours of operation are from 10:00 a.m. to 2:00 a.m., Sunday through Thursday, and 10:00 a.m. to 3:00 a.m. on Fridays and Saturdays.

CHAIRPERSON ANDERSON: And is it correct that based on the COVID restrictions, that the current operation hours for all establishments in DC is midnight? Is that correct, sir?

MR. ZOLLARCOFFER: That is correct.
CHAIRPERSON ANDERSON: All right, thank you. I'm not sure if you had mentioned, but what's parking like in this area? If you know?

MR. ZOLLARCOFFER: Parking is very
limited. Like I mentioned, they do have some metered parking out front of the establishment on both sides of 9th Street, with four-hour limits. But it's very limited.

And with the addition of people using some expanded space into the parking lot, it's even tighter. But they do also offer Zone 1 and 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 one-year span. It was from February 2020 to February 2021.

CHAIRPERSON ANDERSON: I think you've referenced Exhibit 22. So, let's go to Exhibit 22, and maybe you can go through Exhibit 22 for us and tell us what's Exhibit 22.

MR. ZOLLARCOFFER: Mr. Chair, I don't believe I'm able to share the exhibits on this right here.

CHAIRPERSON ANDERSON: Your exhibits are not attached to your report, sir?

MR. ZOLLARCOFFER: No, the actual photos aren't attached to it. I might be able to find them.

CHAIRPERSON ANDERSON: So, I'm unable to go through the exhibits that are attached to your report?

MR. ZOLLARCOFFER: If you can bear with me, $I$ might be able to find it.

MR. BIANCO: Mr. Chair, Richard Bianco for the applicant. I actually had listed the report as Exhibit 1 in my case. I have it queued up. If Ms. Andrews gives me the ability to share my screen, it has all the exhibits attached and

I'd be happy to scroll it at Mr. Zollarcoffer's direction.

CHAIRPERSON ANDERSON: Thank you, Mr. Bianco. But Mr. Zollarcoffer, are you able to pull up the exhibits that's attached to your report, sir?

MR. ZOLLARCOFFER: Let me see if I can do it.

CHAIRPERSON ANDERSON: We're off the record for a couple of minutes.
(Whereupon the above-entitled matter went off the record at 10:53 a.m. and resumed at 11:02 a.m.)

CHAIRPERSON ANDERSON: Are you back, Mr. Zollarcoffer?

MR. ZOLLARCOFFER: Yes, I'm here.
CHAIRPERSON ANDERSON: The question I'm asking you was to go through Exhibit 22. And can you go to Exhibit 22 and tell us what Exhibit 22 is?

MR. ZOLLARCOFFER: Exhibit 22 is a list of calls for service.

CHAIRPERSON ANDERSON: And to the best of your knowledge, did any of these calls for 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 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 walk through and I did see patrons wearing these headphones. I believe it was on February 13th. Excuse me, March 13th.

CHAIRPERSON ANDERSON: Okay.
MR. ZOLLARCOFFER: Exhibit 12 is the first floor speaker, which the owner pointed out that they'd spaced the speaker from the wall, trying to create less vibrations attached to the wall.

Exhibit 13 is the trash area directly behind the establishment.

Exhibit 14 is the second floor, facing toward $91 / 2$ 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.

Exhibit 19 is a photo of the abutting property owner. His condo unit is right here and it's abutting to MK Lounge to the right.

Exhibit 20 is a list of the establishments within the 1400 foot radius that have alcohol license.

Exhibit 21 is a listing of the schools within a 400 foot radius, where there's no schools within 400 feet of this establishment.

Exhibit 22 is a list of calls for service from the Office of Unified Communications, where there's been calling for service to this particular address at 1930 9th Street, NW.

Exhibit 22A, it's continuous of the list for the calls of service.

Exhibit 23 is the ABC license for MK Lounge and Restaurant.

Exhibit 24 is the Certificate of Occupancy for this particular address. And I believe that's it, sir.

CHAIRPERSON ANDERSON: All right, you can stop sharing your screen. Thanks. Do we have any questions by any Board members?

MEMBER SHORT: Yes, sir. Mr. Short,

I'd like to ask a question.
CHAIRPERSON ANDERSON: Go ahead, Mr. Short.

MEMBER SHORT: Please forgive me. Yes, Investigator Zollarcoffer?

MR. ZOLLARCOFFER: Yes, sir.
MEMBER SHORT: In your investigation of MK Lounge, in regards to your report and the violations that were found, how many violations were found after COVID, if the Mayor's orders were listed?

MR. ZOLLARCOFFER: Five, sir.
MEMBER SHORT: Can you describe for the record your understanding of the Mayor's orders and why they were put in place?

MR. ZOLLARCOFFER: For the public health for the people of the District of Columbia, to keep people safe?

MEMBER SHORT: Okay. So, these violations -- five of them -- would you consider them to be very serious violations of the Mayor's order?

MR. ZOLLARCOFFER: Yes.
MEMBER SHORT: Would you consider them to have been a threat to public health of the

District of Columbia during the pandemic and the Mayor's orders being posted for public safety?

MR. ZOLLARCOFFER: Yes.
MEMBER SHORT: Did you have a talk with the owner regarding these violations and the seriousness thereof?

MR. ZOLLARCOFFER: Yes. We did discuss the importance of following the orders and the safety involving it all.

MEMBER SHORT: So, after the very first time, you had a talk with him. Is that correct?

MR. ZOLLARCOFFER: Yes.
MEMBER SHORT: The first of five. The second time you had a talk with him. The third time you had a talk with him. The time when he was closed for several days because he violated, after the Mayor's order had been placed and he had been found in violation of this, he continued. Is that true?

MR. ZOLLARCOFFER: That is true.
MEMBER SHORT: Would you consider that to be responsible actions of an owner who really cared about public safety and about the Mayor's order? Would that be responsible? Your opinion?

MR. ZOLLARCOFFER: No, I don't believe that those examples present him to be responsible case after case.

MEMBER SHORT: Thank you. Thank you for your testimony. Thank you for your excellent report. That's all I have, Mr. Chair.

CHAIRPERSON ANDERSON: Do we have any other questions by any of the other Board members? All right, hearing none, Mr. Bianco, any questions of the investigator?

MR. BIANCO: Yes, I do. And Ms. Andrews, are you able to make it so $I$ have the ability to share my screen so I can point my questions at Investigator Zollarcoffer's report?

MS. ANDREWS: Sure. Stand by.
MR. BIANCO: Thank you.
MS. ANDREWS: Okay, Mr. Bianco. You can share your screen now.

MR. BIANCO: Excellent. Thank you. Okay, good morning, Inspector Zollarcoffer. How are you doing today?

MR. ZOLLARCOFFER: I'm good. Good morning, Mr. Bianco.

MR. BIANCO: Are you able to see my screen. I have your investigative report marked
as Applicant's Exhibit 1 and I'm showing the cover page of that report. Are you able to see that on your screen?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: And I also have my cursor here. Are you able to see me moving that around? I may use that to point at particular areas.

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay, great. Thank you very much. So, in your testimony, you explained to the Board that you had been an investigator for two years. Correct?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay, so you've had some time in pre-pandemic, as well as during the pandemic. Right?

MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: And before that, I understand you were a police officer, right?

MR. ZOLLARCOFFER: I worked in law enforcement, yes.

MR. BIANCO: Okay. For how long?
MR. ZOLLARCOFFER: Ten years.
MR. BIANCO: Okay. Now, between pages 2, let's say -- I'm sorry, 7, 8 and 9 of the
report, you indicate that there are 69 licensed establishments within a 1200 foot radius of MK Lounge. Right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: And would you describe that as densely populated with licensees?

MR. ZOLLARCOFFER: Absolutely.
MR. BIANCO: And in your experience as an investigator in DC, can you think of many places around town that have more licensees in such a small area?

MR. ZOLLARCOFFER: I don't believe there is.

MR. BIANCO: Okay.
MR. ZOLLARCOFFER: But I'm not for sure. But it's definitely one of the most populated.

MR. BIANCO: Definitely one of the most. Yeah, we're not going for a number one rating here, but of the neighborhoods you are aware of, this is one of the most densely populated. That's what we're looking for.

So, you testified that you've been to this particular area -- and by this particular 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 the license to your report. And it indicates that they can operate until 2:00 a.m. on weeknights and 3:00 a.m. during the week. Is that typical of the 68 other establishments in the area, or are they operating much, much later?

MR. ZOLLARCOFFER: No, it seems to be around the same time. Most of them are closing at 3:00 on weekends.

MR. BIANCO: Okay. And I understand that, pre-COVID at least, MK Lounge didn't have any outdoor operations whatsoever. Is that correct?

MR. ZOLLARCOFFER: Excuse me? Can you repeat that?

MR. BIANCO: Sure. Are you able to hear me okay?

MR. ZOLLARCOFFER: I could. I'm sorry, I missed what you said.

MR. BIANCO: Okay. So, pre-COVID, MK Lounge did not have any outdoor operations at all. Is that correct?

MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: Okay. And some of the surrounding 68 establishments, do any of those
have outdoor operations?
MR. ZOLLARCOFFER: Yes, there's summer gardens that are in that area as well.

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 peace, order and quiet. Right?

MR. ZOLLARCOFFER: Right.
MR. BIANCO: Okay. So, let's say in the year leading up to COVID, do you remember any times that you had occasion to visit that block and you did observe MK Lounge doing something that had an adverse impact on peace, order and quiet?

MR. ZOLLARCOFFER: I don't recall. I don't have any cases with them.

MR. BIANCO: Okay. Okay. And then, we're going to go to part 7, which is your record search. And the first paragraph of part 7 talks about your Exhibits 22 and 22A, which was your search of the Office of Unified Communications, and I think I understand that.

So, what we didn't talk about is the second paragraph of your records search. And that paragraph indicates that you search ABRA records, and that there were 11 noise complaints in the one-year period from February 2020 to February 2021, right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay. And there's no
corresponding exhibit for those 11 noise complaints that identify the who, the what, the when, the where, the why. Is that typical, or is that unusual, that there's no documentation?

MR. ZOLLARCOFFER: That's usual.
MR. BIANCO: Okay. And when you
looked up the records, were you able to tell who the complaining party was?

MR. ZOLLARCOFFER: I was not. No.
MR. BIANCO: Okay. How about the timing of the complaints. Were you able to tell when the complaints were made?

MR. ZOLLARCOFFER: They were not listed when I researched that record.

MR. BIANCO: Okay. So, the only details you have is that 11 complaints were made, without any further information. We don't know who or when?

MR. ZOLLARCOFFER: Right.
MR. BIANCO: Okay. Now, I want to discuss with you briefly the day that we met at the establishment and you did your walkthrough. I think your report indicates that was February 17th. You remember that, right?

MR. ZOLLARCOFFER: I do. Yes.

MR. BIANCO: And you started to talk about this a little bit in response to some of Mr. Anderson's questions, but $I$ want to drill down on it a little bit more. And that's when we sort of conducted a test of the sound system. Do you remember that?

MR. ZOLLARCOFFER: I do remember.
Yes.
MR. BIANCO: Okay. And as I recall -and please correct me if I'm wrong -- we turned the music up loud and stepped outside on the second floor terrace area to see if we can hear it. Is that how you recall us doing that?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay. And I'm going to scroll down to one of your exhibits, so we can sort of see a photograph of what we're talking about.

Okay, so I think when you testified, you describe this is a storage terrace, right?

MR. ZOLLARCOFFER: Yes, I believe that's how Mr. Zewdie explained it to me.

CHAIRPERSON ANDERSON: Hold on a 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 to. Okay?

MR. BIANCO: Absolutely. So, what we're talking about is Exhibit number 17, to Investigator Zollarcoffer's report. The pages aren't numbered, but it's on the 33rd page of that document and it's labeled as Exhibit number 17.

And the door here that's visible in the photo, that's the door to enter into the second floor of the establishment. Correct?

MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: And you took this photo, right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: And where this photo was taken from -- a few feet from that door -- is that about where we were standing when we were conducting this test of the sound?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay. And now, I want to scroll down to your Exhibit 19. Okay? And that is a photograph shot upwards, and that shows where Mr. Schlom's unit is in relation to that second floor storage terrace area. Is that
correct?
MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: Okay. So, it's visible from the terrace area, right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay. And the time of day that we were doing this, it was the middle of the day. It was about 2:00 in the afternoon, right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: So, there wasn't any other establishments operating at that time producing meaningful noise?

MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: Okay. And from our vantage point outside of this door on the second-story terrace level, were you able to hear the music coming out of the establishment?

MR. ZOLLARCOFFER: I was not, surprisingly.

MR. BIANCO: Okay. And are you surprised because we had it turned up really loud?

MR. ZOLLARCOFFER: Yeah. It was actually louder than normally I've heard it when

I do come and visit it, almost pre-pandemic. Yeah, I couldn't hear it.

MR. BIANCO: Okay. I want to take a step back, still talking about the sound test that we did on February 22nd. Okay, so now we're referring to Exhibit 8 to your investigative report, which is on the 24th page of the report.

And I see that you have this label here, where it says max volume level. Is that something that you added to the exhibit?

MR. ZOLLARCOFFER: I did, just to give an example on where the volume stands when it's turned all the way up.

MR. BIANCO: Okay. And it looks to me -- and again, please correct me if I'm wrong -like the volume knob is marked in red. Is that actually there, or is that something that you put there?

MR. ZOLLARCOFFER: Where it says max volume level, I've inserted a little tab there. But nothing else, just the photo.

MR. BIANCO: Okay.
MR. ZOLLARCOFFER: Yeah. I'm not sure.

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 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.

Yes, sir.
MR. BIANCO: Okay. So, they weren't actually adjudicated violations. Those are merely investigations. Correct?

MR. ZOLLARCOFFER: I believe so.
MR. BIANCO: Okay. And so, that's numbers 6 through 10. And let's now look at number 11, which occurred on 9/27/2017. And again, focusing in on the last part of that.

It says, the OAG declined to prosecute because the investigator could not substantiate that a violation had occurred. Do you see where it says that?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: So, again, that number 11 there is not actually a violation. Right?

MR. ZOLLARCOFFER: Well, the OIG, they weren't able to prosecute because they weren't able to substantiate. So --

MR. BIANCO: Right.
MR. ZOLLARCOFFER: -- yes, I would agree.

MR. BIANCO: Okay. And now, let's look at some of these items that occurred during COVID. Let's go all the way to the top. And
now, we're looking at page 13. And $I$ want to look at number 1, which looks like it's an investigative report from 1/23/21. You see where we're looking there?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: And there's no indication on item number 1 that it's been adjudicated, right? This is still a pending allegation.

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: Okay. And then, the same thing with number 3. There's no indication here of adjudication. Again, we're merely dealing with an allegation. Right?

MR. ZOLLARCOFFER: At this point we are.

MR. BIANCO: Okay. Okay. And then, skipping down to number 5, it looks like we have a warning issued for number 5, right?

MR. ZOLLARCOFFER: That's correct.
MR. BIANCO: Okay. Now, you gave some testimony in response to Mr. Short's questions. And I've got to admit, $I$ don't understand what any of that was about. So, I want to go through that in a little bit greater detail.

I understood Mr. Short to be asking
you if you had a discussion with the licensee after each one of these first five investigative reports. Is it your testimony that you personally talked to the licensee after each one of these reports?

MR. ZOLLARCOFFER: No, that was
misunderstood. I apologize for being -- no, I didn't understand that correctly. I spoke with him on the first visit and the fourth visit.

MR. BIANCO: Okay. Okay. So, you had a conversation with him on or about 1/23/21 here, about your investigative report in that matter?

MR. ZOLLARCOFFER: $1 / 23$ ? No. No. It wasn't January 23rd.

MR. BIANCO: Okay. Are you talking about the walkthrough that you did on February 17 when I was present?

MR. ZOLLARCOFFER: That was one of the times when I spoke with him. Yes.

MR. BIANCO: Okay.
MR. ZOLLARCOFFER: And --
MR. BIANCO: So, that was -- I'm
sorry, go ahead. I didn't mean to interrupt your testimony. Go ahead.

MR. ZOLLARCOFFER: The first one, and
also on the March 13th, I believe.
MR. BIANCO: Okay. So, the first conversation you had with the licensee about violations during the COVID period was on February 17, 2021 in my presence. Right?

MR. ZOLLARCOFFER: Yes.
MR. BIANCO: And then, what your testimony is, just so $I$ understand and that it's clear, is that at some point in March you had a second conversation with the licensee?

MR. ZOLLARCOFFER: Yes, March 13th.
MR. BIANCO: Okay, great.
MR. ZOLLARCOFFER: I'm sure he remembers.

MR. BIANCO: Yes. And Investigator Zollarcoffer, thank you. I very much appreciate that clarification, because $I$ was pretty confused on those points.

Let me just make sure $I$ don't have anything else for you. I think that likely concludes my cross-examination. Thank you very much for your time. I really appreciate your report.

MR. ZOLLARCOFFER: Thank you.
CHAIRPERSON ANDERSON: Thank you, Mr.

Bianco. Mr. Schlom, any questions for the investigator?

MR. SCHLOM: Yes, I do. Thank you very much, Mr. Chairman, and thank you very much, Investigator. Good morning, and thank you very much for taking your time to be here.

Mr. Bianco asked you a number of questions about your investigation. I have a few follow-ups for that. And as part of your investigation, you reviewed the records of noise complaints against MK Lounge. Is that right?

MR. ZOLLARCOFFER: That's correct.
Yes.
MR. SCHLOM: And you found, as you said to Mr. Bianco, 11 noise complaints between February of 2020 and February of 2021. Is that right?

MR. ZOLLARCOFFER: Yes, that's what was reported.

MR. SCHLOM: And did you review any records of noise complaints made prior to February of 2020?

MR. ZOLLARCOFFER: $I$ did not.
Normally, we'll go back one year.
MR. SCHLOM: So, you have no idea of
how many or how few complaints were made prior to February 2020.

MR. ZOLLARCOFFER: Not exactly. No.
MR. SCHLOM: Okay. And Mr. Bianco asked you a number of questions about your personal prior experience with the 1900 block of 9th Street, and also your experience with MK Lounge. And he asked if you had ever noticed any issues or peace, order or quiet, relating to MK Lounge, and you said no.

Is your answer based solely on being outside of the establishment, or did you ever go into any residences to substantiate that?

MR. ZOLLARCOFFER: No, I've never been to any residence to substantiate that. That's purely just from watching the area.

MR. SCHLOM: Got it. So, you've never been inside my condominium building at 1932 19th Street, NW.

MR. ZOLLARCOFFER: No, thank you.
MR. SCHLOM: So, you have no idea what can or can't be heard inside of that building.

MR. ZOLLARCOFFER: That is true.
MR. SCHLOM: Okay. Now, I want to turn to MK Lounge's -- the kind of the end of Mr.

Bianco's cross-examination, about MK Lounge's history during the pandemic.

And as punishment for their violations, they've received a warning, a fine, and a 25-day suspension with ten days of that stayed. Is that correct?

MR. ZOLLARCOFFER: Fifteen-day suspension, ten stayed. Right?

MR. SCHLOM: Yeah. Twenty-five total, they served 15, ten have been stayed.

MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: Right. And the fifth case, as Mr. Bianco noted, is still pending. Correct.

MR. ZOLLARCOFFER: That is correct.
MR. SCHLOM: So, we don't know what punishment, if any, will be issued there.

MR. ZOLLARCOFFER: Right.
MR. SCHLOM: Okay. Now, I want to turn to your individual visits to the establishment. Your four visits. You visited four times. Is that correct?

MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: Okay. And all four of those visits took place between February 17, 2021
and March 13, 2021. Is that right?
MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: So, all of your visits for this investigation took place while the Mayor's order was in effect.

MR. ZOLLARCOFFER: That is right.
MR. SCHLOM: Okay. And in section 4 of your report, you say that you monitored the establishment and didn't substantiate any issues of peace, order and quiet. When you say monitored, what does that mean?

MR. ZOLLARCOFFER: Monitoring from the outside, or walking through the establishment.

MR. SCHLOM: Okay. And when you say issues with peace, order or quiet, what does that include?

MR. ZOLLARCOFFER: Say that again, please?

MR. SCHLOM: Sure. So, you said you didn't see any issues with peace, order or quiet. I'm trying to understand how you define issues related to peace, order and quiet.

MR. ZOLLARCOFFER: Yeah. I didn't notice any loud music coming from the establishment. I didn't see any large crowds. I
mean, with the Mayor's orders and things like that, it was pretty calm.

MR. SCHLOM: Sure. Now, based on your report, you spent less than three hours total at the establishment during your course of this investigation. Is that right?

MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: All right. And during how many of those hours was the establishment open to customers?

MR. ZOLLARCOFFER: Three.
MR. SCHLOM: So, outside of those hours that the establishment was open to customers that you were there, you have no idea what was going on at the establishment, do you?

MR. ZOLLARCOFFER: I do know what's going on with the establishment. From the time that I was there, the times that I visited it, I didn't observe any ABRA violations, sir.

MR. SCHLOM: No, no, no. I apologize that my question was unclear. I'm talking about outside of the few hours that you were there. When you weren't there, you have no idea what was going on, do you?

MR. ZOLLARCOFFER: Well, obviously.

I wasn't there.
MR. SCHLOM: Okay. Okay. Now, as part of your investigation in this matter, did you ever ask to enter any residences?

MR. ZOLLARCOFFER: No.
MR. SCHLOM: Okay.
MR. ZOLLARCOFFER: Yeah.
MR. SCHLOM: Okay. Now, let's talk about your first visit to the establishment, what Mr. Bianco called the walkthrough, with Mr. Zewdie and Mr. Bianco, on February 17, 2021.

Now, you had prearranged for this visit. Correct?

MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: You didn't show up unannounced.

MR. ZOLLARCOFFER: No.
MR. SCHLOM: So, Mr. Bianco and Mr.
Zewdie knew what time you'd be arriving.
MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: Okay. And to be clear, the establishment was not open to the public during this visit, was it?

MR. ZOLLARCOFFER: They were closed.
MR. SCHLOM: Okay. So, there was no
alcohol being served at that time, was there?
MR. ZOLLARCOFFER: No.
MR. SCHLOM: Okay. And during that visit, Mr. Bianco asked you a number of questions about the sound test that you'd performed. And if I understand correctly, you said that you asked the owner, Mr. Zewdie, to turn the volume to where it would be during the pandemic. Is that what you asked him to do?

MR. ZOLLARCOFFER: Yeah. I was trying to get a gauge on where the knob was, to possibly come to an agreement with you and the owner, to have somewhat of an agreement on a noise level.

MR. SCHLOM: Sure. But it was Mr. Zewdie who set the volume, not you. Correct?

MR. ZOLLARCOFFER: Yeah, I believe it was one of his managers and Mr. Zewdie.

MR. SCHLOM: Okay. And then, once you turned on this music, you said you went out onto the second floor terrace to see if you could hear it. Is that right?

MR. ZOLLARCOFFER: Yes. We were trying to see if we could hear it outside, and also on the front street.

MR. SCHLOM: Sure. But you didn't
test to see whether you could hear it inside the condominium building next door, could you?

MR. ZOLLARCOFFER: No.
MR. SCHLOM: So, you don't know what kind of noise or vibrations could have been felt from that music during the sound test inside the condominium building.

MR. ZOLLARCOFFER: That is correct.
MR. SCHLOM: Okay. Now, in Exhibit 5 of your report, you took a photo of what you called the expanded outdoor space. Is that right?

MR. ZOLLARCOFFER: Yes, the proposed expanded outdoor space. I believe there is some history behind that where there once was a structure that wasn't approved and it's no longer there.

MR. SCHLOM: I see. So, as part of your investigation, you determined that that outdoor space was not approved.

MR. ZOLLARCOFFER: No. I'm just -from what I've heard between the owner and, I believe, you, was that that wasn't officially approved and they had to take it down.

MR. SCHLOM: Sure. Now, as part of
your investigation, did you investigate whether MK Lounge had a permit from the Department of Transportation to have the bicycle rack and other things that are out in the street right now?

MR. ZOLLARCOFFER: No.
MR. SCHLOM: Okay. Now, in the four occasions that you visited, you in your report say that you recorded no ABRA violations. Is that right?

MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: Okay. What do ABRA violations include?

MR. ZOLLARCOFFER: Several things. Many things.

MR. SCHLOM: Like what? Does it include violations of the settlement agreement?

MR. ZOLLARCOFFER: Does it what?
MR. SCHLOM: Does it include violations of the settlement agreement?

MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: Okay. And when you visited on those four occasions, do you recall which provisions of the settlement agreement you checked for compliance?

MR. ZOLLARCOFFER: No.

MR. SCHLOM: Okay. Now, directing you to Exhibit 10 of your report -- and I don't know, Mr. Chairman, if I'm allowed to share my screen to show this.

CHAIRPERSON ANDERSON: Ms. Andrews, can you give --

MS. ANDREWS: Stand by.
CHAIRPERSON ANDERSON: Yeah, thank you. Go ahead, give him ability to share screen, please.

MS. ANDREWS: Okay, Mr. Schlom. You can share your screen now.

MR. SCHLOM: All right. It's still telling me -- it's not showing up for me. Are you able to see my screen at all?

MS. ANDREWS: No. You have to hit share content, and so -- for the application.

MR. SCHLOM: That's grayed out for me. Mr. Chairman, can I ask Mr. Zollarcoffer to share his screen?

CHAIRPERSON ANDERSON: All right. Mr. Zollarcoffer, can you, once again, share your screen? What exhibit are you referencing, sir?

MR. SCHLOM: I'm referencing Exhibit 10 to his report.

CHAIRPERSON ANDERSON: So, Mr. Zollarcoffer, can you share your screen, and please -- I'm sorry. So, Ms. Andrews, please give him the ability to share his screen. And Mr. Zollarcoffer, can you please move forward to Exhibit 10.

MS. ANDREWS: Mr. Zollarcoffer, you can now share your screen.

MR. ZOLLARCOFFER: Can you see it?
MR. SCHLOM: I can see your screen. If you can scroll up, please, to Exhibit 10. It's what you call the food menu. All right, perfect. Thank you so much. Now, you took this photograph. Correct?

MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: All right. Can you read the top of the right side of the menu, please?

MR. ZOLLARCOFFER: It's the hookah. Hookah flavors.

MR. SCHLOM: Okay. Are you familiar, Investigator Zollarcoffer, with the DC laws around hookah?

MR. ZOLLARCOFFER: Somewhat, yes.
MR. SCHLOM: Okay. What is it that you know?

MR. ZOLLARCOFFER: Well, I know hookah is not allowed without some type of exemption. It's really not allowed -- it's a DC health violation.

MR. SCHLOM: Sure. Now, as part of your -- you mentioned exemption. As part of your investigation, did you investigate whether MK Lounge had that exemption?

MR. ZOLLARCOFFER: No.
MR. SCHLOM: Okay. Are you aware whether they have an exemption?

MR. ZOLLARCOFFER: I believe they don't.

MR. SCHLOM: Okay, thank you. And as part of your investigation, did you investigate MK Lounge's Department of Health record?

MR. ZOLLARCOFFER: No.
MR. SCHLOM: Okay. Now, you had said before that you never entered any residences as part of your investigation in this case. Is that right?

MR. ZOLLARCOFFER: That's correct.
MR. SCHLOM: Okay. And are you aware that MK Lounge's settlement agreement requires that they take all necessary action to ensure
that music, noise and vibration are not audible in any residences?

MR. ZOLLARCOFFER: I am aware of that.
MR. SCHLOM: So, as part of your investigation -- because you never went inside a residence -- you can't determine whether or not they were ever in compliance with that provision.

MR. ZOLLARCOFFER: Yeah. Yeah, I'd have to go into your apartment to be able to substantiate whether not I could hear it in your apartment. But yeah, I didn't go there.

MR. SCHLOM: All right, that makes sense. All right. Now, just in closing I want to clarify something. You first contacted Mr. Bianco to set up the meeting on February 10, 2021. Is that right?

MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: And your first visit to the establishment was one week later, on February 17th. Is that right?

MR. ZOLLARCOFFER: Yes.
MR. SCHLOM: So, all four of your visits in connection with this investigation took place after Mr. Bianco knew that you were conducting the investigation. Is that right?

MR. ZOLLARCOFFER: All what? All four what?

MR. SCHLOM: All four of your visits occurred after you told Mr. Bianco you were conducting an investigation.

MR. ZOLLARCOFFER: Yes. Which I'm sure he was aware of the protest. I believe he was aware of the protest as well. But yes.

MR. SCHLOM: Sure. All right, thank you very Investigator Zollarcoffer. Mr. Chairman, I have no further questions for this witness.

CHAIRPERSON ANDERSON: Thank you. Mr. Zollarcoffer, can you please close your screen. Mr. Stoecklein, do you have any questions for the investigator?

MR. STOECKLEIN: Yes, Mr. Chairman. I have just a few.

CHAIRPERSON ANDERSON: Sure. Go ahead, please.

MR. STOECKLEIN: Inspector Zollarcoffer, are you aware of any differences in applicable noise requirements or restrictions during COVID, that might differ from those applicable outside of the Mayor's order and the

COVID restrictions?
MR. ZOLLARCOFFER: I know that the noise needs to be below a conversational level during the pandemic. During these joint restrictions.

MR. STOECKLEIN: Thank you. And what about outside of the pandemic? What are the regulations applicable otherwise?

MR. ZOLLARCOFFER: Well, due to the settlement agreement, you shouldn't be able to hear it. There are some restrictions on being able to hear it outside of that particular establishment. Period.

MR. STOECKLEIN: Mm-hmm. And there are capacity restrictions during the COVID -we'll call them requirements as well -- correct?

MR. ZOLLARCOFFER: Yes.
MR. STOECKLEIN: And what are those?
MR. ZOLLARCOFFER: Well, currently at 25 percent occupancy during phase 2.

MR. STOECKLEIN: So, a pretty markedly lower number of patrons in an establishment at any one time?

MR. ZOLLARCOFFER: That's correct.
MR. STOECKLEIN: Okay. And so, in
your opinion, is it fair to say that noise can and would presumably be substantially louder if, in fact, an establishment were able to be filled with patrons, and music were allowed to be played above conversational levels, outside of COVID?

MR. ZOLLARCOFFER: That's fair to say.
MR. STOECKLEIN: Okay. And then,
could you just please remind me, the period during which you sought to observe any and all noise violations during your investigation, occurred during this period in which you just indicated that you would not expect the noise to be nearly as high as it would otherwise be outside of COVID. Correct?

MR. ZOLLARCOFFER: That's fair to say.
MR. STOECKLEIN: Okay, thank you.
Inspector, I think you testified earlier that you are pretty familiar with the area, that you worked in it for quite a while, which we appreciate. Are you aware of a bar noticed Nellie's?

MR. ZOLLARCOFFER: I do. I'm aware of Nellie's on the corner. Yep.

MR. STOECKLEIN: And would you say
it's on or about 900 U Street?

MR. ZOLLARCOFFER: Yes. It's on the top side of 9 th and $U$. Yes.

MR. STOECKLEIN: Okay. And so, that's several door down from MK Lounge. Correct?

MR. ZOLLARCOFFER: Correct.
MR. STOECKLEIN: Okay. Do you remember any COVID violations committed by Nellie's during the pandemic?

MR. BIANCO: Objection. Relevance.
MR. STOECKLEIN: Establishing a pattern of systemic violations attributable to this particular establishment.

MR. BIANCO: Conduct of other establishments aren't relevant in this proceeding.

CHAIRPERSON ANDERSON: I'm going to overrule the objection. If you can answer the question, you can. If you can't, you can't. So, answer the question if you can, Mr. Zollarcoffer.

MR. ZOLLARCOFFER: Sir, could you repeat it again?

MR. STOECKLEIN: Sure. To your knowledge, are you aware of any COVID violations committed by Nellie's during the pandemic?

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,
then he can't answer the question.
But as I said before, I hope that we're not going down through a list of all the --

MR. STOECKLEIN: We're not. We're not.

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

MR. STOECKLEIN: Inspector
Zollarcoffer, I'd like to just go back to Nellie's briefly. Are you aware of whether or not Nellie's is open at this time?

MR. ZOLLARCOFFER: I believe Nellie's is open.

MR. STOECKLEIN: Well, not at this present moment, of course. But generally speaking, Nellie's is operating on a fairly regular basis. Is that correct?

MR. ZOLLARCOFFER: I understand.
That's correct.
MR. STOECKLEIN: Thank you. Are you aware of -- this will be my last question about another specific establishment. Are you aware of a restaurant, which also holds an ABRA license, named Al Crostino, which is two doors down from MK Lounge, located at 926 9th Street?

MR. ZOLLARCOFFER: I've heard of it. I'm not very familiar with that establishment.

MR. STOECKLEIN: Are you aware of whether or not this establishment is operating fairly regularly, again, during COVID?

MR. ZOLLARCOFFER: I'm not for certain.

MR. STOECKLEIN: Okay. Are you aware of any COVID violations committed by Al Crostino during the COVID lockdown period?

MR. ZOLLARCOFFER: I'm not aware.
MR. STOECKLEIN: Okay. So, does it strike you as odd that these establishments, which have also been operating during COVID, have not had any violations, despite being open, and yet you just spoke to us about numerous -- I believe you cited five or more -- COVID violations, on multiple occasions. Does that strike you as odd? In any way?

MR. BIANCO: Objection. I'm going to object. It's compound, lacks foundation, assumes facts not in evidence, and mischaracterizes previous testimony.

CHAIRPERSON ANDERSON: All right. I know that you're an attorney, Mr. Bianco, and I
-- at least Mr. Stoecklein has not presented himself as an attorney. So, can please --

MR. STOECKLEIN: I am an attorney, Mr. Chairman.

CHAIRPERSON ANDERSON: Sir?
MR. STOECKLEIN: I am an attorney. I'm licensed in the District of Columbia.

CHAIRPERSON ANDERSON: Sir, you didn't hear what I said. What I said was that you did not present yourself as an attorney, so I was not even aware that you were an attorney. So, since you're now presenting yourself as an attorney, I'm going to sustain the objection, and you can rephrase your question.

Now that I know that there are two attorneys onboard, then I am going to be more specific in sense of cross-examinations. A lot of times when I'm not dealing with an attorney, I'm more flexible.

But now that they're attorneys, I know that attorneys, they know the rules and regulations, and so therefore $I$ will now listen 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
question, sir.
MR. STOECKLEIN: Okay. Understood, Mr. Chairman. Inspector Zollarcoffer, I believe that you just answered questions regarding Nellie's and Al Crostino, and COVID violations of which you were not aware in this instance, that you are aware of none. Is that correct?

MR. ZOLLARCOFFER: That's correct.
MR. STOECKLEIN: Okay. And you also had testified that MK Lounge has on numerous occasions been found to have violated the Mayor's orders. Correct?

MR. ZOLLARCOFFER: That's correct.
MR. STOECKLEIN: And have you ever had any reasons why MK Lounge might be more or less likely to have patrons that have violated COVID, or to be operating in violation of the Mayor's COVID orders?

MR. ZOLLARCOFFER: Do I have more what? No.

MR. STOECKLEIN: Do you have any opinion as to why MK Lounge would be situated differently, and therefore more or less likely to violate the Mayor's COVID restrictions?

MR. ZOLLARCOFFER: No, I'm not sure
why.
MR. STOECKLEIN: Okay. All right, I have no further questions.

CHAIRPERSON ANDERSON: All right, thank you, sir. Do we have any follow-up questions by any Board members? All right, hearing none, thank you very much, Mr. Zollarcoffer, for your testimony. You're excused. All right, thank you. All right, Mr. Bianco, do you have a witness you wish to call?

MR. BIANCO: I do, Mr. Anderson. I'd like to first throw myself on the Panel's mercy and ask for a quick five-minute break. We've been going a couple of hours at this point.

CHAIRPERSON ANDERSON: Mr. Bianco, you know the Board has been -- you know we have been working, working, working. And we're just getting ready. But all right, it's -- we're off the record.
(Whereupon the above-entitled matter went off the record at 12:06 p.m., and resumed at 12:17 p.m.)

CHAIRPERSON ANDERSON: We're back on the record. It's 12:17. Will all Board members please log back on please.
(Pause.)
CHAIRPERSON ANDERSON: We're on the record. I'm still waiting for another Board member. But we're ready to start.

Mr. Bianco, do you have a witness?
MR. BIANCO: Yes, my first witness is Derege Zewdie. He is the owner of the establishment.

CHAIRPERSON ANDERSON: Mr. Zewdie, can you raise your right hand, please? Can you raise your right hand please, Mr. Zewdie?

Do you swear or affirm to tell the truth and nothing but the truth?

MR ZEWDIE: I do.
CHAIRPERSON ANDERSON: I can't hear you, sir.

MR ZEWDIE: I do.
CHAIRPERSON ANDERSON: All right. I have noticed, sir, that you were driving. So I know that you're in a car.

MR ZEWDIE: Yes.
CHAIRPERSON ANDERSON: So I'm hoping that during your testimony and during cross examination that you are stationary, that you are not moving, that you're not operating a car, sir.

Is that clear, is that correct?
MR ZEWDIE: Yes, that's correct.
CHAIRPERSON ANDERSON: Thank you.
Your Witness, Mr. Bianco.
MR. BIANCO: Thank you very much. Ms. Andrews, if you're able to give me the ability to share the screen so $I$ can go through exhibits, that would be great.

CHAIRPERSON ANDERSON: Go ahead, Ms. Andrews.

MS. ANDREWS: Sure, sir.
Okay, Mr. Bianco, you can now share your screen.

MR. BIANCO: Excellent, thank you so much.

All right. DJ, are you the owner of MK Lounge?

MR ZEWDIE: Yes, I am.
MR. BIANCO: Are you the only owner?
MR ZEWDIE: Yes.
MR. BIANCO: Okay. Do you manage the establishment?

MR ZEWDIE: Yes, I do.
MR. BIANCO: How often are you there?
MR ZEWDIE: Seven days a week.

MR. BIANCO: Okay.
(Simultaneous speaking.)
MR. BIANCO: How long have you been I'm sorry, I didn't hear what you said. What did you say there?.

MR ZEWDIE: Before the pandemic, I've been there seven days a week.

MR. BIANCO: Seven days a week, okay. how long have been running MK Lounge?

MR ZEWDIE: The MK Lounge was since 2015. Before that I had a different license in the same building, so since 2012 to 2015 it used to be Maraki Restaurant, with partners. And then I bought them out in 2015.

MR. BIANCO: Okay. The --
(Simultaneous speaking.)
MR. BIANCO: 1930 9th Street has been MK Lounge since 2015. And before 2015 you operated another establishment called Morroci. Am I getting that right?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. Do you own any other establishments in the neighborhood?

MR ZEWDIE: Yes. In 2004 to 2015, I had a photography studio on 1918 9th Street NW.

And once I moved to MK Lounge in 2015, I closed it down. And then I have another establishment right across the street from 1930 9th Street. It's called Habersha Market and Restaurant. We've been operating since 2015.

MR. BIANCO: Okay. Can you describe MK Lounge's operations?

MR ZEWDIE: Yes. The MK Lounge was the first African American bar on 9th Street. I started in 2015 as MK Lounge. Right after that, others followed too, and they serve the same food.

We do carry out food, we do deliveries on the Grubhub and all the social Postmate and DoorDash and everybody else. We do serve food, yes, and things. It's more like a place where people come. More of my client is, I would say, from out of town.

MR. BIANCO: Okay. How big is it?
How many floors is it?
MR ZEWDIE: It's two floors.
MR. BIANCO: Okay. And what's your occupancy?

MR ZEWDIE: One twenty-two.
MR. BIANCO: Okay. So up on the
screen right now, you'll see a photograph that is Applicant's Exhibit Number 4 to Investigator Zollarcoffer's investigative report.

MR. BIANCO: Do you recognize that?
MR ZEWDIE: Yes.
MR. BIANCO: And --
MR ZEWDIE: This it's a photo of, I mean

MR. BIANCO: Is that a photo of the outside of MK Lounge?

MR ZEWDIE: Yes, it is.
MR. BIANCO: Okay. Is that how it looks today?

MR ZEWDIE: Yes, sir. Well, maybe the flag is not there or the heart-shape is not there, but the rest is like that.

MR. BIANCO: The rest looks like that, okay. And then this building directly next door 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.
MR. BIANCO: Okay. So let's go down and look at this photograph here which is Number 7 to Investigator Zollarcoffer's report.

MR. BIANCO: What does that show?
MR ZEWDIE: That is the first floor of MK Lounge facing from the restroom to the 9th Street.

MR. BIANCO: So this is shot from the back of the building to the front of the building?

MR ZEWDIE: Not all the way to the back but, like, from the bathroom to the front.

MR. BIANCO: Okay. And where -
(Simultaneous speaking.)
MR ZEWDIE: There's a kitchen
(Simultaneous speaking.)
MR ZEWDIE: -- restroom behind us.
MR. BIANCO: Okay. Where this person is standing, this is the 9th Street side of the building, right?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. Now we're going to move to Photograph Number, I'm sorry, Exhibit Number 14 to Investigator Zollarcoffer's report.

MR. BIANCO: What does this show?
MR ZEWDIE: This is the second floor of our area. And on your right is a staircase going up and down the staircase.

MR. BIANCO: Okay. And this is shot towards the back of the building?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. And then Exhibit Number 15 to Investigator Zollarcoffer's report, what does that show?

MR ZEWDIE: That is the big screen where we announce, we have video, like how to wash your hands, and social media, forcing them to wear a mask --

MR. BIANCO: Well, let's take a step back. What part of the property is that? It that the first floor or the second floor?

MR ZEWDIE: It's second floor facing 9th Street.

MR. BIANCO: Okay, so this is the 9th Street portion of the second floor then, okay. And then, so this video wall here, this is the 9th Street side of the property, right?

MR ZEWDIE: Yes.
MR. BIANCO: And I think you were starting to explain this, but let's go into it in a little bit of detail. I see it says eating or 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 that screen?

MR ZEWDIE: Right after the violation, I hired a videographer. So we did some exercise to show the people wearing the mask, and how they come in. I wish we could have played the video, but several come in. There is a sanitizer. They wash their hands.

It's just telling the people that you need to have your mask on when you are not eating or drinking. That is the sign. It will scroll underneath the screen throughout the night.

MR. BIANCO: Okay. And how often do you play that on this video screen?

MR ZEWDIE: The video is played every 90 minutes. But the wording is as soon as we open it starts rolling.

MR. BIANCO: Okay. And is there a reason why you decided to play the video every 90 minutes?

MR ZEWDIE: Yes, because we limit our selves. We got limited to capacity. A lot of people want to stay longer. So we limit our time to 90 minutes. So most like, within 90 minutes there's a new person who will come in. So that's
when we play it. And this has happened right, like I said, after we got shut down over the violation.

Okay. And do you have signs around the establishment indicating that you're limiting seating to 1.5 hours?

MR ZEWDIE: Yes.
MR. BIANCO: And if you could look at the screen right there, we're looking at Exhibit Number 9 to Investigator Zollarcoffer's report. Is that one of the signs that you have around the establishment?

MR ZEWDIE: Yes.
MR. BIANCO: Okay.
MR ZEWDIE: Yes.
MR. BIANCO: So you've been in the neighborhood for a long time. Are there a lot of bars and restaurants in the neighborhood?

MR ZEWDIE: Yes, in my whole time, over 20 years in that area, I lived on 1980 9th Street with the photography studio before I got married, on the second floor and work on the first floor. And there was a lot of restaurants and bars then opening and shutting down. But 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 Zollercoffer prepared for this particular protest. I'm looking at the wrong thing. Bear with me for just one second, okay.

MR ZEWDIE: If I may add onto the other restaurant that's been called?

MR. BIANCO: You don't need to. You answered my question completely. MR ZEWDIE: Okay.

MR. BIANCO: Thank you.
MR ZEWDIE: Yes, sir.
MR. BIANCO: I appreciate that.
MR ZEWDIE: You're welcome.
MR. BIANCO: There we go. Okay, so what we are now looking at is Exhibit 20 to investigator Zollercoffer's report. And in the middle of that map, you will see 1930 9th Street NW. And that shows the location of your establishment, correct?

MR ZEWDIE: Yes.
MR. BIANCO: And does this truly and accurately depict, to the best of your knowledge, the establishments that are in proximity to MK?

MR ZEWDIE: Yes. Normally I'm home to work, from work to home. So I'm pretty much
surprised to see we have 69 different, other businesses similar to us.

MR. BIANCO: Hum.
MR ZEWDIE: But there are, when I am driving buy $I$ see most of the bars, but I haven't been inside.

MR. BIANCO: Okay.
CHAIRPERSON ANDERSON: Sir, I'm sorry, I'm sorry to interrupt, your voice is trailing off, sir. I need you to always speak up. I mean, $I$ know that $I$ had to turn my volume up so I can hear you. I don't know if the court reporter is having concerns hearing you. But please hold your voice up, okay? Thank you.

MR ZEWDIE: Okay, okay.
MR. BIANCO: Mr. Anderson, are you directing that me or the Witness, because sometimes mic gets lower?

CHAIRPERSON ANDERSON: The Witness, sir.

MR. BIANCO: Okay. Thank you.
How does your establishment compare to other neighboring establishments in terms of what you're offerings are?

MR ZEWDIE: Pretty much everybody is
the same. I would say everyone operating the same type of business where we all offer, you know, whatever everybody's offering.

MR. BIANCO: Okay. Do you have the biggest establishment in the neighborhood?

MR ZEWDIE: No, $I$ don't have the biggest actually. That area, I think the biggest establishment is Nellie's or Brixton. Other than that, everyone is pretty much the same size.

MR. BIANCO: And are you open later than most of the other establishments?

MR ZEWDIE: No.
MR. BIANCO: Okay. So let's talk about the period pre-COVID, and hopefully we'll be returning to a period that looks like that soon. So let's focus our discussion there.

Can you describe what it's like around the intersection of 9 th and $U$ Streets on a typical weekend night pre-COVID?

MR ZEWDIE: Pre-COVID, 9th Street, U Street, 7th Street, they're all a busy area. They are always people walking up and down, and lots of cars, and lots of people.

MR. BIANCO: Okay.
MR ZEWDIE: And in a way that is good.

MR. BIANCO: And pre-COVID, did you have any operations outside?

MR ZEWDIE: I did from, like, for about a week, or about a month, I would say. And I got a letter from DDOT. And I'm sure you're aware of that, the DDOT revoked the license.

MR. BIANCO: DJ, I'm asking you specifically about pre-COVID, so before February of 2020.

MR ZEWDIE: I'm sorry, I'm sorry. No, none.

MR. BIANCO: None, okay. And you are aware of the noise concerns raised by Mr. Schlom, correct?

MR ZEWDIE: Yes, that's correct.
MR. BIANCO: And as you mentioned at the outside of your testimony, he lives in the 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.

MR. BIANCO: And you've been operating since sometime in 2015, correct?

MR ZEWDIE: Yes. Actually it's since

2004, I mean, since 2012, Morroci.
MR. BIANCO: Right, you changed the name in 2012, I'm sorry, 2015 though, to MK Lounge, right?

MR ZEWDIE: Yes, sir.
MR. BIANCO: Okay.
MR ZEWDIE: That's a name change under the same licensee.

MR. BIANCO: Okay. Did you have any, after the condo was competed, did you have any discussions with the developer about noise?

MR ZEWDIE: I did discuss with the developer. I did discuss with the contractor as well. Because most of that building, when they're doing the construction, they were on top of my roof in order to finish up the wall on my side.

So when I talked to the developer, he said it's nothing to worry about the sound. All I keep saying is going to be okay, is the sound not going to affect the building? Because I'm sure the people know, when they move into the place, we have a big sign saying Lounge.

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 your building is old. So we have your wall and then another soundproof wall, no, another wall and soundproof, and then a wall. So there is no way they will hear any kind of noise or complaining. Because it's been done with soundproof. I don't if we can get that the DCRA.

MR. BIANCO: Okay. Well, let's focus on what we have in front of us here. And I am now going to direct your attention to the screen where I am showing you an exhibit that I have marked as Applicant's Exhibit 3. And this is an email from June 12 of 2017. Do you recognize this document?

MR ZEWDIE: Since I'm on my phone, it's kind of little, it's small. Hold on, let me flip it. Yes.

MR. BIANCO: Okay.
MR ZEWDIE: It's from Paul So.
MR. BIANCO: And who's Paul So?
MR ZEWDIE: That's the owner of the 1932 building. That's the developer.

MR. BIANCO: Okay. So that's the person who developed the 1932 building. And you were a recipient on this email.

MR ZEWDIE: Yes.
MR. BIANCO: Okay. And your email address is mkloung@gmail.com?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. And so the first part of this email, what it says is, "Hi, all, attached is Bay Acoustics final report from their testing. The recommendations are as stated in Michael's earlier email." Did you receive an acoustic report from a sound engineer?

MR ZEWDIE: Yes, we did.
MR. BIANCO: Okay. And we're going to scroll down --

CHAIRPERSON ANDERSON: I'm sorry, I'm sorry. I'm not sure whose phone is on and who is unmuted, but either the investigator or, I'm sorry, either, I apologize, the attorney or the Witness. I want everyone to just mute their phones, please. Because it appears that this is not the first time that someone has been unmuted, and I hear a phone ringing. So if you have a phone, can you please put your phone in silence. I'm sorry, go ahead.

MR. BIANCO: Mr. Anderson, your brief indulgence. I want to turn around and turn my
office phone off in the event that it rings. It would be audible through the Webex platform. So if you could excuse me a second.

CHAIRPERSON ANDERSON: Thank you.
MR. BIANCO: Great.
CHAIRPERSON ANDERSON: All right, thank you.

MR ZEWDIE: Okay. Yes, sorry, my battery get hot and --

MR. BIANCO: Okay. Thank you very much. I appreciate that. I'm back. We're ready to go back on the record.

CHAIRPERSON ANDERSON: All right, Mr. Bianco.

MR. BIANCO: Okay. So we're going to scroll down past Page 1 of Exhibit 3 and look at this document. It says Bay Acoustics, Results and Recommendations, Sound and Vibration Testing. And it's dated June 10th of 2017. Do you recognize that document?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. And is that the acoustical report that you received from Bay Acoustics in 2017?

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 recommendations are good, bad, or indifferent, just that they exist and he did them.

MR. SCHLOM: Can I be heard, Mr. Chairman?

CHAIRPERSON ANDERSON: Yes, sir, go ahead.
MR. SCHLOM: I understand what Mr. Bianco is saying, but he still is missing the point that Mr. Zewdie is not qualified to even interpret what the recommendations are, necessarily.

If Mr. Bianco wants to include some background or some voir dire of this Witness to show that he's qualified, but as of now he has not been qualified as an expert to even interpret what these recommendations are.

CHAIRPERSON ANDERSON: All right, I'm sorry. Mr. Bianco, what is this exhibit? What is this?

MR. BIANCO: So this is an acoustical report that was prepared at the behest of the developer of Mr. Schlom's condominium. And the acoustical report goes through and lists what all of the problems are structurally with the 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.
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 the Artview Condominium.

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 received this report and you recognized it, and you've had the opportunity to review it, correct?

MR ZEWDIE: That's correct.
MR. BIANCO: Okay. So now I want to go down to Page 3 of the report. And specifically we are looking at the bottom paragraph that says, below, we provide the following isolation recommendations for each speaker.

All speakers, including sub-woofers, should be suspended from the roof joists for maximum isolation. It is sometimes possible to isolate speakers that are floor mounted, however we find suspending them to be most effective, especially where the floor is the apparent conduit of the sound.

And below that it lists some products that you could use to --

MR. SCHLOM: Mr. Chairman, I'm going to object --

MR. STOECKLEIN: Objection, Mr.
Chairman
(Simultaneous speaking.)
MR. SCHLOM: -- He's testifying for
the Witness.
CHAIRPERSON ANDERSON: Objection sustained. Mr. Bianco, you're asking a question, sir. Please ask him a question --

MR. BIANCO: Sure.
CHAIRPERSON ANDERSON: -- and let's
move on. I do not want the Attorney to be reading, if you want to direct the Witness to a certain portion on the page, fine, so just let me know what it is that --

MR. BIANCO: Sure, okay.
CHAIRPERSON ANDERSON: All right,
okay.
MR. BIANCO: I understand completely. So, Mr. Zewdie, can I direct your attention to the three bulleted points, one which says sub-woofers, the next which says EV model ZLX12, and the third which says QSC Model K-10. Can you read those yourself, please?

MR ZEWDIE: Okay. If can see this on my phone, so, sorry, it can't be on it.

MR. BIANCO: And you don't need to read it out loud, you can just read it to yourself. I just want to make sure you're reading it.

MR ZEWDIE: Which one, you said?
MR. BIANCO: Okay, so three bulleted points, sub-woofers, and then there's text following it, EV Model ZLX 12, NQS MODEL, K-10.

MR ZEWDIE: Yes. Attach EV ZLX bracket to each speaker, suspended yoke, two, add to point with the shredded end, one.

MR. BIANCO: Okay, you don't need to read it out loud, just let me know when you've finished reading it.

MR ZEWDIE: All right.
MR. BIANCO: Okay, have you finished reading that?

MR ZEWDIE: Yes.
MR. BIANCO: Okay. Now scrolling further down the report, I'd like to direct your attention to this page of the report with specifications on that. If you could look at that and read it, and --

MR ZEWDIE: Yes.
MR. BIANCO: -- familiarize yourself with that.

MR ZEWDIE: Yes. I'm familiar with this.

MR. BIANCO: Okay. And then the
following page, K Series Accessories, if you could look at that, review it, and familiarize yourself with that.

MR ZEWDIE: Yes.
MR. BIANCO: Okay.
MR ZEWDIE: I am familiar.
MR. BIANCO: Okay, now having looked at the recommendations portion of the report, did you install the products as suggested by the acoustic engineer?

MR ZEWDIE: Yes, I did.
MR. BIANCO: Okay. And did you do that yourself, or did you hire a professional to do it?

Actually, the building owner, Mr. Paul, he recommended somebody. And that person came in and installed it.

MR. BIANCO: Okay. Thank you. Mr. Chair, I would, at this time, move admission of Applicant's Exhibit. It's numbered as Number 3. If you prefer, we can keep it as Number 3. I think that probably makes more sense than renaming it Number 1.

CHAIRPERSON ANDERSON: Mr. Schlom, any 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

Applicant's Exhibit 3. But there's unlikely to be a one or a two. I just wanted to make sure that's on the record.

CHAIRPERSON ANDERSON: All right, so we're to move Applicant's Exhibit 3 in the record.

MR ZEWDIE: Can I say a few words?
CHAIRPERSON ANDERSON: Go ahead.
MR. BIANCO: Mr. Zewdie -
(Simultaneous speaking.)
MR. BIANCO: -- I would like to go
back to
CHAIRPERSON ANDERSON: I'm sorry, who's speaking? Someone else said something? I'm sorry.

MR ZEWDIE: Mr. Bianco?
CHAIRPERSON ANDERSON: I'm sorry, Mr. Zewdie, there are no questions, there is no question pending. So, sir, you can't say anything until a question is asked you, okay?

MR ZEWDIE: Yes.
MR. BIANCO: Yes, please wait until I ask you a question, DJ, okay?

MR ZEWDIE: Okay.
MR. BIANCO: So now I would like to go
back to Investigator Zollerkoffer's report and specifically look at the photograph that is marked as Exhibit 12 to his report. And do you recognize that photo?

MR ZEWDIE: Yes, I do.
MR. BIANCO: And what does that show?
MR ZEWDIE: That was the speaker mounted with the suspension as the sound engineer recommended.

MR. BIANCO: Okay. And that's how that speaker looks today?

MR ZEWDIE: Yes, sir.
MR. BIANCO: And I just want to understand, did you only do that suspension installation with respect to this one speaker, or did you do it to more speakers?

MR ZEWDIE: All of the speakers has suspension like that.

MR. BIANCO: Okay. So as of today, all of the speakers in your establishment are suspended?

MR ZEWDIE: Yes, sir.
MR. BIANCO: Are there any on the

MR ZEWDIE: No.

MR. BIANCO: Okay. Did you do anything else to rearrange your speakers following the sound engineer's report?

MR ZEWDIE: If I did what?
MR. BIANCO: Did you do anything else to rearrange you speakers following the sound engineer's report?

MR ZEWDIE: Yes, the volume control used to be by the DJs. So we moved from the DJ booths to inside the bar so we can have a control. As you see, that controller was inside.

MR. BIANCO: Okay. And specifically you're talking about this controller right here that we're looking at which is Exhibit 8 to Investigator Zollerkoffer's report?

MR ZEWDIE: Yes.
MR. BIANCO: And you moved that from the DJ booth to behind the bar?

MR ZEWDIE: Yes.
MR. BIANCO: Okay.
MR ZEWDIE: So we can have a control of it.

MR. BIANCO: Did you do anything else to rearrange the speakers?

MR ZEWDIE: That's basically it,
whatever they recommended.
MR. BIANCO: Okay. Now -
MR ZEWDIE: I didn't - okay.
MR. BIANCO: After moving the speakers, I'm sorry, following the sound engineer's report and the work that you did to the property, did you communicate with Mr. Schlom about noise from your establishment?

MR ZEWDIE: Yes, we have with him and, as well, Caroline. She lives on the second floor.

MR. BIANCO: Okay. And how did you communicate with your neighbors in the condominium?

MR ZEWDIE: I created a text group where we can communicate. If they hear any loud music or any noise, so they can text it to us. And then $I$ add a few people in the management, just in case, if I'm not there $I$ have a management and the bar tenders into the group, and then a few tenants who live in the building.

MR. BIANCO: Okay. And when you receive a text message to the text message group, what do you do?

MR ZEWDIE: We do the action and we
followup and say is it good? And, you know, most likely most of the time it, you know, we don't get response. That means it's good.

MR. BIANCO: Okay. So the last thing I want to look at is, and there's been some testimony from Investigator Zollerkoffer on this, is his Exhibit Number 11 to his report which is a photograph of headphones. Can you explain the significance of that?

MR ZEWDIE: Yes. This is the headphone that I got after the, after our suspension because the music cannot be allowed and people cannot hear loud music. And we come up with headphones so everybody can have it. And since then, the music was very low. But inspector is still coming and said a noise complaint. But, you know, basically they don't hear nothing. Because it's more like a silent party.

MR. BIANCO: Okay. And were you using these pre-COVID, or you just started using these during the pandemic?

MR ZEWDIE: I just started using it.
MR. BIANCO: Okay. And how many pairs of headphones did you buy?

MR ZEWDIE: I bought 50.
MR. BIANCO: Okay. How much did that cost?

MR ZEWDIE: About \$3,500.
MR. BIANCO: Okay, great. Thank you. Okay. I don't have anymore questions for you at this time. Mr. Schlom and Mr. Stoecklein may have some questions for you. So please listen and answer their questions accordingly.

CHAIRPERSON ANDERSON: All right, Mr. Bianco. Please stop sharing your screen.

Okay, Mr. Schlom, your Witness.
MR. SCHLOM: Thank you very much. DJ, good afternoon. I have a few clarifying questions from what Mr. Bianco was asking you. Now, you had said in your testimony that the condominium building was built in 2016. Is that right?
(No audible response.)
CHAIRPERSON ANDERSON: You're on mute, sir. We can't hear you.

MR ZEWDIE: Oh, I'm sorry. So 2016, that's when people are buying the property and moving into the building.

MR. SCHLOM: Sure, great. And you
applied for the license that you currently have, you applied for that in 2016, right, the ABRA license?

MR ZEWDIE: 2016, yes.
MR. SCHLOM: Got it. And then you signed a settlement agreement with the AMC in January of 2017, right?

MR ZEWDIE: I believe, yes. It was in '17.

MR. SCHLOM: Okay. Sure. So you signed the agreement after people started buying condominiums, correct?

MR ZEWDIE: True. Some of them is in already. No, actually, most of them are in. I know you moved in in 2017.

MR. SCHLOM: Sure, okay. Now, Mr. Bianco asked a few questions. You were testifying about changes you say you made to the property based on an engineer's report. Now you don't have any training in sound engineering, right?

MR ZEWDIE: No, I don't. But the building owner, he hired a sound engineer. It wasn't be hired by me. The building owner, he hired a sound engineer. He gave a suggestion,
and he sent all the tenants. And he got somebody who was working at his building. They came in and installed it.

MR. SCHLOM: I see. Now, who paid the person to install the changes in your property? Was that you or was that the developer of 1932 9th Street NW?

MR ZEWDIE: That was me.
MR. SCHLOM: Okay. So you hired the contractor?

MR ZEWDIE: He suggested, Mr. Paul suggested, and he would say he's going to pay all expense. And at the end, nowhere to be found. So I had to pay for it.

MR. SCHLOM: But I'm trying to understand, are you the one that signed the contract with the contractor? Did you hire the contractor?

MR ZEWDIE: No, Mr. Paul hired a contractor. So assuming, on the email he sent out, he said that he's willing to cover expense. Ms. Caroline and Tom, they know about it.

MR. SCHLOM: Okay. So did you supervise the installation of the sound changes?

MR ZEWDIE: Yes, I did.

MR. SCHLOM: But you just said you're not an expert in sound engineering. So how do you know what was actually being done?

MR ZEWDIE: I mean, I can read English. So based on the description, I see what they ordered. I see what they put in. And that's how I know. I mean, none of us is a sound engineer.

MR. SCHLOM: Do you know what a QSC K-10 yoke is?

MR ZEWDIE: Yes.
MR. SCHLOM: What is it?
MR ZEWDIE: Thats the, the QSC is a speaker.

MR. SCHLOM: So what is a K-10 yoke?
MR ZEWDIE: The K-10 yoke, I think, is the mounting bracket.

MR. SCHLOM: Okay. What's the difference between a K-10 and a K-8 yoke?

MR ZEWDIE: The size.
MR. SCHLOM: Okay. Do you know which is appropriate for your space.

MR ZEWDIE: It's the ten.
MR. SCHLOM: Okay. So you say that you implemented all of these recommendations in
the report, correct?
MR ZEWDIE: Yes.
MR. SCHLOM: But did you direct the contractor to do those things or did Paul So direct the contractor to do those things?

MR ZEWDIE: Actually, the sound engineer, and Paul So was there as well.

MR. SCHLOM: I'm not sure that answers my question. DJ. You seem to be saying that Paul So and the engineer directed the contractor on what to install, not you?

MR ZEWDIE: How to install it, yes. I was there.

MR. SCHLOM: No, no, no. Not whether you saw it, whether you said to the contractor do this, do this, do this, pay for this, buy this, install this, you didn't do that?

MR ZEWDIE: No.
MR. SCHLOM: Okay.
MR ZEWDIE: No, I gave -
(Simultaneous speaking.)
MR ZEWDIE: -- pay for that.
MR. SCHLOM: That answers my question. And you don't have the invoice from all of that work, do you?

MR ZEWDIE: No, I don't.
MR. SCHLOM: Okay. Now, how many times would you say, if you know the answer, if you don't that's okay, how many times would you say you've been inside the condominium building at 1932 9th Street NW?

MR ZEWDIE: Maybe two times or three times. I think I was in your apartment once. And then I was

MR. SCHLOM: Yes.
MR ZEWDIE: -- and Caroline, and Tom's apartment.

MR. SCHLOM: Okay, so two or three times, more or less?

MR ZEWDIE: Right.
MR. SCHLOM: Okay. Now do you recall how many of those visits were during MK Lounge business hours?

MR ZEWDIE: How many what?
MR. SCHLOM: How many of those visits were while MK Lounge had customers inside?

MR ZEWDIE: It was, two times, one time there was nobody there.

MR. SCHLOM: Okay. Now, I want to talk about Mr. Bianco asking you about those Blue

Tooth headphones. Now, you said you bought those after your license suspension in 2020, correct? MR ZEWDIE: That's correct.

MR. SCHLOM: Okay. And are they given to all patrons, or do patrons have to request them?

MR ZEWDIE: They have to request them.
MR. SCHLOM: Okay. And you said you bought 50 pairs, correct?

MR ZEWDIE: Yes.
MR. SCHLOM: But your certificate of occupancy under normal times is 122. Is that right?

MR ZEWDIE: Yes, we're not talking about normal times. This is after COVID.

MR. SCHLOM: No, normal time, not COVID, correct. Normal time is 122.

MR ZEWDIE: One hundred twenty-two.
MR. SCHLOM: Okay. Now, DJ, does MK Lounge sell Hookah?

MR ZEWDIE: Yes, we do. Everyone does.

MR. SCHLOM: When did you begin to sell, sorry, go ahead. I didn't mean to interrupt you, I apologize.

MR ZEWDIE: No, everyone does. I started doing that 2000, I think when we opened up it was 2012.

MR. SCHLOM: You've been selling Hookah since 2012?

MR ZEWDIE: Since 2012, and then they stopped us. And then went to Jim Graham. Jim Graham allow us to do the Hookah. That was, 2000, I think, '16 or '17.

MR. SCHLOM: Okay. Has the Department of Health ever ordered you to stop selling Hookah?

MR ZEWDIE: It was in the news, yes. I mean what does this have to do with -

MR. SCHLOM: Did they order you in 2018 to stop selling Hookah?

MR ZEWDIE: No, they didn't order it, nobody came and ordered.

MR. SCHLOM: You never received an inspection report in 2018 ordering you to cease and desist Hookah?

MR ZEWDIE: We did, and they told us we need to get exempt. And I prepared all the documentation, and then went to the HUD Department. And they said right now we're not
taking. So I did not submit it.
MR. SCHLOM: Okay. So you did receive the cease and desist order, and then in response to that you asked for an exemption, but you have not received an exemption. Is that correct?

MR ZEWDIE: No, yes.
MR. SCHLOM: Okay. So yes, that is correct, no you do not have an exemption.

MR ZEWDIE: No.
MR. SCHLOM: Okay. Now, I want to talk a bit about the outdoor space, the parklet that you had in 2020. You had an outdoor space in 2020, is that right?

MR ZEWDIE: That's correct.
MR. SCHLOM: Okay. And did you file the application for that outdoor space?

MR ZEWDIE: Yes, I did.
MR. SCHLOM: Did you ask the residents to support your application, the residents of 1932 9th Street NW?

MR ZEWDIE: As the Sugar Shack has been shut down, so we don't need, this is a public street. So we don't need to ask, because 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
you didn't ask because of the ABRA protest?
MR ZEWDIE: No. It's not because of that. It's because you sent an email to the DDOT so $I$ can get my license to be revoked. Then it not make sense to come to the building and asking people to give me permission.

MR. SCHLOM: But, DJ, I'm asking before you filed the application did you ask for our support?

MR ZEWDIE: No.
MR. SCHLOM: Okay.
MR ZEWDIE: If it was needed, the DDOT will know that. They could have asked me for it.

MR. SCHLOM: Okay. So we're going to talk about where the parklet is. Mr. Chairman, can I share my screen, please?

CHAIRPERSON ANDERSON: Ms. Andrews, can you give him permission to share his screen, please?

MS. ANDREWS: Sure, stand by. Mr. Schlom, you now can share your
screen.
MR. SCHLOM: All right, do you see -all right, can you see my screen?

MR. ZEWDIE: Yes, I can.

MR. SCHLOM: Okay. Now your, sorry, one second. Now this reflects what the parklet looks like today, correct?

MR. ZEWDIE: Yes.
MR. SCHLOM: Okay. Now, it runs in front of the residential entrance of 1932 9th Street NW, correct?

MR. ZEWDIE: Not in front of, it's on the street of 1930 to 1932.

MR. SCHLOM: Right. On the street but in front of the residential entrance?

MR. ZEWDIE: Residential and MK, yes.
MR. SCHLOM: Okay. Now you said that you didn't ask for permission because Sugar Shack was a vacant space, is that correct?

MR. ZEWDIE: That's correct.
MR. SCHLOM: Okay. How did you know that the space was vacant?

MR. ZEWDIE: It's been shut down. Because it's been sold to the different company. I saw the sign. It's never open.

MR. SCHLOM: Did you know that there was an active lease still on the property when you opened the parklet in July of $2020 ?$

MR. ZEWDIE: If I know what, I'm
sorry?
MR. SCHLOM: Did you know that their lease was still active in July of 2020 when you opened your parklet?

MR. BIANCO: Objection. Assumes facts not in evidence. There is no testimony about leases or whether or not they're active.

MR. SCHLOM: I'm asking for his knowledge. Did he know?

MR. BIANCO: You're stating something you propose to be a fact and then asking him about it. It's not in evidence.

MR. SCHLOM: I'll rephrase --
CHAIRPERSON ANDERSON: All right, hold on.

MR. SCHLOM: I'll rephrase the question. I'll rephrase it.

CHAIRPERSON ANDERSON: Go ahead. All right.

MR. SCHLOM: I'll rephrase it. Mr. Zewdie, did you investigate whether there was an active lease on that property when you opened your parklet in July of 2020?

MR. ZEWDIE: No, I didn't.
MR. SCHLOM: Okay. So you didn't know
whether that space had simply temporarily closed or whether it was permanently closed?

MR. ZEWDIE: I know it's temporarily, I mean, permanently closed because Sugar Shack has been gone. So I know --

MR. SCHLOM: But you didn't --
MR. ZEWDIE: -- it was out. I don't know when the license is active or not.

MR. SCHLOM: Did you ask the property owner whether there was an active lease?

MR. ZEWDIE: No. I don't have any contact with them.

MR. SCHLOM: Okay. Now, when did you learn that the DDOT permit for the parklet had been revoked?

MR. ZEWDIE: Right after about a month of the, once we set up. I'm not sure exactly the dates. Exact date, I'm not sure, I'm not aware of.

MR. SCHLOM: Okay. Now, did you remove all of your items from the public space once you learned that the permit had been revoked?

MR. ZEWDIE: We moved all the tents.
MR. SCHLOM: That doesn't answer my
question. Did you remove everything from the public space once you learned that the permit was revoked?

MR. ZEWDIE: Not everything because we were trying to get a paper from the owner, from the new leaser to 1932.

MR. SCHLOM: So do you have a parklet permit currently from DDOT?

MR. ZEWDIE: No, I don't.
MR. SCHLOM: Okay. But your bike rack is still in the parking lane in front of your business, is that correct?

MR. ZEWDIE: Yes.
MR. SCHLOM: All right. Mr. Chairman, I have nothing further. DJ, thank you very much.

MR. ZEWDIE: You're welcome.
CHAIRPERSON ANDERSON: All right, thank you. Mr. Stoecklein, do you have any questions for this witness?

Mr. Schlom, can you please close your screen. Please.

MR. SCHLOM: Yes.
MR. ZEWDIE: Yes.
MR. STOECKLEIN: Yes, Mr. Chairman, I have just a few questions.

CHAIRPERSON ANDERSON: Go ahead, sir. Close your screen.

MR. STOECKLEIN: Okay.
CHAIRPERSON ANDERSON: Yes, go ahead.
MR. STOECKLEIN: Okay, thank you.
Regarding the sound engineer's report, which was labeled Applicant's Exhibit 3, did you conduct or contract with anyone to conduct sound abatement testing following the work that you say was performed?

MR. ZEWDIE: No. We did it based on the --

MR. STOECKLEIN: That's fine. Thank you, DJ. And is it correct then that no sound engineer has determined whether the speaker suspension modifications, as I believe you described them, made any material difference in sound abatement that was addressed in that report?

MR. ZEWDIE: It made a lot of difference. That I know because --

MR. STOECKLEIN: No, no, that wasn't my question, DJ.

MR. ZEWDIE: Well, I --
MR. STOECKLEIN: Mr. Chairman, could
you please instruct the Witness to answer the questions asked?

CHAIRPERSON ANDERSON: I'm --
MR. BIANCO: Mr. Chairman, I'm going to request that he allow the Witness to finish his answer.

CHAIRPERSON ANDERSON: Yes. I was about to say, if you want to withdraw the question, sir, withdraw the question. But you have asked him a question and he is the answering the way he interprets it.

MR. STOECKLEIN: Mr. Chairman, my question required a yes or no answer and he is providing additional testimony as he sees fit. Which is not within the scope of my question.

CHAIRPERSON ANDERSON: Well, can you rephrase the question so he can only answer it, and then if Mr. Bianco on cross examine, on redirect, wants to redefine it.

So, can you please ask the question. Answer the question that, all right, I know that he --

MR. STOECKLEIN: I wasn't aware we were allowing redirect either, Mr. Chairman. Are we redirecting?

MR. BIANCO: Yes.
CHAIRPERSON ANDERSON: Well, I'm not sure how far afield we're going to go because it's 1:23 and we have two more cases to go. So there is going to be a point where if I allow you guys to redirect then we have to go whole, we have to go back through a whole bunch of .-

MR. STOECKLEIN: Oh, I agree. I thought that at the beginning we had established there would be no redirect, $I$ was just clarifying. Thank you, Mr. Chairman.

CHAIRPERSON ANDERSON: Trust me, that's what I'm saying. No, but I'm saying, but it's Mr. Bianco's witness of course, he is going to have an opportunity to, because remember, the Witness is on cross --

MR. STOECKLEIN: No, I understand. I understand.

CHAIRPERSON ANDERSON: Right. So Mr. Bianco will have one opportunity to go back to his Witness.

MR. STOECKLEIN: Sure. I think I can make this simple.

CHAIRPERSON ANDERSON: Yes.
MR. STOECKLEIN: Yes.

CHAIRPERSON ANDERSON: So, all right, hold on. All right. All right. Please ask him a question. And you need to put him in a box. You cannot give him wiggle room because, to answer the question the way that he wants to. So you have to ask him --

MR. STOECKLEIN: I understand, Mr.
Chairman. I will repeat the question, which I believe required a yes or no answer, and if you disagree then of course $I$ understand. It's within your discretion to allow further testimony.

CHAIRPERSON ANDERSON: All right, thanks. Go ahead.

MR. STOECKLEIN: DJ?
MR. ZEWDIE: Is it going to be yes or no? Yes.

MR. STOECKLEIN: DJ.
CHAIRPERSON ANDERSON: Sir, hold on. Sir, he's going to ask you a question, sir, and answer the question. Answer the question that's directed to you, sir. Okay? All right.

MR. ZEWDIE: Okay.
MR. STOECKLEIN: DJ, is it correct that no sound engineer has determined whether the
speaker modifications made any material difference in sound abatement?

Is it correct that you have had no sound engineers on the premises following the speaker modifications that you made?

MR. ZEWDIE: I mean, I have to explain, it's not like it's a yes or no.

MR. STOECKLEIN: I'm baffled.
CHAIRPERSON ANDERSON: Sir --
MR. BIANCO: Mr. Anderson?
CHAIRPERSON ANDERSON: Yes, Mr. Bianco.
(Simultaneously speaking.)
MR. STOECKLEIN: Mr. Zewdie did not have a sound study performed and that's all I'm trying to get was, did he do anything to follow up on the work that was done or not. I think that it's a simply question.

MR. BIANCO: He's asked that question and it's been answered. And he keeps asking it and the Witness is trying to answer it to the best of his understanding. I mean, I'm sorry --

CHAIRPERSON ANDERSON: All right. Objection --

MR. BIANCO: -- saying that the --

CHAIRPERSON ANDERSON: All right.
MR. BIANCO: -- Mr. Stoecklein wants him to.

CHAIRPERSON ANDERSON: All right. MR. BIANCO: That's not how this works.

CHAIRPERSON ANDERSON: I'm sorry, only one person can speak at a time. All right. Lets, all right.

Mr. Zewdie, please answer the, Mr. Zewdie, you can't ask him a question, okay. And you can't say to him --
(Simultaneously speaking.)
CHAIRPERSON ANDERSON: Sir? Sir? Sir, you can't say to him, this is not a yes or no answer. You can't say that to him, sir.

He asked you a question, and answer the question to the best of your ability, sir. So you can't ask him a question and you can't tell him that you can't answer it yes or no.

I mean, if you, either you say yes or no or you say that $I$ can't answer it or $I$ need further explanation. But answer the question, sir, that's addressed to you to the best of your ability.

MR. ZEWDIE: Okay.
MR. STOECKLEIN: Mr. Chairman, would you like me to repeat the question?

CHAIRPERSON ANDERSON: Yes. For clarity, please repeat the question.

MR. STOECKLEIN: Okay.
CHAIRPERSON ANDERSON: And, Mr. Zewdie, listen to the question, answer the question to the best of your ability, sir. All right?

MR. STOECKLEIN: Mr. Zewdie, did you have a sound engineer come to the premises following your speaker modifications and --

MR. ZEWDIE: Yes.
MR. STOECKLEIN: -- and conduct any further testing?

MR. ZEWDIE: Yes.
MR. STOECKLEIN: And can you tell me when that sound engineer came and performed further testing?

MR. ZEWDIE: Right after the inspection was over.
(Simultaneously speaking.)
MR. STOECKLEIN: Do you have the results of those sound tests?

MR. ZEWDIE: No, there is no written document.

MR. STOECKLEIN: Ah, interesting. Who performed those sound tests, Mr. Zewdie?

MR. ZEWDIE: The same company that Mr. Paul suggested.

MR. STOECKLEIN: Hm. Would you be willing to provide us with any kind of confirmation, written or otherwise, that this was in fact performed?

MR. ZEWDIE: I don't have any written. He came in and he just, he just came into the building once everything was done and that was, I think it was 2017.

MR. STOECKLEIN: So you have no evidence, you have nothing that you can provide to us or the Board that would verify what you're claiming here?

MR. ZEWDIE: Yes. I have no evidence because $I$ don't know this question was going to come up and I did not have any login information about this.

MR. STOECKLEIN: Okay. Let's assume for the sake of argument that that's all accurate. Did the sound engineer perform a test
of any kind when they returned to the property, as you suggest they did?

MR. ZEWDIE: They did not have any test. He make sure whatever he ask is in place.

MR. STOECKLEIN: Okay. That's fine. Thank you, DJ. Sir, a few more questions for you.

Are you aware that hookah is prohibited in the District of Columbia without an exemption?

MR. ZEWDIE: Yes.
MR. STOECKLEIN: Do you have an exemption?

MR. ZEWDIE: No.
MR. STOECKLEIN: So you know it is prohibited and you don't have an exemption but you continue to serve hookah, is that correct?

MR. ZEWDIE: Yes. Everybody is doing this.

MR. STOECKLEIN: Okay, thank you. No further questions.

CHAIRPERSON ANDERSON: Thank you. Any questions by the Board Members?

MEMBER SHORT: Yes, Mr. Chair.
CHAIRPERSON ANDERSON: Yes, Mr. Short.

MEMBER SHORT: Good afternoon, Mr. Zewdie.

MR. ZEWDIE: Good afternoon, sir.
MEMBER SHORT: Mr. Zewdie, how many years have you been in business?

MR. ZEWDIE: Over 20 years.
MEMBER SHORT: Over 20 years. Do you believe in the laws of the District of Columbia?

MR. ZEWDIE: Yes, I do.
MEMBER SHORT: Okay. You are no, thank you very much.

Mr. Zewdie, the Mayor, after the pandemic, the worldwide pandemic hit the District of Columbia put out orders for public safety, the pandemic involves mainly your lungs. Smoking involves your lungs.

You knew this and yet you still serve hookah after the Mayor's order, yes or no?

MR. ZEWDIE: Yes.
MEMBER SHORT: Do you think that that violation makes you a good business man or a bad business man?

MR. ZEWDIE: Not a good business man, but $I$ needed to survive. That's all it is.

MEMBER SHORT: What about the citizens
who come in and spend money in your location, does their health mean anything to you?

MR. ZEWDIE: Yes, it does.
MEMBER SHORT: And you still sold them hookah knowing that hookah can harm them?

MR. ZEWDIE: They not smoking the hookah, they have their own new fresh hose for each one of them.

MEMBER SHORT: I understand that. We understand that each cigarette burns and gives off what it gives off, we won't go there.

I will ask you this. Like a person driving a car, like you're sitting in right now, in your leisure clothing knowing that the hearing is today, were to come and hit you right now and ruin your car, should they pay a consequence for breaking the law and running into you?

MR. ZEWDIE: If it's not my mistake, yes.

MEMBER SHORT: So, if one of your customers were to come in and get harmed in your place, would you be responsible for that customer?

MR. ZEWDIE: Yes, I am.
MEMBER SHORT: Would you be
responsible to the District of Columbia for causing harm to one of its citizens or one of the business persons who comes and helps the City functions?

Do you hold any responsibility for the breaking of the law?

MR. ZEWDIE: I think I do.
MEMBER SHORT: You paid a fine and you were closed for several days during the pandemic for breaking the Mayor's order. Were you guilty of that?

MR. ZEWDIE: Yes, I was.
MR. BIANCO: Mr. Anderson, I'm going to object at this point. I don't think we're covering any relevant admissible evidence.

The information is in the record, the record speaks for itself. And Mr. Zewdie's opinion about the impact of any legal infractions is not relevant to the issue.

CHAIRPERSON ANDERSON: I'm going to overrule the objection, Mr. Bianco. Go ahead, Mr. Short.

MEMBER SHORT: Mr. Zewdie?
MR. ZEWDIE: Yes.
MEMBER SHORT: The citizens of the

District of Columbia elected Mayor Muriel Bowser. The citizens of the District of Columbia also appointed each one of us Board Members on the ABC Board and is responsible in ABRA, which comes under the Mayor's authority.

Just like the Mayor's order for you to stop doing business during the COVID as you have been doing business. Are you, do you have any responsibility at all as a business owner to comply with Mayor's orders of the District of Columbia?

MR. BIANCO: I'm going to object again, Mr. Anderson, this has been asked three times now. Can we get to the end of this?

CHAIRPERSON ANDERSON: Once again, Mr. Bianco, I'm going to overrule the objection. Mr. Short.

MEMBER SHORT: Still waiting for an answer, Mr. Chair.

CHAIRPERSON ANDERSON: What was the, repeat the question, Mr. Short.

MEMBER SHORT: The question was, since the citizens of the District of Columbia elected Muriel Bowser, our Mayor, appointed this Board to uphold the arbor laws, and the arbor laws have
found that Mr. Zewdie is guilty, and he's admitted his guilt, what responsibilities does he have to this city for his violations?

Mr. Zewdie, what responsibility do you take for breaking the rules and the laws of this city?

MR. ZEWDIE: I have no wording.
MEMBER SHORT: I didn't hear your answer.

MR. ZEWDIE: I have no wording to say.
MEMBER SHORT: Do you have any responsibility?

MR. ZEWDIE: Yes, I do have a responsibility.

MEMBER SHORT: That's all I have, Mr. Chair. Thank you very much.

CHAIRPERSON ANDERSON: Thank you, Mr. Short. Any other questions by any of the Board Members?

All right, Mr. Schlom, do you have any questions to ask the Witness based on the question that was asked by the Board?

MR. SCHLOM: No I do not, Mr. Chairman.

CHAIRPERSON ANDERSON: All right,
thank you. Mr. Stoecklein, do you have any questions to ask of the Witness based on the questions that was asked by the Board?

MR. STOECKLEIN: No, Mr. Chairman.
CHAIRPERSON ANDERSON: Thank you. Mr.
Bianco, you have an opportunity to redirect off your Client.

MR. BIANCO: We're way out at left field, Mr. Anderson. I'm going to decline and spare us all.

CHAIRPERSON ANDERSON: All right. Mr. Zewdie, thank you for your testimony. Thank you, sir.

Mr. Bianco, do you have another witness?

MR. BIANCO: Yes, I do. Alex Padro.
CHAIRPERSON ANDERSON: Mr. Padro, do you have a camera, sir?

MR. PADRO: Yes. Let me activate it. It's apparently being used by another application. One second.

CHAIRPERSON ANDERSON: Mr. Bianco, I believe you have about, is this your last witness, sir?

MR. BIANCO: I did have one more
witness. Depending on how much time I have left I can, I may use him or not. But I definitely want to go forward with Mr. Padro and see --

CHAIRPERSON ANDERSON: All right.
MR. BIANCO: Actually, if you can warn me when I have five minutes left, I want to reserve that for my last witness.

CHAIRPERSON ANDERSON: All right. You have, I will say you have 25 minutes. You have 25 minutes left in your case, sir, okay?

MR. BIANCO: Very well. I will go as quickly as I possibly can.

CHAIRPERSON ANDERSON: All right. Can you raise your right hand please?

Do you swear or affirm to tell the truth and nothing but the truth?

MR. PADRO: I do swear.
CHAIRPERSON ANDERSON: All right.
MR. BIANCO: Okay.
CHAIRPERSON ANDERSON: Mr. Bianco, go ahead.

MR. BIANCO: Mr. Padro, what do you do for a living?

MR. PADRO: I am the executive director of Shaw Main Streets, the congressional
revitalization organization that serves the 7th and 9th Street commercial corridors in Central Shaw. Which includes the subject location.

MR. BIANCO: And how long have you been doing that?

MR. PADRO: I've been the executive director since December of 2004.

MR. BIANCO: Okay. And you previously been an ANC Commissioner, correct?

MR. PADRO: Yes. I was an ANC Commissioner in ANC 2C and ANC 6C from January of 2001 through January of this year.

I'm sorry, I'm not hearing anything. I don't know if being --

CHAIRPERSON ANDERSON: I believe that Mr. Bianco is offline. So we're off the record. We're off the record. I think Mr. Bianco is having some technical difficulties.
(Whereupon, the above-entitled matter went off the record at 1:37 p.m. and resumed at 1:45 p.m.)

## CHAIRPERSON ANDERSON: All right, go

 ahead, Mr. Bianco. We can't see you but I guess your video will come back up. But you can go ahead.MR. BIANCO: Okay. Mr. Padro, are you familiar with MK Lounge at 1930 9th Street Northwest?

MR. PADRO: Yes, I am.
MR. BIANCO: Okay. And how are you familiar with them?

MR. PADRO: In my role as executive director $I$ frequently visit all of the establishments in our service area. And I maintain email contact and phone contact with most of the businesses in the area when they have issues that are related to District government compliance.

I'm often asked to provide advice or guidance as to how to resolve them. Form of technical assistance.

MR. BIANCO: Okay. And what are your general impressions of the establishment?

MR. PADRO: In the time that $I$ have been visiting the establishment $I$ have found it to be well managed and well maintained. Basically rebuilt, redecorated in the last six years.

And from my observations from the exterior, driving by, walking by during the
evenings, it does seem to be a popular location from time-to-time.

I have seen customers waiting to be admitted after their having IDs checked by bouncers at the door. And I have not received community complaints about the establishment.

MR. BIANCO: Okay. And have you had the opportunity to observe the establishment in operation?

MR. PADRO: Yes, I have but not since the imposition of the Mayor's health.

MR. BIANCO: Okay. And in terms of the operation, how does it compare to the other establishments in proximity?

MR. PADRO: It's very comparable in terms of the offerings, services and products. And I would say better managed than some of the established that had similar involvement.

MR. BIANCO: Okay. Did you ever have, did you ever receive any complaints about this establishment in your capacity with Shaw Main Streets?

MR. PADRO: No, I have not.
MR. BIANCO: How about when you were with the ANC, any complaints there?

MR. PADRO: No. I was the Commissioner in the immediate adjacent ANC across the, no, I did not.

MR. BIANCO: Okay. Now, do you receive complaints in general about licensees in your capacity with Shaw Main Streets?

MR. PADRO: On a daily and nightly basis I get phone calls at all hours of day and nights on my personal cell phone, which I make available to the community. So it's not unusual.

And in some cases, if it was within my ANC jurisdiction, $I$ would actually go out to the premises to investigate.

MR. BIANCO: Okay. Do you know the Protestant, Evan Schlom?

MR. PADRO: I have communicated with him via telephone and via email, but $I$ have not had the pleasure.

MR. BIANCO: Okay. And was that communication with respect to a specific issue?

MR. PADRO: Yes. It was related to the parklet application which Shaw Main Street's filed on behalf of this establishment. And we were the permit holder on.

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 necessary emergency no parking signs and installed them to allow the space to be reserved for that use.

MR. BIANCO: Okay. And you may have been here when Mr. Zewdie was testifying about whether or not he sought permission from Mr. Schlom and the other residents at ArtView. Were you involved in that process at all?

MR. PADRO: So yes. We were the responsible parties. We determined that there was not a tenant currently operating a business in the retail business at 1932 9th Street Northwest.

We were very familiar and in regular contact with the operators at Sugar Shake, Dunkin Donuts, the previous tenant. And we're sorry to see them leave in March of 2020.

MR. BIANCO: Okay. And Mr. Schlom indicated that nobody reached out to the residential residents of that particular building. Is that the case, and if so, why?

MR. PADRO: Yes. At the time the Department of Transportation did not require any permission or any consultation with residential
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, or by him, the permit was revoked just after the middle of the month of October 2020.

MR. BIANCO: Okay. Thank you very much, Padro, I don't have any further questions.

CHAIRPERSON ANDERSON: All right. Mr. Stoecklein, do you have, are you -- all right. Do you have, this is a, I know this is a little out of, do you have a preliminary matter you want to raise, sir?

MR. STOECKLEIN: Yes. I have a, I appreciate your question, Mr. Chairman. I was in touch with the Assistant General Counsel, April Reynold, just now because I have a substantial moveable conflict from 2:30 to 3 o'clock that I'm obliged to participant in.

Obviously we've been at this for quite awhile now but on behalf of WNA we do have a witness that we need to present and a closing statement we need to make. So I'm not sure how to handle that procedurally.

CHAIRPERSON ANDERSON: So you're saying that you're unavailable between 2:30 and 3 o'clock?

MR. STOECKLEIN: That is correct.

CHAIRPERSON ANDERSON: And is that 2:30, you will you be available at 3 o'clock, sir?

MR. STOECKLEIN: I will.
CHAIRPERSON ANDERSON: All right. All right, so what would you -- all right. So, Mr. Schlom, you don't have a witness, is that correct?

You're the only person testifying, is that correct?

MR. SCHLOM: That is correct, Mr. Chairman.

CHAIRPERSON ANDERSON: And you have one witness, sir, is that correct?

MR. STOECKLEIN: Correct.
CHAIRPERSON ANDERSON: Mr. Bianco, do you have any other witnesses?

MR. BIANCO: Yes. I have one. We're going to call Zak Belachew, who is the manager of the establishment. It should be a very short witness. Depending on cross.

CHAIRPERSON ANDERSON: Would the parties be agreeable if we were to take the break, and the Board would probably go into executive session?

Do you have to get offline at 2:30? Or how much time do you need?

MR. STOECKLEIN: I need 30 minutes, Mr. Chairman.

CHAIRPERSON ANDERSON: Well, no, that's not the question of mine. I'm trying to figure out how to, when to have the break. So, $2: 25$, or too far exceeding, five minutes to get on for 2:30, that's what I meant.

MR. STOECKLEIN: I appreciate that, Mr. Chairman. No, if I could be, if I could leave for 30 minutes, 2:30 to 3 o'clock, 1 can commit to being back on at 3:00.

CHAIRPERSON ANDERSON: I meant you can leave, I'm just trying to figure out whether or we have to have a break or just continue on until you come back.

MR. STOECKLEIN: Well obviously being unable to hear testimony that's provided it would be somewhat prejudice to WNA's ability to fully avail ourselves of our right to participate in the hearing, but $I$ also understand that this is a scheduling conflict that $I$ have so at the same time we just didn't plan for multiple hours of --

CHAIRPERSON ANDERSON: All right.

We'll take, okay, we'll take a break at 2:25. I'm hoping that we'll be a, I will take a break as close to 2:30 as possible, but the break is not going to be in the middle of testimony. So hopefully around 2:25, close to 2:30, we're at a break where it's appropriate to take a break. And we can take a break for 30 minutes, sir. Okay?

MR. STOECKLEIN: I appreciate that very much. And I appreciate --

CHAIRPERSON ANDERSON: All right. So that's what I'll do. So what we'll do is that, so people need to look, I'm not asking either side to cut down on their cross examination, but I'm hoping that we'll be, I'm hoping that, I don't know how long, we'll discuss this again once mister, I'm sorry, would all parties agree to us taking a half an hour break to allow Mr. Stoecklein to take care of some matters between 2:30 and 3 o'clock?

MR. BIANCO: No objection for the
Applicant. That's fine with us.
CHAIRPERSON ANDERSON: Mr. Schlom?
MR. SCHLOM: No objection from me, Mr.
Chairman.

CHAIRPERSON ANDERSON: Thank you. Thank you very much. So what we will do is that I will keep track of the time and that we'll try to, $I$ will, ''m not going to take a break in the middle of cross examination of a witness, okay, so we need to finish with the witness.

So I will try to work as quickly as possible with pressing any of the parties to take a break as close to 2:30 as possible.

All right. So, Mr. Schlom, you can question, it's your opportunity to question Mr. Padro.

MR. SCHLOM: Thank you very much, Mr. Chairman. Good afternoon, Mr. Padro.

MR. PADRO: Good afternoon.
MR. SCHLOM: Mr. Padro, very quickly, before $I$ get into my more substantive questions, just so $I$ understand your position, vis-a-vis MK Lounge, is MK Lounge a member of Shaw Main Street?

MR. PADRO: Shaw Main Streets is a not a membership organization. We are a nonprofit that works under a grant agreement with the District of Columbia governments.

Specifically, departments of small
local business development, to provide services to business and the community regarding commercial revitalization.

MR. SCHLOM: Got it. So business do not pay dues to Shaw Main Street, is that correct?

MR. PADRO: That's correct.
MR. SCHLOM: Okay, got it. I was a little confused on that so I appreciate you clearing that up.

You mentioned under, in response to questions from Mr. Bianco, that you filed the DDOT application for MK Lounge's parklet, is that correct?

MR. PADRO: That is correct. I did it personally.

MR. SCHLOM: Got it. Now, as you noted, there is commercial space on the ground floor of 1932 9th Street Northwest, is that right?

MR. PADRO: Correct.
MR. SCHLOM: But you're aware that the commercial space does not take up the entire ground floor of 1932 9th Street Northwest?

MR. PADRO: I am aware of that.

MR. SCHLOM: Okay. So you're aware that on the ground floor there is a residential entrance?

MR. PADRO: Yes.
MR. SCHLOM: Are you aware that the residential mailboxes are on the ground floor?

MR. PADRO: I am not personally aware of that.

MR. SCHLOM: Okay. Are you aware that the residential elevator is on the ground floor? MR. PADRO: I am not personally aware of that.

MR. SCHLOM: All right. And before filing this application you did not investigate the extent of the residential property on the ground floor of 1932 9th Street Northwest, did you?

MR. PADRO: No because there was no requirement to do so at the time by the District Department of Transportation.

MR. SCHLOM: Okay. All right. We're going to get to that in a second.

So, I want to talk about this commercial space on the ground floor. You said under questioning from Mr. Bianco that you
"determined" that there was not a tenant in that space. Is that your testimony?

MR. PADRO: Yes. I personally went to the location and saw that it was unoccupied. There were no fixtures, there was no merchandise and the doors were locked during what would be normal hours of operation.

MR. SCHLOM: Okay. Now, do you recall the date that you went there to look at that?

MR. PADRO: It would have been in June of 2020. So I would say probably in the first half of the month of June.

MR. SCHLOM: So was still while there was a ban on indoor dining in Washington, D.C. or was that after Phase 1 had begun?

MR. PADRO: My recollection is that it was already during Phase 1.

MR. SCHLOM: Okay. But early --
MR. PADRO: That transition happened either at the end of May or the very beginning of June of last year.

MR. SCHLOM: Okay. So if it was during Phase 1 it was certainly early in Phase 1, you would agree with that?

MR. PADRO: Yes.

MR. SCHLOM: Okay. And you said you looked through the windows and that's how you determined that it was a vacant property, do I have that right?

MR. PADRO: Correct.
MR. SCHLOM: Okay. Did you contact the owner of the commercial space to ask whether it was vacant?

MR. PADRO: No, I did not.
MR. SCHLOM: Did you contact the owner of the business to ask if it was vacant?

MR. PADRO: Yes. I had spoken with Mr. Krupicka who was the owner of Sugar Shack Donuts back in March.

I then sent an email to him at the beginning of the process where we were working on the MK Lounge parklet application to ask whether or not there had been any further leasing activity that he was aware of or whether there was a contact that he thought $I$ should reach out to for leasing of the property, and I did not receive a response.

MR. SCHLOM: I see. But you did not talk to the property owner as to whether or not Sugar Shack's lease was still active at that
time?
MR. PADRO: No.
MR. SCHLOM: Okay. And as you noted, in the lead up to filing the application, you didn't reach out to any of the residents in the building, is that correct?

MR. PADRO: That is correct. Because there was not a requirement.

MR. SCHLOM: Okay. And you also didn't reach out to the Condominium Association about the parklet application?

MR. PADRO: Same reason.
MR. SCHLOM: Okay. But you could have reached out to either residents or the association to ask for their support in the parklet, could you not?

MR. PADRO: It was not required by DDOT to do so.

MR. SCHLOM: But that's not my question. My question is, you could have asked for our support but you choose not to?

MR. PADRO: There was no requirement so we did not.

MR. SCHLOM: Okay. I'll take that as a no, you did not.

Now, when did you learn that the park -- strike that, I apologize.

You learned, you said that the parklet permit had been revoked some time around the middle of October, is that right?

MR. PADRO: That's correct.
MR. SCHLOM: Okay. And upon learning that the permit had been revoked, did you tell MK Lounge that they needed to take down their parklet?

MR. PADRO: Yes, I did.
MR. SCHLOM: Okay. And do you know whether they complied with that?

MR. PADRO: I saw that furniture had been removed but $I$ did not see the bike racks.

MR. SCHLOM: Okay. And are you aware that the bike racks are still in place today?

MR. PADRO: The last time that I drove by, this month, I did see them outside.

MR. SCHLOM: Okay. And just a final question or two. Have you ever been inside of 1932 9th Street Northwest?

MR. PADRO: I was inside Sugar Shack Donuts and Nocturne but not the residential portion. I have never been in it.

MR. SCHLOM: Okay. Thank you very much, Mr. Padro. That's all I have, Mr. Chairman, in the interest of time. Thank you. CHAIRPERSON ANDERSON: Thank you. Mr. Stoecklein, do you have any questions for this Witness?

MR. STOECKLEIN: I do, Mr. Chairman.
CHAIRPERSON ANDERSON: Go ahead please.

MR. STOECKLEIN: Good afternoon, Mr. Padro.

MR. PADRO: Good afternoon.
MR. STOECKLEIN: I have just a few short questions for you. I believe that you testified that you have not, you are not aware of any complaints from the ANC or others whose interests are represented here today about MK Lounge, is that correct?

MR. PADRO: What I stated was that none had been communicated to Shaw Main Streets.

MR. STOECKLEIN: Okay. Have you and I ever spoken about issues on the 9th Street Corridor?

MR. PADRO: Absolutely.
MR. STOECKLEIN: Okay. And based on
your recollection, can you tell me who else was a part of those phone calls?

MR. PADRO: I don't recall who else was on a call between the two of us. I know that we had at least two conversations.

But if anyone else was I would say that perhaps Lynn Johnson, who is the president of WNA, might have been the other party. But I honestly don't know.

MR. STOECKLEIN: Sure. Do you recall, I'll try to refresh your recollection, might you recall a conversation convened between yourself, Westminster Neighborhood Association, Councilmember Nadeau, and representatives of Councilmember Nadeau, Mayor, night Mayor Shaw Townsend, representatives of night Mayor Shaw Townsend, and multiple other parties?

MR. PADRO: That does sound familiar, yes. Thank you.

MR. StOecklein: Yes. And on that call, do you remember multiple issues being raised about concerns that have been addressed here today pertaining to Mk Lounge and the immediately surrounding bars?

MR. PADRO: I don't recall that about

MK Lounge in particular, but about the general conditions related to businesses on the block, traffic concerns, trash concerns. Crime.

MR. STOECKLEIN: Sorry, so, just so I'm clear, you recall traffic concerns and trash concerns but you recall no other concerns being raised during the time of that call?

MR. PADRO: I believe that those were the two main issues, crime and traffic. But I don't recall other operational issues related to businesses.

It has been some time. I would have to refer back to any notes that I might have in the meeting.

MR. STOECKLEIN: Do you recall any aspect of that conversation in which a reimbursable detail of MPD was discussed?

MR. PADRO: Yes, that's what I'm talking about was a crime.

MR. STOECKLEIN: Okay. And have you taken any steps since that conversation, in your capacity as the executive director of Shaw Main Streets, to try to resolve the concerns raised during that call through the establishment of a bid or anything else of that sort?

MR. PADRO: Yes. I've actually been working with Director Townsend and a potential contractor that would provide management of the reimbursable detail. We have received a proposal, but we suspended those investigations and those actions upon the initiation of the Mayor's health emergency because of the change in conditions.

MR. STOECKLEIN: Okay. Was MK Lounge involved in any of your work with the Night Mayor's office on establishment of this bid or the MPD detail?

MR. PADRO: They were one of the businesses that we contacted. We did outreach to most of the businesses in the area, either by phone or in person, by email in January and February of 2020. So, yes. And they have indicated that they would be supportive.

MR. STOECKLEIN: I'm sorry, that they would be supportive of what, could you please clarify?

MR. PADRO: The reimbursable detail would have resulted in a cost to be incurred by the businesses. And MK Lounge's owner, who testified previously, was one of the business
owners that indicated that they would be supportive financially of the initial.

MR. STOECKLEIN: Okay. So, again, just so that $I$ am very clear, am I understanding your testimony to be that the, DJ, the owner of MK Lounge, has indicated to you a willingness to be financially responsible for an MPD reimbursable detail?

MR. PADRO: Yes. Along with the other businesses in the area. Not solely responsible.

MR. STOECKLEIN: Fine. Thank you very much, Mr. Padro. I have no further questions, Mr. Chair.

CHAIRPERSON ANDERSON: Okay, thank you. Any questions by any Board Members? No questions by any Board Members.

Mr. Bianco, do you have any redirect of your Witness?

MR. BIANCO: No, $I$ don't.
CHAIRPERSON ANDERSON: All right, thank you. We still have time. Do you wish to call your final witness, sir?

MR. BIANCO: Yes, I do. We call
Zekarias Belachew.
CHAIRPERSON ANDERSON: Mr. Belachew,
if you have a camera can you, if you have a camera, or if you don't have a camera, please let me know.

MR. BELACHEW: I do have a camera.
CHAIRPERSON ANDERSON: Can you raise your right hand, sir?

Do you swear or affirm to tell the truth and nothing but the truth?

MR. BELACHEW: Yes, I do.
CHAIRPERSON ANDERSON: Your Witness, Mr. Bianco.

MR. BIANCO: Thank you very much. Simone, are you able to allow me to share the screen so that $I$ can bring up my exhibits?

MS. ANDREWS: Sure. Standby.
MR. BIANCO: Thank you very much.
MS. ANDREWS: Okay, Mr. Bianco, you can now share your screen.

MR. BIANCO: Thank you very much. Okay, could you please state your name and spell your last name for the record?

MR. BELACHEW: Zekarias Belachew, Z-E-K-A-R-I-A-S, last name, B-E-L-A-C-H-E-W.

MR. BIANCO: Okay, Mr. Belachew, where do you work?

MR. BELACHEW: MK Lounge.
MR. BIANCO: Okay. And how long have you worked at MK Lounge?

MR. BELACHEW: I want to say four and a half years.

MR. BIANCO: Okay. And what are your duties there?

MR. BELACHEW: Manager.
MR. BIANCO: Okay. And as the manager, what does your day-to-day look like? What do you do every day?

MR. BELACHEW: Just make sure like everything is running smoothly according to the law.

MR. BIANCO: Okay.
(Simultaneously speaking.)
MR. BIANCO: Do you have any job duties with respect to the music in the establishment?

MR. BELACHEW: I control the music.
MR. BIANCO: Okay, good. And what type of music, let's talk about the pre-COVID period. What type of music do you have in the establishment?

MR. BELACHEW: Do you mean like the
genre or --
MR. BIANCO: Well, let me ask you a more specific question. Do you have, do you play recorded music or do you have a DJ come in and play music? Pre-COVID.

MR. BELACHEW: We do have DJs that came late night, but we have recorded music for happy hour.

MR. BIANCO: Okay.
MR. BELACHEW: Sometimes we have DJs too.

MR. BIANCO: And when you say you're in charge of controlling the music, are you talking about when DJs are there or when the recorded house music is being played?

MR. BELACHEW: Both times. So I control the level of the music after the DJ start playing, then I control the music for the DJs.

MR. BIANCO: Okay. And I'm going to show you what is Exhibit Number 8 to Investigator Zollarcoffer's report. Which is a photograph. Do you recognize that?

MR. BELACHEW: Yes.
MR. BIANCO: And what is that?
MR. BELACHEW: That's the music
controller board.
MR. BIANCO: Okay. And where is that located?

MR. BELACHEW: On the first floor.
MR. BIANCO: Okay. Where on the first floor?

MR. BELACHEW: Inside the bar.
MR. BIANCO: Okay. And do you have access to that at all times?

MR. BELACHEW: Yes.
MR. BIANCO: And are you able to turn down the music even when the DJ is playing?

MR. BELACHEW: Yes, sir.
MR. BIANCO: Okay. And how do you, or do you, monitor the music level throughout the course of the night?

MR. BELACHEW: Yes. We do have like a sound measuring equipment that measures the decibels.

MR. BIANCO: Okay. And how often do you use that sound measuring equipment?

MR. BELACHEW: I would say at least like twice a day.

MR. BIANCO: Okay. And who uses that sound measuring equipment?

MR. BELACHEW: I do.
MR. BIANCO: Okay. And what --
CHAIRPERSON ANDERSON: Hold on, Mr.
Bianco. I'm sorry. Mr. Belachew?
MR. BELACHEW: Yes.
CHAIRPERSON ANDERSON: Can you please use your outside voice when you testify, sir?

I need you to raise your voice when you answer the questions, okay?

MR. BELACHEW: Okay.
CHAIRPERSON ANDERSON: Go ahead, Mr. Bianco. All right.

MR. BELACHEW: Okay.
MR. BIANCO: And what level do you keep the music at when you check with your sound measuring equipment?

MR. BELACHEW: Like the maximum, I would say, 80 decibels.

MR. BIANCO: Okay.
MR. BELACHEW: For the music.
MR. BIANCO: If it's exceeding, and this is pre-COVID we're talking about, correct? MR. BELACHEW: Yes.

MR. BIANCO: Okay.
MR. BELACHEW: Yes.

MR. BIANCO: And if it exceeds 80 decibels what do you do?

MR. BELACHEW: I have to turn it from this controller right here. The max level.

MR. BIANCO: And do you have any policies in place with respect to controlling volume levels when DJs are on the premises?

MR. BELACHEW: We only control the music from here because it depends like, every DJ and every song has like a different bass and sound. So we only control the music from here.

Like it doesn't get higher, if one beat is playing, we have to turn it down from here.

MR. BIANCO: Okay. And were you present at the establishment on February the 17th, 2021 when Investigator Zollarcoffer did his walkthrough?

MR. BELACHEW: Yes, I was there.
MR. BIANCO: And did you participate in a test of the sound equipment on that day?

MR. BELACHEW: Yes. I was the one who was controlling the sounds.

MR. BIANCO: I'm sorry, did you say you were the one that was controlling the sounds?

MR. BELACHEW: Yes.
MR. BIANCO: Okay. And what, for that test, what level did you put the sound at?

MR. BELACHEW: So, you see the one that says, master level?

MR. BIANCO: Yes.
MR. BELACHEW: The third notch on the right, that's the highest volume we go, like before COVID, like the middle level.

MR. BIANCO: So the notch where the Investigator placed the label that says max volume level, that's where you turned it up to?

MR. BELACHEW: No, no. Right where it is now. The middle one.

MR. BIANCO: Oh, in the middle.
MR. BELACHEW: Yes.
MR. BIANCO: Okay.
MR. BELACHEW: That's the highest we go. If you go more than that, the speakers is going to burst.

MR. BIANCO: Okay. So where it's set right now is where you had it set for the sound test?

MR. BELACHEW: Yes.
MR. BIANCO: Okay. And is that sound
level a sound level you used pre-COVID or is that the --

MR. BELACHEW: Yes.
MR. BIANCO: -- sound level that you
use now when music can't be above a conversational level?

MR. BELACHEW: No, that's pre-COVID. No.

MR. BIANCO: Okay. And now that there are additional restrictions on music, what level do you set this dial at for your operations?

MR. BELACHEW: The first dot.
Actually, the second one.
MR. BIANCO: Okay.
MR. BELACHEW: So the first one is zero, so the second one. The second dot.

MR. BIANCO: Okay. So on the left-hand side of the dial?

MR. BELACHEW: Yes.
MR. BIANCO: Okay. And (technical difficulties) Mr. Schlom?

MR. BELACHEW: I'm sorry, I didn't hear you?

MR. BIANCO: Do you participate in a group text chat with Mr. Schlom?

MR. BELACHEW: Yes. We do have a WhatsApp group.

MR. BIANCO: A WhatsApp --
(Simultaneously speaking.)
MR. BIANCO: Okay.
MR. BELACHEW: Yes.
MR. BIANCO: And what is that text chat group for?

MR. BELACHEW: So basically, we used to use it for any days or like if the sound is over the specific amount, it used to like, it used to be like active, till last year February.

MR. BIANCO: Okay.
MR. BELACHEW: Like they used to text us like when the volume was high, the bass was high. So we can turn it down.

MR. BIANCO: Okay. And when such a text came, would it come directly to you or did you have to hear about it from someone else?

MR. BELACHEW: No, it comes from my phone.

MR. BIANCO: It comes to your phone, okay.

MR. BELACHEW: Yes.
MR. BIANCO: And when you receive such
a text, what do you do?
MR. BELACHEW: We take action according to the text. Whether it's the bass or the sound.

MR. BIANCO: Okay. And when is the last time that you received a text complaining about the volume level?

MR. BELACHEW: The volume level was last year, February 27th. That was the last day because we had a complaint about the noise.

MR. BIANCO: Okay. When is the last --
(Simultaneously speaking.)
MR. BIANCO: So, through this text chat, did you ever receive any complaints that were unrelated to noise?

MR. BELACHEW: Yes. Like not the music, like we used to get complaints about the music, but one day, I'd say on May 30 th, we had a complaint about the exhaust fan. Like the exhaust fan was on the roof from the kitchen.

MR. BIANCO: Okay.
MR. BELACHEW: We had a complaint that it was too loud.

MR. BIANCO: And what did you --

MR. BELACHEW: And there was nothing we could do about it because it's a switch. Like it's on and off.

MR. BIANCO: Okay. And what did you do with respect to that particular complaint?

MR. BELACHEW: I mean, we had to take a video and send it back to group chat because that's the exhaust fan. Like either, like we stay inside like with the smoke that's coming through the kitchen inside or you have to exhaust the air.

MR. BIANCO: Okay. And when is the last time you received a complaint on the group chat?

MR. BELACHEW: The last day would be August 29th.

MR. BIANCO: Okay. Of 2020?
MR. BELACHEW: Yes.
MR. BIANCO: Okay. And what was that about?

MR. BELACHEW: That complaint was about, actually about a group of people that was like standing outside the door on 1932.

MR. BIANCO: And how did MK deal with that issue?

MR. BELACHEW: That was not our problem because those people didn't come to MK or didn't leave from MK. It was just a group of people hanging out on their side.

So that was a public space. We can't tell people to move. That was like at 6:00 p.m. Earlier.

MR. BIANCO: Okay. And did you ever receive a complaint through the text chat about people standing in front of the condominium that were waiting in line to go to MK Lounge?

MR. BELACHEW: Yes. And then we had

MR. BIANCO: When was --
MR. BELACHEW: For that complaint we had to put like the barrier so it can like avoid people standing on their line. On their door.

MR. BIANCO: Okay. And was that your

MR. BELACHEW: And then we had a security.

MR. BIANCO: Okay. And was that your response to the complaint via text message?

MR. BELACHEW: Yes. And then we give them the, we gave them the phone number for the
security just in case of anything so they could call them. Like move people if they are on their door.

MR. BIANCO: Okay. And after that situation where you received the complaint via text chat about people standing in front of their door and you addressed it, did you ever receive any complaints after that?

MR. BELACHEW: No.
MR. BIANCO: And that was in August of 2020, correct?

MR. BELACHEW: August, yes, 2020.
MR. BIANCO: Okay. Great. Thank you very much, Belachew. Mr. Schlom and Mr. Stoecklein will likely have some questions for you at this point.

MR. BELACHEW: All right, thank you.
CHAIRPERSON ANDERSON: Mr. Bianco, please close your screen. All right, it's 2:22 and so since Mr. Stoecklein had a 2:30, so let's take a break. We'll go off the record until five minutes after 3:00.

So that should give Mr. Stoecklein, Mr. Stoecklein?

MR. STOECKLEIN: Yes, Mr. Chairman?

CHAIRPERSON ANDERSON: You said 3
o'clock? We're coming back at --
MR. STOECKLEIN: Yes, sir.
CHAIRPERSON ANDERSON: -- on the record at five after 3:00, sir.

MR. STOECKLEIN: Yes, sir. Thank you very much.

CHAIRPERSON ANDERSON: All right. So we'll be off the record until 3:05. And I'm going to direct the Board Members.

Mr. Belachew, please during this period of time, please do not discuss this case with your attorney. You are still under, you're still under cross examination. And please do not discuss this case with Mr. Bianco.

And as a Member of the Bar, I am hoping that Mr. Bianco will not contact you. But I'm telling you, not to discuss it with him or anyone else, until you are off the stand, okay?

So we'll be in recess until 3:05. And I'll ask the Board Members to return to executive session for further business. So we're in recess until 3:05.
(Whereupon, the above-entitled matter went off the record at 2:24 p.m. and resumed at

3:14 p.m.)
CHAIRPERSON ANDERSON: We're back on the record. All right. So we were -- Mr. Belachew, you're under -- you're still under oath and Mr. -- and I'm going to get it right one of these days, Mr. Schlom. I am going to get it right one of these days, okay? So Mr. -- it's something with the tongue, okay? I've seen your name --

MR. SCHLOM: You're saying it perfectly.

CHAIRPERSON ANDERSON: -- I've seen your name enough times that I should be know how to pronounce it, so I apologize but I'll get it --

MR. SCHLOM: It's all right.
CHAIRPERSON ANDERSON: I will get it. Don't take -- it's not personal but I will get it --

MR. SCHLOM: Of course.
CHAIRPERSON ANDERSON: -- right one of these days, okay?

MR. SCHLOM: All right. Not a problem, Mr. Chairman. I appreciate it.

CHAIRPERSON ANDERSON: All right.

Thank you. All right. It's your witness.
MR. SCHLOM: Thank you very much, Mr. Chairman. Good afternoon, Mr. Belachew.

MR. BELACHEW: Yes.
MR. SCHLOM: Quick question to start off. How many days a week do you work?

MR. BELACHEW: I work five days a week, but I usually be there --

MR. SCHLOM: Okay.
MR. BELACHEW: -- most every day.
MR. SCHLOM: Sorry, I didn't catch the end of that. There was interference.

MR. BELACHEW: I work five days a week but $I$ usually be there almost every day.

MR. SCHLOM: So on the days you're not working, you're there as a customer?

MR. BELACHEW: Well, yes, cause I'll just look around the same bars throughout the block.

MR. SCHLOM: Okay. So you talked about the sound measurements that you take. Now do $I$ have it right you said you take decibel measurements twice per night when you're working?

MR. BELACHEW: Yes. That was before COVID.

MR. SCHLOM: Before COVID. And is there a schedule on which you take those; do you always take them at the same time every night or is it just whenever you feel like taking them?

MR. BELACHEW: Whenever, cause like it gets busier sometimes so it doesn't have a rigid time so.

MR. SCHLOM: Okay. And you take these decibel measurements at specific times, so it's not a constant decibel measurement; is that right?

MR. BELACHEW: Yes.
MR. SCHLOM: Okay. And what decibel-reading equipment do you use to take these measurements?

MR. BELACHEW: We got it off Amazon. I can't recall the name right now.

MR. SCHLOM: Okay. So -- and then did -- have you been trained in how to use that?

MR. BELACHEW: I mean I read the manuals.

MR. SCHLOM: Okay. And how often is that machine calibrated?

MR. BELACHEW: Just like I said, like at least twice a day.

MR. SCHLOM: You recalibrate it each time you use it?

MR. BELACHEW: Oh, no -- no -- no.
MR. SCHLOM: How often is it
calibrated?
MR. BELACHEW: Probably once a week.
MR. SCHLOM: Calibrated once a week?
MR. BELACHEW: Yes.
MR. SCHLOM: Okay. And where do you take these decibel readings from?

MR. BELACHEW: So I'll be like right by the door outside. I start going --

MR. SCHLOM: Right by the door to 9th Street Northwest?

MR. BELACHEW: Yes.
MR. SCHLOM: The door to get outside?
MR. BELACHEW: Yes.
MR. SCHLOM: Okay. Are you inside the door, inside the establishment, or are you on the street?

MR. BELACHEW: On the -- not on the street but outside the door, right outside the door.

MR. SCHLOM: Okay. So you're not inside the establishment, you're standing
directly outside?
MR. BELACHEW: Yes. And then I start walking inside, and then I'll go all the way out to the back side. I just make sure it's not --

MR. SCHLOM: Okay.
Now -- and you said that you try to reach a maximum or keep a maximum of 80 to 90 decibels; did $I$ get that right?

MR. BELACHEW: Eighty.
MR. SCHLOM: Eighty. Now where -- you said you take readings at various places through the establishment. Where are you trying to read the maximum of 80 decibels?

MR. BELACHEW: Like right between the speakers. So we have like three upstairs. I'll just pick a point that's midpoint for the speakers. That should be the max cause it's coming -- I get like a loud volume right in the middle, cause $I$ can't stand in the middle of the street speakers.

MR. SCHLOM: Okay. Do you take -- is there maximum decibel reading for when you take readings outside of the establishment on the street?

MR. BELACHEW: No -- no. I just make
sure -- like anywhere I go throughout the house, like throughout the business area, then outside the building, $I$ just make sure it's not over 80.

MR. SCHLOM: Okay. So the maximum of 80, okay. Are you aware of whether D.C. has noise laws that limit the decibels that are in particular places?

MR. BELACHEW: Yes. But I think it was like 2017 when we start using the decibel measurement. I can't recall the name that one guy from ABRA came in and told us that was the range, 80, average. So that's why I put it down to 80.

MR. SCHLOM: Okay. So you're saying that ABRA told you you can have a maximum of 80 decibels?

MR. BELACHEW: Yes. That's the average.

MR. SCHLOM: Okay. You're not aware of any DCRA rule that limits it to 60 or 65 decibels?

MR. BELACHEW: No.
MR. SCHLOM: Okay. Now have you ever taken a decibel measurement inside a home?

MR. BELACHEW: No.

MR. SCHLOM: So you've never taken a decibel measurement inside of any of the condominiums next store to MK Lounge?

Okay. Was that a no?
MR. BELACHEW: Yes, that's a no.
MR. SCHLOM: Okay. Sorry, I just want to make sure the court reporter can take that down. I apologize. And then do you ever measure the base levels, or is it just decibels?

MR. BELACHEW: Decibels.
MR. SCHLOM: Okay. Those, I believe, are all of the questions $I$ have at this time. Thank you, Mr. Chairman, in the interest of time. CHAIRPERSON ANDERSON: All right. Thank you. Mr., Stoecklein, your witness.

MR. STOECKLEIN: I apologize, Mr. Chairman, that took a second. I have just a few more questions for this witness.

Actually, you know, Mr. Chairman, no further questions.

CHAIRPERSON ANDERSON: All right. Thank you. Excuse me, any questions by the Board members?

MEMBER SHORT: Mr. Chair, I just had a couple.

CHAIRPERSON ANDERSON: Yes, Mr. Short. MEMBER SHORT: Again, the witness's name is?

CHAIRPERSON ANDERSON: Mr. Belachew. MEMBER SHORT: Mr. Belachew.

CHAIRPERSON ANDERSON: Belachew.
MEMBER SHORT: Yes. Belachew, yes. Good afternoon, Mr. Belachew.

MR. BELACHEW: Good afternoon.
MEMBER SHORT: Okay. Mr. Belachew, I do know that the D.C. government noise regulated for DCRA have to go through training, and they don't calibrate their own equipment because the manufacturer assist them in that. So you can do the same thing that a manufacturer technician can do?

MR. BELACHEW: No. So we have a sound engineer that works -- we have another venue out in VA, so we have a sound engineer. We have him check instruments here.

MEMBER SHORT: Your sound engineer from Virginia?

MR. BELACHEW: Yes.
MEMBER SHORT: Is he certified in
Virginia or the District of Columbia?

MR. BELACHEW: I am not sure where he is certified, but $I$ know he's a sound engineer, so he comes and checks for everything, like when we have like speakers, problems, he just comes in and checks for us --

MEMBER SHORT: He has no
certifications? Did you have a copy of his certification in your establishment?

MR. BELACHEW: No.
MEMBER SHORT: I think that you should get one in case DCRA or somebody who's in charge of that for the District, because I've been hearing about calculations for noise meters going back seven or eight years ago. We had a big problem down on Connecticut Avenue Northwest, and they brought in sound engineers and corrected the situation. But professionals had to do that because we wouldn't even allow anybody to testify back then about sound engineers or sound technicians or calibrating unless they were an expert. So you are not an expert?

MR. BELACHEW: No, I'm not.
MEMBER SHORT: But you do all the testing?

MR. BELACHEW: Yes.

MEMBER SHORT: Now one last question.
MR. BELACHEW: Yes.
MEMBER SHORT: We saw the knobs on
your equipment --
MR. BELACHEW: Yes.
MEMBER SHORT: -- on how you regulate it --

MR. BELACHEW: Yes.
MEMBER SHORT: -- so if you're not changing the volume --

MR. BELACHEW: Yes.
MEMBER SHORT: -- you never change the volume, correct?

MR. BELACHEW: Yes.
MEMBER SHORT: You do change? When -I thought you testified you left the buttons on a certain setting?

MR. BELACHEW: Yes. The reason that we use the sound measurement is like different DJs and different songs have like different like base levels, and then the --

MEMBER SHORT: So you let the DJs bring their own equipment in, their own speakers?

MR. BELACHEW: Not the speakers. So the boards, like I don't' know, like how to
explain it. Like so the boards they use, they have like different base. I guess you like -- I don't know if you, like, if you know about music or --

MEMBER SHORT: But there is one central sound system, correct?

MR. BELACHEW: Yes.
MEMBER SHORT: For all your own speakers?
(Simultaneous speaking.)
MR. BELACHEW: Yes.
MEMBER SHORT: And you can't regulate what the outside people do when they come in?

MR. BELACHEW: Not their sound systems cause their level of sound, like their -- they control their own board, but we control the main one. So their boards transfer the music to our board, and then we control the level of the music.

MEMBER SHORT: Thank you. That's all I have, Mr. Chair. Thank you very much, for your testimony.

CHAIRPERSON ANDERSON: Thank you. Any other witness -- I'm sorry -- any other questions by any other Board members?

Hearing none, Mr. Schlom, any questions -- any follow-up questions of the witness based on the questions that were asked by the Board?

MR. SCHLOM: No, Mr. Chairman.
CHAIRPERSON ANDERSON: Mr. Stoecklien, any questions -- any follow-up questions based on question that were asked by the Board?

MR. STOECKLEIN: No, Mr. Chair.
CHAIRPERSON ANDERSON: Mr. Bianco, any redirect of your witness there?

MR. BIANCO: No redirect, sir. Thanks.

CHAIRPERSON ANDERSON: Mr. Belachew, thank you very much for your testimony, and you are dismissed from testifying today. You can stay on line or you can go back to your business. It's your call.

MR. BELACHEW: Thank you.
CHAIRPERSON ANDERSON: All right.
Thank you. Mr. Bianco, do you have another witness?

MR. BIANCO: I do not. The applicant rests.

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
know what I mean. All right. So who's your first witness, sir.

MR. STOECKLEIN: My one and only witness is Frank Chauvin.

CHAIRPERSON ANDERSON: Mr. Chauvin?
MR. CHAUVIN: Yes, Mr. Chairman.
CHAIRPERSON ANDERSON: Can you raise your right hand, please? Do you swear or affirm to tell the truth and nothing but the truth?

MR. CHAUVIN: I swear.
CHAIRPERSON ANDERSON: All right. Your witness, sir.

MR. STOECKLEIN: Thank you very much. Mr. Chauvin, thank you for taking your time today with us. Could you please state for the record where it is your live and how long you've lived there?

MR. CHAUVIN: Yes. I have lived in the 1800 block of 9th Street Northwest adjacent to the 1900 block, which is where the bar is located, for 17 years.

MR. STOECKLEIN: Okay. And when you say the bar, just for the record, you're referring to MK Lounge?

MR. CHAUVIN: Yes, sir.

MR. STOECKLEIN: Okay. Thank you. And in your 17 years as a resident, is it fair to say that you have some familiarity with the area but also, you know, specific activities at MK Lounge?

MR. CHAUVIN: Yes, sir.
MR. STOECKLEIN: Okay.
MR. CHAUVIN: I was.
MR. STOECKLEIN: Okay. Could you please share some of your observations or activities at MK?

MR. CHAUVIN: Well, noting a deterioration of conditions over the last several years, I started to pay more attention. And, you know, neighbors who have been in the neighborhood longer than myself, I've have sort of been, you know, chatting with them. You know, it's impossible to park. It's -- we -- even though we have reserved parking for residential parking permits, every night, $I$ have eight cars right in front of my house that are from Maryland and Virginia, and they go unattended and not fined, not ticketed.

Let's see, specifically, over -- oh, you know, 1 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.
MR. STOECKLEIN: Thank you. I just
want to clarify. A few minutes ago, you referenced MX. Were you referring to MK?

MR. CHAUVIN: I'm sorry, MK. MX is an abbreviation in my repertoire. Sorry.

MR. STOECKLEIN: That's okay.
MR. CHAUVIN: In my professional life.
MR. STOECKLEIN: I appreciate that. So --

MR. CHAUVIN: Yes.
MR. STOECKLEIN: -- and just so that we kind of focus your testimony a little bit more, can you tell me in terms of what you observed on March 12th, is there anything else that you observed with respect to patrons of MK, you know, waiting to be let in or inside the lounge? We'll go on to the next day in a second.

MR. CHAUVIN: Just that half the patrons were maskless, and I couldn't get -- I had -- I couldn't get through and had to walk out in the street. So that was it on March 12th.

MR. STOECKLEIN: Okay. And is that representative of prior experiences, or was that an isolated instance, or --

MR. CHAUVIN: It's a persistent condition -- it's a persistent condition.

MR. STOECKLEIN: Okay. Thank you. And on March 13th, which is the next day, did you have occasion to observe behavior or patrons at MK once again, and if so, can you tell us what you observed?

CHAIRPERSON ANDERSON: Can I -- Mr. Stoecklein, what year are we talking about so we have a clear record --

MR. STOECKLEIN: Sure.
CHAIRPERSON ANDERSON: -- (inaudible),
okay?
MR. STOECKLEIN: Apologize. Mr.
Chauvin, are you referring -- with the aforementioned dates, are you referring to the current year, 2021?

MR. CHAUVIN: Yes, sir, March 12, 2021.

MR. STOECKLEIN: Thank you. So back to March 13th. We're just going to the next day. Did you have occasion to observe activities of patrons, you know, at MK or in proximity to MK and if so, what did you observe?

MR. CHAUVIN: Well, I was woken up at 12 o'clock and for 20 minutes, there was this 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.

MR. STOECKLEIN: Mr. Chauvin is, I believe, testifying to conversations that he had with neighbors and to a phone call that he made personally to the police. That matter is first-hand knowledge and is not hearsay.

MR. BIANCO: No. What the neighbor told him is absolutely hearsay. He can testify that he called the police, absolutely. But as to what a neighbor told him who is not here --

MR. STOECKLEIN: (inaudible) --
MR. BIANCO: -- to testify, I --
MR. STOECKLEIN: -- (inaudible) testifying (inaudible) --

CHAIRPERSON ANDERSON: Gentlemen, gentlemen, gentlemen --

MR. BIANCO: -- I can't cross-examine that.

CHAIRPERSON ANDERSON: All right.
This is an administrative hearing and hearsay is not -- we're not in a court of law in the sense that we're going to strictly (inaudible) the rule of evidence that we're not going to say that's hearsay. Can we have -- just have the witness testify about his personal knowledge? I mean I think that would be beneficial for us (inaudible)
determination, okay? All right.
MR. STOECKLEIN: Mr. Chauvin, on March 13, 2021, you witnessed a group of 12 -- roughly 12 persons in the 1800 block of 9th Street --

MR. CHAUVIN: 1800 block.
MR. STOECKLEIN: -- okay, the 1800 block of 9th Street; can you describe again from your knowledge alone what you observed?

MR. CHAUVIN: There was 12 drunken patrons who were falling all over the sidewalk, sitting on the stoops, two stoops of my neighbors across the street, their house, and screaming and fighting and falling into the street until broken up by the police about 25 minutes later.

MR. STOECKLEIN: Okay. And is this an occurrence that is isolated to March 13th, or have you, in your first-hand knowledge, experienced similar instances of drunk and disorderly conduct outside your home?

MR. CHAUVIN: Yes. It's a consistent condition, yes.

MR. STOECKLEIN: Okay. Can you please tell me if there's anything else -- can you please tell me if you have ever observed any 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
second time to the police that evening. However, my house mate was right in front of the window when it happened. And so I mean, yes, and I intermittently hear gunfire on this street, and there's been cases of a homicide over the last four years. There's been case of, you know, gun possession and -- on this street, you know, right in front of my house.

MR. STOECKLEIN: Okay. Thanks very much, Mr. Chauvin. I have no further questions. MR. CHAUVIN: Thank you.

CHAIRPERSON ANDERSON: Mr. Schlom, do you have any questions of this witness?

MR. SCHLOM: I do not, Mr. Chairman. Thank you.

CHAIRPERSON ANDERSON: Okay. Mr.
Bianco?
MR. BIANCO: Yes, I do. Good afternoon, Mr. Chauvin.

MR. CHAUVIN: Good afternoon.
MR. BIANCO: Let's take your last issue first. So this was a couple of nights ago that you heard gunfire in your residence, and you didn't report it to the police; is that correct? MR. CHAUVIN: Yes, because I -- yes,
that's correct. I have so many times and it was -- would have been my second call to the police that night, and I was exhausted. I'd had a hard day at work.

MR. BIANCO: Okay. What, if any, facts do you have to suggest that the gunfire was in any way related to MK Lounge?

MR. CHAUVIN: Well, you know, I had just been by there. I saw, you know, how crowded and packed it was and, you know, I'm attributing -- you know, it's been quiet during COVID predominantly, and so this uptick, you know, I can make an association as a person who walked by seeing, you know -- viewing entries into the club.

MR. BIANCO: Okay. So it was the March the 12th that you heard the gunfire, which is the same night --

MR. CHAUVIN: No -- no. It was the morning, March 13th, after I had walked by at 8:30 p.m. on the 12th.

MR. BIANCO: Okay. So on March 13th, you heard gunfire and you believe it is related to MK Lounge because there was a crowd of people on the sidewalk outside of MK Lounge; is that the
testimony?
MR. CHAUVIN: You know, there was a murder in front of there, you know, four or five years ago, yes, so I'm tying it, you know, to what $I$ visually, you know, saw that evening.

MR. BIANCO: Okay. So let's then talk about earlier that evening before the gunshots. And you live on the 1800 block of 9th Street, correct?

MR. CHAUVIN: That's correct.
MR. BIANCO: And MK is about a block up from you on the 1900 block, right?

MR. CHAUVIN: That's correct
MR. BIANCO: And the people that were screaming, just to make sure the testimony is clear, they were across the street from you on the 1800 block?

MR. CHAUVIN: Yes.
MR. BIANCO: Okay. And what facts, if any, indicate to you that the screaming people had any relationship to MK Lounge?

MR. CHAUVIN: You know, again, my walking by at 8:30 seeing crowds, and it seemed to be the place that was attracting all the attention that evening.

MR. BIANCO: Okay. But it's possible that the screaming people on the 1800 block could have been patrons of any of the 68 other establishments in the area, correct?

MR. CHAUVIN: Sure. I asked the cop -- I asked the policemen when they responded if they might inquire, but $I$ guess that's now allowable-- when they responded, so you're correct.

MR. BIANCO: Okay. I don't have anything further. Thank you.

CHAIRPERSON ANDERSON: Thank you, Mr. Bianco. Any questions by any Board members? I just want to ask you a question, Mr. Chauvin. You talked about the fact that you saw there were like 12 people sitting on the steps. How do you know that they were -- they came from this establishment or they were patrons of this establishment?

MR. CHAUVIN: Well, as I noted, Mr. Chairman, you know, I'm just tying it because I had walked by at 8:30 p.m. to go to the grocery store and couldn't get by, and that seemed the place that was hopping and having all the pedestrians come to the neighborhood, cause it's
been quiet during COVID mostly.
CHAIRPERSON ANDERSON: Any questions by any other Board members?
(No response.)
CHAIRPERSON ANDERSON: All right. Mr. Bianco, any questions of the witness based on the questions that were asked by the Board?

MR. BIANCO: No, sir.
CHAIRPERSON ANDERSON: Mr. Schlom, any questions of the witness based on the questions that were asked by the Board?

MR. SCHLOM: No, Mr. Chairman.
CHAIRPERSON ANDERSON: Mr. Stoecklein, any questions of the witness based on the questions that were asked? You can -- I'm sorry, it's your witness. You can redirect if you so desire.

MR. STOECKLEIN: Thank you, Mr.
Chairman. Just one question. Mr. Chauvin, in your experience, is it common for patrons of MK Lounge and the immediately surrounding bars to congregate before and after their time at the establishment?

MR. CHAUVIN: Yes -- yes, congregate in front of the house, in their cars, and on the
sidewalks.
MR. STOECKLEIN: And what kind of behavior is exhibited during those periods of time?

MR. CHAUVIN: You know, it's loud and disturbing to my residents and neighbors.

MR. STOECKLEIN: And if you don't follow these people, if you don't literally come out of your door and follow these people that you don't know, these strangers, if you don't follow them to the bar, how are you to know exactly what bar they're going to?

MR. BIANCO: Objection, calls for speculation.

MR. STOECKLEIN: I'm now sure how it's speculation based on -- it's a statement of fact.

CHAIRPERSON ANDERSON: Right. I'm going to --

MR. STOECKLEIN
3:45:59(simultaneously speaking) perceive not perceive where these individuals are going or not going.

CHAIRPERSON ANDERSON: -- I'm going to overrule the objection. Answer the question, sir, if you can ask -- if you can answer the
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
today to testify, sir. All right.
MR. CHAUVIN: Thank you, sir.
CHAIRPERSON ANDERSON: Do you have -Mr. Stoecklein, do you have another witness?

MR. STOECKLEIN: I do not, Mr.
Chairman.
CHAIRPERSON ANDERSON: Do you rest or do you -- are you going to testify, or do you rest?

MR. STOECKLEIN: The WNA rests.
CHAIRPERSON ANDERSON: All right. Mr. Schlom, it's you -- are you going to testify, sir?

MR. SCHLOM: Yes, I am.
CHAIRPERSON ANDERSON: Can you raise your right hand, please? Do you swear or affirm to tell the truth and nothing but the truth?

MR. SCHLOM: I do.
CHAIR ABAIR: All right. Go ahead, sir.

MR. SCHLOM: All right. Mr. Chairman, may I share my screen, please, so I can prepare -- I have a number of exhibits and would rather just prepare them now if that's all right?

CHAIRPERSON ANDERSON: Ms. Andres, can
you allow him to share his screen, please?
MS. ANDREWS: Sure. Stand by. What's the last name?

MR. SCHLOM: Schlom, S-C-H-L-O-M.
MS. ANDREWS: Okay. Stand by. Okay, Mr. Schlom, you can now share your screen.

MR. SCHLOM: All right. Are people able to see my screen?

CHAIRPERSON ANDERSON: Yes.
MR. SCHLOM: Okay. Thank you. Good afternoon. My name is Evan Schlom. I live at 1932 9th Street N.W., otherwise known as the ArtView Condominium building. That's directly to the north of MK Lounge, which is located at 1930 9th Street N.W. I have lived in my condominium unit which abuts MK Lounge since June 30, 2017. I am protesting MK Lounge's Class CT license renewal application because MK Lounge has negatively impacted the peace, order, and quiet of the neighborhood, particularly that of my condominium building, negatively impacted residential parking, real property values and because of their noncompliance with their 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 ABC-licensed establishments, including those with exemptions, is banned.

Protestant Exhibit 2 is the page of the DC Department of Health website that lists establishments who are exempt from the tobacco law. I printed out this web page myself on March 16, 2021. And Mr. Zewdie admitted he does not have an exemption, and he does not appear on this list.
(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 2.)

MR. BIANCO: I'm sorry, Mr. Anderson. I'm not objecting. I just am asking whether Mr. Schlom intends to move exhibits into evidence and allow for objections as he talks about them or if he's going to wait til the end and move them all in. I think the former is probably an easier way to handle it, but I'll defer to the Chair.

CHAIRPERSON ANDERSON: Well, I'm --
MR. SCHLOM: I'm happy to defer to the Chair as well.

CHAIRPERSON ANDERSON: -- at the end 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, discuss them, lay the foundation, and move them at the end of my testimony but --

CHAIRPERSON ANDERSON: Sure.
MR. SCHLOM: -- I am happy to defer to the Chair if you wish to do it document by document in the middle of my testimony.

CHAIRPERSON ANDERSON: No, sir. We can -- have to go back again over the documents, but $I$ can wait until the end.

MR. SCHLOM: All right.
CHAIRPERSON ANDERSON: Okay. Go ahead, sir.

MR. BIANCO: That's fine.
MR. SCHLOM: Okay. Thank you. What has been marked as Protestant's Exhibit 3 -- I should say -- strike that.

MK Lounge has twice been ordered by the Department of Health to cease and desist smoking of hookah within the establishment. Protestant's Exhibit 3 is a Department of Health Food Inspection report from August 28, 2018. This is a public document that $I$ printed from a link provided at the DC Department of Health 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 Protestant's Exhibit 7 is an Instagram post that I printed from June 23, 2021 from MK Lounge's Instagram account. You can clearly see the hookah. Excuse me. Sorry, I'm trying to get the scrolling correct. Here we go.
(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 7.)

MR. SCHLOM: Protestant's Exhibit 8, also this is from December of 2020, December 19, 2020. You can also see the hookah, and I would also note this woman here in the picture on the left, the second woman from the left, has a mask around her chin, which would clearly indicate that this photograph was taken during the pandemic, during the Mayor's emergency order.
(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 8.)

MR. SCHLOM: I will skip Protestant's Exhibit -- what had been marked as 9 for the sake of time.

The smoking of hookah has had a 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 door. 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
a printout $I$ made of an Instagram post from MK Lounge's Instagram account, which they posted on September 5, 2020, and that I printed on March 16, 2021.
(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 18.)

MR. SCHLOM: You can clearly see our building entrance here and here, and you can see the queue extending far passed our doorway. You can also see, if you look closely, that a majority of the patrons here are not wearing masks. Those waiting in line are not wearing masks.

Protestant's Exhibit 19 -- pardon me -- is an -- is a -- sorry, I'm skipping Protestant's Exhibit 19.

What's been marked as Protestant's Exhibit 20 is a screenshot taken form one of our condominium building security cameras pointed from the inside at our front door.
(Whereupon, the above referred to document was marked for identification as Protestant's Exhibit 20.)

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
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.

From 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. Mr. Schlom, if I understood you correctly, or your -- I suppose your questioning earlier, it's your position that MK Lounge opened first in 2017; is that correct?

MR. SCHLOM: No, Mr. Bianco. My position is that they signed the settlement agreement which was for a new license application in July of 2017. The Board ordered -- Board issued an order approving that settlement agreement and issuing the new license in March of 2017. That is my testimony.

MR. BIANCO: Okay. Looking at your Exhibit Number 1, which is the Board order approving the settlement agreement, doesn't that indicate that it is a renewal application and not a new application?

MR. SCHLOM: Yes. I do see that, yes. I apologize.

MR. BIANCO: Okay. So you would agree that as of the approval of the settlement agreement date in 2017, that that was a renewal and not a new establishment, correct?

MR. SCHLOM: I agree with that statement, yes.

MR. BIANCO: Okay. Thank you. I'm just trying to streamline this as much as possible so just bear with me as I go through the sort of areas that $I$ wanted to cross on. I'm trying to take out whatever I can to get us the heck out of here today.

So you moved into your condominium in mid-2017, correct?

MR. SCHLOM: That is correct. I entered into a contract in late 2016, moved in and -- closed and moved in in June of 2017.

MR. BIANCO: Were you the first person to move in, or were there other residents there before you?

MR. SCHLOM: I believe I was the second or the third resident to move in. We had to wait because the number of units in the condominium had to be closed before anybody could move in. I believe I was the second or third. The earliest may have been in May or June but certainly not before then. But the building had been complete for a number of months.

MR. BIANCO: Okay. Great. Thank you very much. And as a purchaser of a new condominium unit, that unit came with a warranty,
correct?
MR. SCHLOM: Yes. I believe I understand what you're referencing, yes.

MR. BIANCO: Okay. Did you ever make a claim against the developer?

MR. SCHLOM: For anything at all? Yes.

MR. BIANCO: Okay. Was any of it related to the party wall between 1930 and 1932 9th Street?

MR. SCHLOM: I don't believe it was, but $I$ don't remember for sure.

MR. BIANCO: Okay. Was anything in your warranty claim related to soundproofing of the property?

MR. SCHLOM: I believe it might have been but again, $I$ don't remember.

MR. BIANCO: Okay. And what was the

MR. SCHLOM: It doesn't come to mind.
MR. BIANCO: Okay. What was the outcome of your warranty claim?

MR. SCHLOM: The developer paid for a number of modifications to our unit for various things.

MR. BIANCO: Okay. And who did that work; did the developer do the work, or did you hire someone and the developer paid them?

MR. SCHLOM: The developer was the one who engaged in the contract with the contractor consulting with us on who would be used.

MR. BIANCO: Okay. And did anything in the course of -- I'm sorry -- did any of that work relate to the party wall between the properties?

MR. SCHLOM: Again, as far as it relates to my unit, $I$ do not think so. I can't speak to any of the other units -- condominium units in my building.

MR. BIANCO: Okay. And prior to your purchase, did the developer disclose to you the potential for noise infiltration from the neighborhood?

MR. SCHLOM: I don't remember what disclosures the developer did or did not make but having been to that neighborhood and looked at the property both during the day and the evening, $I$ was aware of the character of the neighborhood.

MR. BIANCO: Okay. And just a couple 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 serving customers but as you saw, the tent and the bike rack was all there. Indeed the bike rack is still there.

MR. BIANCO: Okay. So the -- as of today, the furniture and the tents are removed from the parklet but the bike rack surrounding the parklet remains, right; that's the issue?

MR. SCHLOM: The bike -- that is
correct. The bike rack and there is a water-filled bollard on the north side and a number of bollards that are on the south side that are blocking off approximately three parking places. Those are still there.

MR. BIANCO: Okay. And the last area that I'd like to go into briefly is with respect to the testimony you heard about the Whatsapp text chat group; do you recall that testimony?

MR. SCHLOM: Yes, I do, some of it.
MR. BIANCO: Okay. And is it -- it's true, isn't it, that you participated in a text chat group with MK Lounge to deal with noise and other issues, right?

MR. SCHLOM: I was part of a Whatsapp group that is with MK Lounge ownership and
employees, correct.
MR. BIANCO: And -- okay, great. And Mr. Belachew's testimony was that the last communication from you on that chat group was in August of 2020; is that correct?

MR. SCHLOM: I'm simply looking down at my phone, because I'm actually at when it was, and that -- I'm looking at the Whatsapp. There was a conversation on August 29 of 2020.

MR. BIANCO: Okay. Great. Now I'm glad you're looking at that to refresh your recollection. And it's my understanding that on August 29 of 2020, essentially you raised an issue on the chat group about the queuing in front of your building, right?

MR. SCHLOM: Yes, I did.
MR. BIANCO: Okay. And within 15 or 20 minutes, MK had addressed that issue by putting up a stanchion at your request, right?

MR. SCHLOM: I would not say it addressed the issue permanently, but they did put up the stanchion that they had previously done within a few minutes of me raising the issue. And he sent me --

MR. BIANCO: Okay.

MR. SCHLOM: -- took a photograph to show that it had been put in place.

MR. BIANCO: Okay. Great. And so having -- you would agree though the issue on that particular evening was resolved by the putting up of the stanchion, right?

MR. SCHLOM: I would agree that it was improved. I don't know if it was fully resolved

MR. BIANCO: Okay.
MR. SCHLOM: -- on that evening.
MR. BIANCO: Okay. Thank you, appreciate that. And is there a reason that in the time since August 20th where queuing has become an issue you did not simply go back onto that group chat and notify MK?

MR. CHAUVIN: Well, there's a few reasons. One, we try to -- I think part of it is that we have other things that we're trying to deal with and frankly, we've become kind of fed up and just try to use the back door and avoid it completely. That's the honest truth. And I also -- it gets kind of annoying to have to ask them to do it every single day. That's why we haven't done it. I don't --

MR. BIANCO: Okay.
MR. SCHLOM: -- to not become a long-term solution because it wasn't being done every day and, in fact, wasn't solving the issues completely.

MR. BIANCO: Okay. Now in your testimony -- strike that. Nothing further. Thank you.

CHAIRPERSON ANDERSON: All right. Mr. Bianco, I find the chat that Mr. Stoecklein had stated that he wanted to ask some cross-examination, and so I told -- all right, so go ahead, Mr. Stoecklein.

MR. STOECKLEIN: Thank you, Mr. Chairman. Mr. Schlom, we heard earlier Mr. Bianco's client that after the modifications, the structural modifications were made to his sound system, that he had a reinspection performed by the sound engineer. Do you recall that testimony?

MR. SCHLOM: I recall that testimony, yes.

MR. STOECKLEIN: Okay. And were you ever made aware of any such reinspection, restudy, reassessment following the modifications
that were claimed?
MR. SCHLOM: No. I was not made aware of that ever, neither in my personal capacity nor my capacity on the Board of the R-2 Condominium Association.

MR. STOECKLEIN: Did any -- did Mr. Bianco's client or any representative of Mr. Bianco's client ever come to your apartment to perform any testing?

MR. SCHLOM: Never.
MR. STOECKLEIN: Did Mr. Bianco's client or any employee of -- representative of Mr. Bianco's client, to your knowledge, ever come to any of your neighbors' apartments to perform that retesting following installation of these modifications?

MR. SCHLOM: Not to my knowledge.
MR. STOECKLEIN: Okay. Thank you. No further questions.

CHAIRPERSON ANDERSON: Thank you. Any questions by the Board members?
(No response.)
CHAIRPERSON ANDERSON: All right. No questions by any Board members. Mr. Schlom, thank you for your testimony. All right. So
let's now go -- you're the only witness, sir. So you rest?

MR. SCHLOM: That's correct, Mr.
Chairman. I rest pending discussion of moving into evidence of my various exhibits that have been marked.

CHAIRPERSON ANDERSON: All right. So let's do that now. So Ms. Andrews, can you give him the ability again to share his screen? And so let's now go through the documents and -let's go through the documents that you want to admit into evidence.

MS. ANDREWS: Sure. Stand by. Okay, Mr. Schlom, you have the rights to share your screen.

MR. SCHLOM: All right.
CHAIRPERSON ANDERSON: All right. So we can move forward from Exhibit 1. Exhibit 1 is P1, that's part of the Board record, so we don't need to discuss that one. That's already part of the record. $\$

MR. SCHLOM: All right.
MR. BIANCO: No objection.
(Whereupon, the above referred to 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, P 2. What's the next, P3. What's P3?

MR. SCHLOM: P3 is a printout of the Food Inspection -- Food Establishment Inspection Report from August 28, 2018.

CHAIRPERSON ANDERSON: Any objection to P3?

MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: So moved.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 3.)

CHAIRPERSON ANDERSON: P4?
MR. SCHLOM: P4 is a Food Establishment Inspection Report from November 6, 2018.

CHAIRPERSON ANDERSON: Any objections to P4?

MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: So moved.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 4.)

CHAIRPERSON ANDERSON: P5?
MR. SCHLOM: P5 is a printout of MK Lounge's website --

MR. BIANCO: No objection.

MR. SCHLOM: -- website home page.
MR. BIANCO: Without objection.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 5.)

CHAIRPERSON ANDERSON: 06?
MR. SCHLOM: P6 is the Service, Hookah page from MK Lounge's website.

MR. BROGAN: No objection.
CHAIRPERSON ANDERSON: Without objection.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 6.)

CHAIRPERSON ANDERSON: P7?
MR. SCHLOM: P7 is a printout I made to PDF of a social media Instagram post from MK Lounge's Instagram account posted on June 23, 2020. The printout was made by me on March 16, 2021.

MR. BROGAN: This I object to and my objection is going to be the same for all of the social media posts that Mr. Schlom is proffering. The basis of my objection is that the exhibits 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 --

MR. SCHLOM: Nine I did not include. CHAIRPERSON ANDERSON: So P7, P8, P -what's the next one?

MR. SCHLOM: P10.
CHAIRPERSON ANDERSON: P10.
MR. SCHLOM: P11.
CHAIRPERSON ANDERSON: P11.
MR. SCHLOM: P12.
CHAIRPERSON ANDERSON: P12. The next one is P18.

MR. SCHLOM: And that's --
CHAIRPERSON ANDERSON: Those are all the social media?

MR. SCHLOM: That is correct.
CHAIRPERSON ANDERSON: And it's the same objection, Mr. Bianco?

MR. BIANCO: That's correct. It's the same objection for all the social media posts.

MR. SCHLOM: If I may be heard, Mr. Chairman?

CHAIRPERSON ANDERSON: Just hold on, please. Just --

MR. SCHLOM: Sure.
CHAIRPERSON ANDERSON: Go ahead, sir.
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. If 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?

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

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

CHAIRPERSON ANDERSON: Are these pictures from your -- just -- the pictures that we're talking about, are they your Instagram account; is this your Instagram account?

MR. ZEWDIE: Yes, it is.
CHAIRPERSON ANDERSON: Yes, it is. All right then I'm going to allow the documents in for -- I'll allow the -- I'm going to allow the doc $s$ in. It's to give the Board -- y es, I'll -- I will allow the documents in that they are actual pictures of -- pictures on a public domain and they were confirmed by the licensee that this was his Instagram account. So I will allow the documents in the record. So I will allow -- the photographs are P7, P8, P10, P11, P12, and P18, all those documents are moved -are now part of the record.
(Whereupon, the above referred to documents were received in evidence as Protestant's Exhibits 7, 8, 10, 11, 12, and 18.)

CHAIRPERSON ANDERSON: What's the next document that we are -- that we were --

MR. SCHLOM: What had been marked P13 is a -- is the re-imagining outdoor space phase 1 reopening guideline.

CHAIRPERSON ANDERSON: Any objection?
MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: So moved.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 13.)

MR. SCHLOM: All right. P -- I skip something? P14 is a printout of an email exchange between myself and Alexander Padro regarding the parklet.

MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: P14 without objection.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 14.)

CHAIRPERSON ANDERSON: What's P15?
MR. SCHLOM: P15 is an email from Anna Chamberlin at DDOT to me regarding the parklet and that the permit had been revoked.

CHAIRPERSON ANDERSON: any objection?
MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: Without objection.
(Whereupon, the above referred to
document was received in evidence as Protestant's Exhibit 15.)

CHAIRPERSON ANDERSON: What's P16?
MR. SCHLOM: P16 is an email change with three emails from me to Mr. Bianco regarding the parklet.

CHAIRPERSON ANDERSON: Any objection?
MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: Without
objection.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 16.)

CHAIRPERSON ANDERSON: P17?
MR. SCHLOM: P17 is a printout I made of the DDOT TOPS permitting system showing that the -- the status of the MK Lounge parklet permit.

CHAIRPERSON ANDERSON: Any objections?
MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: Without
objection.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 17.)

CHAIRPERSON ANDERSON: Are those all your documents, sir?

MR. SCHLOM: One last one is P20.
CHAIRPERSON ANDERSON: Did we have testimony on P20?

MR. SCHLOM: yes. I testified that it was a security camera screenshot.

CHAIRPERSON ANDERSON: Oh, yes, I do recall. Mr. Bianco?

MR. BIANCO: No objection.
CHAIRPERSON ANDERSON: So moved.
(Whereupon, the above referred to document was received in evidence as Protestant's Exhibit 20.)

MR. SCHLOM: That's all of my Exhibits, Mr. Chairman, and I rest.

CHAIRPERSON ANDERSON: All right.
Thank you. You can now close your screen, please, sir. Mr. Stoecklein, do you have any documents that you want to move into evidence?

MR. STOECKLEIN: I do not, Mr. Chairman.

CHAIRPERSON ANDERSON: All right. Thank you. And Mr. Bianco, you have already 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

Board's attention on the six years of compliance prior to the public health emergency where there were zero violations from ABRA, zero. And I understand that we live in reality, and I can't ask you to simply ignore what has happened -because there is a pandemic going on -- in terms of violations. I can't pretend that that does not exist because it does. But I would say is please don't judge my client by the things that have happened while he's been trying to survive in an unprecedented situation. Judge him by the six previous years of compliance, renew this license without further condition. Thank you.

CHAIRPERSON ANDERSON: Thank you, Mr.
Bianco. I was going to give you a couple of minutes to wrap up, but -- well, I think you head the alarm button. That's fine.

MR. BIANCO: I could sense the hook was coming so I got out.

CHAIRPERSON ANDERSON: Okay. So Mr. Stoecklein, you have five minutes to close, sir. MR. STOECKLEIN: Thank you, Mr. Chairman, members of the Board. I know this has been a long day. I appreciate your brief 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 reason. Inspector's report did not summarize 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
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
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 false. The record doesn't support it. He has no evidence to support that. In fact, I'm here today telling the Board do not deny the renewal
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.

CHAIRPERSON ANDERSON: Thank you, sir. 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
perfectly happy to waive it if he's happy to waive ti.

MR. BIANCO: Yes.
CHAIRPERSON ANDERSON: Well, the fact is, as you know, what lawyer doesn't want more work? And --

MR. BIANCO: Me. I don't want more work. I have too much. No. I'm happy to waive, waive.

CHAIRPERSON ANDERSON: And I was
saying to Mr. Bianco is one of the attorneys who quickly says, "I don't want any more work," so Mr. Stoecklein, your view, sir?

MR. SCHLOM: I think --
CHAIRPERSON ANDERSON: Is he --
MR. SCHLOM: -- Mr. Chairman, he may -- sorry, go ahead.

CHAIRPERSON ANDERSON: -- is he here? I don't -- I've not seen him. I guess he's --

MR. SCHLOM: He had another conflict at 5:00 p.m. that, again, he couldn't move because he didn't expect we would be here anytime close to then. So I think he dropped, but I suspect -- I'm happy to have him contact Ms. Randall, but $I$ suspect he'd be perfectly happy to
waive as well. But I'm --
CHAIRPERSON ANDERSON: Oh, that's fine.

MR. SCHLOM: -- fine with asking him to contact --

CHAIRPERSON ANDERSON: All right.
That's fine. So the Board will issue -- we'll issue a decision, $I$ believe, within 90 days. And so let me bring closure to this. Please hold on.

But again, $I$ want to thank the parties for their presentation today. All right. It's -- I've been sitting here in front of the computer all day, and it doesn't feel like I've been here all day.

MR. SCHLOM: I'll take that as a complement .

CHAIRPERSON ANDERSON: No. I really mean that, $I$ really mean that. We're -- at least -- I can't speak for the other Board members, but I've been here and I've been engaged. It was very engaging. And maybe that's one of the reasons why $I$ threw out the complements to the attorneys as an attorney myself. So maybe that's 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

Meetings Act. Is there a second? MEMBER SHORT: Mr. Chair, I second. CHAIRPERSON ANDERSON: Mr. Short has seconded the motion. I will now take a roll call vote on the motion that's been properly seconded by Mr. Short. Mr. Short?

MEMBER SHORT: Mr. Short. I agree. CHAIRPERSON ANDERSON: Mr. Cato? MEMBER CATO: Bobby Cato, I agree. CHAIRPERSON ANDERSON: Ms. Wahabzadah? MEMBER WAHABZADAH: Ms. Wahabzadah. I agree.

CHAIRPERSON ANDERSON: Ms. Crockett? MEMBER CROCKETT: Rafi Crockett. I agree.

CHAIRPERSON ANDERSON: Ms. Hansen? MEMBER HANSEN: Jeni Hansen. I agree. CHAIRPERSON ANDERSON: Mr. Grandis? MEMBER GRANDIS: Edward Grandis. I agree.

## CHAIRPERSON ANDERSON: And Mr.

Anderson. I agree. As it appears that the motion has passed, $I$ hereby give notice that the ABC Board will recess this proceeding to hold a 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?

MEMBER SHORT: Mr. Short. I agree. CHAIRPERSON ANDERSON: Mr. Cato? CHAIRPERSON ANDERSON: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms Wahabzadah? MEMBER WAHABZADAH: Rema Wahabzadah. I agree.

CHAIRPERSON ANDERSON: MS. Crockett? MEMBER CROCKETT: Rafi Crockett. I agree.

CHAIRPERSON ANDERSON: Ms. Hansen? MEMBER HANSEN: Jeni Hansen. I agree. CHAIRPERSON ANDERSON: Mr. Grandis? MEMBER GRANDIS: Edward Grandis. I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. As it appears that the motion has passed, $I$ hereby give notice that the ABC Board will hold this aforementioned closed meeting pursuant to the Open Meetings Act. Notice will also be posted on the ABC Board Hearing Room Bulletin Board, placed on electronic calendar on ABRA's website, and published in the DC Register in as timely a manner as practical.

Again, I would like to thank all the
parties for their participation today. I would like to thank the members of the public who have participated here, and $I$ also want to thank the Board members who worked with me today for this hearing. And it was -- as $I$ said, it was a very good hearing. Thank you, everyone, for your participation. And we are now adjourned for the day. I will now direct that the Board members return to executive session for further business. Thank you very much and have a great day. (Whereupon, at 5:20 p.m., the above-entitled matter was adjourned.)

| A | access 179:9 240:17 | admit 59:22 116:10,23 | 134:18 137:1,4 |
| :---: | :---: | :---: | :---: |
| A-L-E-X-A-N-D-E-R | Accessories 113: | 257:12 | 140:14 148:21 152:21 |
|  | ac | admitted 114:24 116:19 | 153:23,25 171:8 |
| a.m 3:2 21:8,8 27:12,17 | ac |  | 80 |
| 33:4,4,5,6 36:12,13 | 233:11,24 241:2 | 229:18 230:21 | 255:13 262:24 263:7 |
| 49:3,4 222:24,24 | 260:18 264:15,20 | admitting 114:14 | 287:17 |
| 276:4,4 | 265:4,4,13 | adverse 26:15,17 51:8 | air 186:11 232:6,10 |
| ABAIR 220 | al | 270:4,7 | AI 81:24 82:9 84:5 |
| abatement 137:8,18 | accurately 26:12 96:22 | rtisements | alarm $274: 17$ |
| bbbreviation 206:4 | acknowledged 114:19 | advertises 230:8 | 29:21 32:16 38:13 |
| ABC 23:25 26:8 29:4 | acoustic 102:10 113:10 | ad | 42:6 68:1 |
| $7: 19$ 42:17 149:3 | acoustical 103:23 <br> 105:20,23 | advice 154:14 289:1 <br> 291-15 | Alcoholic 1:2,13 289:15 $291 \cdot 6$ |
| 289:18 290:24,25 | 105:20,23 <br> Acoustics 102:7 103:17 | 291:15 <br> advised 27:3 159:21,23 | 291:6 <br> alerted 6:8 |
| 291:9 292:19,21 | Acoustics 102:7 103:17 103:24 | advised 27:3 159:21,23 <br> affect 100:21 | alerted 6:8 <br> Alex 1:23 2:3 |
| abide 278:16 | act 283:11 289 : | affirm 86:12 | 151:16 |
| ability 32:23 3 | 290:1 291:2 292:20 | 76:7 203:8 220:1 | Alexander 6:21 236:4 |
| 45:13 71:9 72:4 87 | action 57:19,23 73:25 | affront 278: | 266:9 |
| 108:1 142:18,25 | 120:25 185:2 238:7 | afield 139:3 | ALIYA 1 |
| 143:9 162:20 257:9 | 243:1 244:1 | aforementioned 207:14 | Alegation 59:8 |
| able 25:8,22 35:9,14,20 | actions 44:23 |  | 16 |
| 36:4 40:4,24 45:12,2 | 222:11 283:3 | afraid 21:10,1 | 291:13 |
| 46:2,6 49:16 52:7,11 | activate 151:19 | Af | allegedly 11 |
| 55:17 58:18,19 71:15 | active 133:23 134:3 | aft | ley 240:22 |
| 74:9 76:10,12 77:3 | 134:22 135:8,10 | 146:1,3 164:14,15 | alleys 234:11 |
| 79:17 87:6 109:5 | 168:25 184:12 283: | 71:10,12 191:3 | allotted 236: |
| 176:13 179:11 221:8 | activities 30:18 204: | 8,9 213:19,20 | allow 108:11 |
| 275:4,16 | 204:11 207:20 | 221:11 | 129:8 138:5 139:5 |
| above-entitled 36:11 | activity 168:19 263 | agency 12:7 24:3 30:23 | 140:11 158:3 163:1 |
| 85:20 153:19 189:24 | actual 35:13 265:11 | agenda 291:16,16,17 | 176:13 198:18 2 |
| 269:14 293:12 | add 96:5 112:6 120:1 | agent 223:9 | 226:17 232:7 264:7 |
| ABR 205:10 | added 56:10 | ago 198:14 | 265:7,8,8,10,14,15 |
| ABRA 1:21,25 9:13 | addition 33:2 | 13:22 215:4 270:21 | allowable-- 216:8 |
| 15:6 19:13 21:2 23:1 | additional 20:2 138:1 | agree 58:22 139:8 | allowed 34:12 71:3 73:2 |
| 23:18 28:17,21,23 | 183:10 284:3 | 163:17 167:24 247:20 | 73:3 77:4 121:12 |
| 34:25 36:25 51:20 | address 19:9 29:1 | 247:24 251:12 254:4 | 225:21 234:4 251:15 |
| 66:19 70:8,11 81:23 | 34:22 42:13,20 102: | 254:7 290:7,9,12,15 | 264:13 278:20 284:10 |
| 123:2 132:1 149:4 | 246:13 | 290:17,20,22 292:1,4 | allowing 116:14 138:24 |
| 195:11,15 223:2,8,2 | addressed 1 | 292:7,10,12,15,17 | Amazon 192:16 |
| 223:25 224:11,20 | 137:18 142:24 1 | agreeable 161:23 | AMC 123:6 |
| 237:24 238:6 243:2 | 188:7 253:18,21 | agreed 278:17 279:1 | amends 237:9 |
| 244: | addresses 116:21 | 83: | American 89:9 |
| 274:3 | addressing 27:21 38:12 | agreeing | mount 50:6 188 |
| ABRA's 79:17,19 | adequate 19:2 | agreement 2:12 | amplified 278:20 279 |
| 237:23 292:23 | adjacent 21:18 80 | 7:22,23 18:2,17 21:3 | ANC 1:8 17:20 153:9,10 |
| absolutely 47:7 54:3 | 156:2 159:1 203:19 | 26:25 27:4 39:24 | 153:11,11 155:25 |
| 171:24 209:7,8 | 234:13,14 235:8,9 | 68:12,13 70:16,19,23 | 156:2,12 171:16 |
| $73 \cdot 17$ | adjourned 293:7,12 | 73:24 76:10 123:6,11 | 279:5 |
| absurd 16:23 | adjudicated 58:3 59 | 164:23 221:24 222:6 | ANCIABR |
| abuts 28:1 221:16 | adjudication 59:1 | 224:5 242:24 245:18 | and/or 22:19 27:7 |
| abutted 7:6 | adjustments 237:10 | 247:8,11,15,22 | Anderson's 53:3 |
| abutting 7:13 10:15 | administrative 209:19 | 264:18,19 283:1,8 | Andres 220:25 |
| $12: 12 \text { 26:5 27:1 38:11 }$ | admissibility 227:15 | Ah 144:3 | Andrews 1:21 3:7,10,24 |
| 39:24 42:1,3 | admissible 104:2 | ahead 43:2 60:23, | 5:24 6:5,10,11,1 |
| ccept 224:3 2 | 148:15 208:24 261:15 | 71:9 75:20 | 25:13 35:24 45:12,15 |
| accepting 16:15,15,16 | admission 113:19 | 102:23 105:6 109:8 | 45:17 71:5,7,11,16 |
| 16:17 | 277:22 | 109:23 117:8 128:24 | 72:3,7 87:6,10,11 |

132:17,20 176:15,17
221:2,5 257:8,13 279:15
Anna 237:25 266:18 announce 5:2,13 92:8 annoying 254:23
answer 63:11 78:17,19
79:11,12,13 81:1
122:9 127:3 135:25 138:1,6,13,17,21 140:5,9,21,21 141:21 142:10,16,17,20,22 142:23 143:8 149:19 150:9 180:9 218:24 218:25 264:22
answered 84:4 96:8 141:20
answering 138:10
answers 109:10 126:8 126:23
anticipate 6:2 13:23
anticipated 264:17
anybody 198:18 248:18
anymore 122:6
anytime 287:22
apart 13:20
apartment 74:9,11
127:8,12 256:8
apartments 256:14
apologize 60:7 66:20
102:17 128:25 170:2
190:14 196:8,16
207:12 247:19
appalling 277:22
apparent 110:16
apparently 151:20 244:5
appear 226:9
appears 102:19 290:22 292:17
applicable 75:23,25 76:8 279:3
applicant 1:24 4:12,24 4:25 9:2 10:13,23 11:5,13,16,25 12:5,9 14:8,9 35:22 163:22 201:23 222:10 269:25 277:14 284:16 285:19
applicant's 1:22 11:14 46:1 90:2 101:12 113:20 117:1,5 137:7 227:14,17
application 1:9 17:15 17:21 26:3 27:22 28:4 71:17 130:16,19 131:18 132:8 151:21 156:22 157:19,23 165:13 166:14 168:17

169:4,11 221:18 247:8,16,17 275:7 284:1,2
applications 159:5 applied 123:1,2 apply 264:6
applying 159:10 appointed 149:3,24
appreciate 10:4 14:12
34:8 48:7 61:16,22 77:20 96:12 103:11 160:12 162:10 163:9 163:10 165:9 190:24 206:7 254:13 274:24 274:25 285:2,12,13
approach 9:16
appropriate 15:3 19:17 104:24 108:20 125:22 163:6 273:23 277:15 284:4,16
appropriateness 12:6
approval 247:21
approved 69:16,20,24 222:7
approving 247:10,15
approximately 13:16
30:3,23 252:13
April 160:13
arbor 149:25,25
architectural 222:14 225:9
area 19:17 22:17 24:11 24:11 29:14,22 30:1
30:11,13 31:12,14,16
31:19,22 32:3 33:15
41:11 47:11,24,25
48:6,10,13,18 49:6
50:3,16 53:12 54:25 55:4 63:16 77:18 79:10 80:17 91:24 94:20 95:4 98:7,21 154:9,11 174:15 175:10 195:2 204:3 208:18 216:4 245:2 245:15,22,23 246:8 252:15 270:14 276:8 276:16 278:8
areas 18:14 46:7 248:4 argument 144:24 227:15
arguments 2:6 13:15 arrangement 41:21 array 277:22 arriving 67:19 ARTS 204:25 205:1,2
ARTS-2 18:10 29:16 ArtView 90:19 108:9 158:8 221:13 235:16

236:10
asked 11:11 62:7 63:5,8 68:4,7,9 114:6 117:20 123:17 130:4 131:12 132:13 138:2,10 141:19 142:17 149:13 150:22 151:3 154:14 169:20 201:3,8 216:5 216:6 217:7,11,15 226:25 227:3 263:2 286:1
asking 12:17 36:18 59:25 79:9,15 80:2,23 99:7 104:19 105:1 106:3,18 107:15,18 111:3 114:9 122:15 127:25 131:4,23 132:5,7 134:8,11 141:20 163:13 226:15 238:12,21 269:23 286:4 288:4
aspect 173:16
assertion 263:24
assigned 24:24
assist 197:14
assistance 154:16
Assistant 160:13
Associate 237:25
association 8:2 12:13 20:14 22:11 26:7 28:16 38:16 169:10 169:15 172:13 214:13 235:16 256:5
assume 57:25 144:23 227:12
assumes 82:21 134:5
assuming 10:8 124:20
assure 238:21
assuring 237:7
astronomical 15:15
attach 48:21 49:1 112:5
attached $35: 12,14,17$ 35:25 36:5 38:5 41:9 102:7
attempt 224:22 244:22
attempted 222:25 223:4
attempting 263:11,12
attempts 26:25 246:13
attending 21:14
attention 101:10 111:15 112:17 204:14 215:25 274:1
attorney 11:14 26:21 38:22 82:25 83:2,3,6 83:10,11,12,18 102:17 111:7 189:13 238:10 243:21 285:4 285:7,11 288:23
attorneys 13:4 14:8 83:16,20,21,24 269:20 285:6,10 287:11 288:23
attracting 215:24
attributable 22:7 78:11 275:5
attributing 214:10
audible 74:1 103:2 122:19 222:12
August 29:5 37:18 57:8 186:16 188:10,12 228:22 229:5 237:12 253:5,9,13 254:14 259:3 272:8
authenticated 260:25 261:15
authentication 263:2
author 115:17
authority 22:12 149:5 238:12 278:7
authorization 236:22
avail 162:21
available 27:13 39:7 41:19 156:10 157:5 157:11,12,13 161:2 230:17 234:24 279:4
avenue 198:15 246:15 272:8
average 195:12,18
avoid 187:16 232:12,14 254:21
avoiding 7:18 107:3
aware 31:19 32:15 47:21 73:10,23 74:3 75:7,8,22 77:20,22 78:23 79:2 81:10,21 81:22 82:3,8,11 83:11 84:6,7 99:6,13 135:18 138:23 145:8 165:22 165:25 166:1,5,7,9,11 168:19 170:16 171:15 195:5,19 208:10 225:13 250:23 255:24 256:2
awhile 160:18
$\frac{B}{\text { B-E-L-A-C-H-E-W 5:17 }}$ 176:23
B-I-A-N-C-O 4:23
back 14:17 31:8 36:14 37:4 41:14,23 56:4 57:5 62:24 81:9 85:23 85:25 91:6,9 92:2,12 96:1 103:11,12 106:23 117:12 118:1 139:7,20 153:24

162:13,17 168:14 173:13 186:7 189:2 190:2 194:4 198:14 198:19 201:17 202:24 207:18 211:11 212:21 228:9 240:22 246:19 254:15,21 269:17,18 283:13
back-to-back 37:24
background 105:13 279:22
bad 105:2 146:21 205:8 244:14 282:16
baffled 141:8
balance 212:3
ban 167:14
banned 226:3 281:17
bar 16:20,21,22 18:24 21:4 39:18 40:8 41:15 77:20 89:9 119:10,18 120:20 179:7 189:16 203:20,23 218:11,12 244:16 275:22 276:18 278:4
barrier 187:16
bars 22:7 94:18,24,25 95:3 97:5 157:13 172:24 191:18 217:21 281:11
base 196:9 199:21 200:2 222:21 223:1 224:9,20
based 11:10 22:14 33:8 37:10 63:11 66:3 123:19 125:5 137:11 150:21 151:2 171:25 201:3,7 217:6,10,14 218:16 243:4 273:12 275:10 279:10 286:15
basic 243:11
basically 15:8 119:25 121:17 154:22 184:9 224:2 286:10
basis 81:17 109:24 156:8 222:23 223:16 224:10 260:24 276:2
bass 181:10 184:15 185:3
bathroom 91:9
battery 103:9
Bay 102:7 103:17,23
bear 35:19 96:3 248:3 258:19
bearing 273:4
bears 244:20
beat 181:13
becoming 15:13 245:4
bed 157:3 212:21
beg 276:1
beginning 19:1 139:9 167:20 168:16 236:18 242:13 279:7
begun 167:15
behalf 8:1 20:13 28:15 156:23 160:18 277:17
behavior 207:3 218:3 278:5
behest 105:21
belabor 230:20
Belachew's 253:3
believe 35:9 37:2 38:25 40:22 41:3 42:21 45:1 47:12 53:21 58:5 61:1 68:16 69:14,23 73:12 75:7 81:12 82:17 84:3 108:24 110:1 123:8 137:16 140:9 146:8 151:23 153:15 171:14 173:8 196:11 209:2 214:23 248:15,19 249:2,11,16 251:14 264:11 278:5 285:23 286:15,17,18 288:8
belligerent 276:10
beneficial 209:25
best 36:23 96:22 141:22 142:18,24 143:9 234:21 245:12 245:14 273:14 282:19
best-run 273:9
better 155:17 244:15 282:21 285:7,12,12
Beverage 1:2,13 289:15 291:7
beyond 18:25 21:7
Bianco's 64:1 139:14 255:16 256:7,8,11,13 263:24 282:17 286:24
biases 288:24
bicycle 70:3 239:16
bid 173:25 174:11
big 89:19 92:7 100:23 198:14
biggest 16:12 98:5,7,7
bike 136:10 170:15,17 239:20 252:3,3,7,9,10
bit 6:3 48:8 53:2,4 57:1 57:4 59:24 92:23 130:11 206:11
black-owned 15:21 blew 238:24
block 14:15,17,20 15:24 16:7,19 26:1,2 27:15 30:18,19,24 31:5 34:1 39:12 48:17 51:6 63:6 80:4 173:2

191:19 203:19,20
208:3 210:4,5,7 215:8 215:11,12,17 216:2 225:4 239:21 244:16 272:23 282:21
blocking 18:22 28:10 205:17 242:4 252:13
blocks 20:16 240:9 270:19
blowing 232:9
blown 239:3
Blue 127:25
Board's 11:12,15,17 32:14 274:1 286:7 291:16
boards 199:25 200:1,17
Bobby 1:17 290:9 292:3
body 57:5
bollard 252:11
bollards 239:16,20 252:12
booming 219:5
booth 119:18
booths 119:10
bothered 232:3
bottom 108:11 110:7 242:1
bought 88:14 122:1 128:1,9
bouncers 155:5
bounded 26:1
Bowser 149:1,24
box 140:3
boy 224:4
bracket 112:6 125:17
break 85:13 161:24 162:7,16 163:1,2,3,6 163:7,7,18 164:4,9 188:21 208:7 269:6 270:22
break-ins 22:1
breaking 147:17 148:6 148:10 150:5
brief 102:24 223:6 274:24 280:3
briefly 37:4 52:21 81:10 252:16
briefs 285:22
bring 176:14 199:23 286:14,14 288:9
bringing 286:21
brings 283:14
Brixton 98:8
broadcast 211:5
BROGAN 260:9,21
broken 210:13 246:12
brought 198:16 232:17
bud 208:19
building 18:3,21 28:7
63:18,22 69:2,7 88:12
90:18,20 91:6,7,17
92:2 99:18 100:14,21
100:25 101:1,2,22,24
108:6 113:15 120:21
122:17,24 123:23,24
124:2 127:5 131:23
132:5 144:13 158:22
169:6 195:3 221:13
221:21 224:15 225:3
225:16 232:12,20
233:5,14,15,16,17
236:7 240:11,14
241:9,20 242:12
245:17 248:21 250:14
253:15 280:11,12
283:1,2 284:9,11
buildings 271:1
built 15:5 122:17
244:25 245:22,23
271:14 280:11 283:2
bulleted 111:16 112:2
Bulletin 292:22
bunch 139:7
burden 19:15,21 277:14 277:15 284:15
burns 147:10
burst 182:20
Bush 108:8
busier 192:6
business 14:17,19 20:1 98:2 127:18 136:12 146:5,21,22,23 148:3 149:7,8,9 157:7 158:12,13 159:3 165:1,2,4 168:11 174:25 189:22 195:2 201:17 232:13 234:15 235:9,11 238:6 240:21 242:10 243:8 243:9 244:12 245:19 246:11 278:8,11 280:20 281:4 282:16 282:19,22 283:22 293:9
businesses 15:17,22 29:21,24 97:2 154:11 157:5 173:2,11 174:14,15,24 175:10 245:22,23 280:22 281:3,5 282:6
busy 30:15,19 31:7 48:18 98:21
button 274:17
buttons 199:16
buy 97:5 121:25 126:16
buying 122:23 123:11

| C | 271:3,4,24 272:10,13 | 213:14 216:21 217:12 | 22:6,15,23 |
| :---: | :---: | :---: | :---: |
| C 7:11 | 275:8 289:20,23 | 217:19 220:6,21 | citations 243:3 |
| C-H-A-U-V-I-N 8:8,19 | cases 51:11 79:1 139:4 | 227:25 246:23 255:15 | cited 82:17 224:10 |
| calculations 198:13 | 156:11 213:5 271:2 | 257:4 261:16 262:20 | 3:6 275:16 289:24 |
| calendar 3:4 292:23 | atch 191 | 264:5 268:16,22 | citizens 146:25 148:2 |
| calibrate 197:13 | Cato 1:17 290:8,9,9 | 274:23 278:14 280:1 | 148:25 149:2,23 |
| calibrated 192:23 193:5 | 292:2,3 | 284:18 285:23 287:16 | city 15:21 148:3 150:3,6 |
| 193:7 | cause 191:17 192:5 | Chamberlin 2:21 | 278:24 |
| calibrating 198:20 | 194:17,19 200:15 | 237:25 266:19 | city's 277:21 |
| call 4:16 11:7 23:2 | 211:24 212:22,24 | change 100:7 174:7 | civil 272:1 291:1 |
| 72:12 76:16 85:10 | 216:25 | 99:12,15 267:4 | claim 249:5,14,2 |
| 107:11,13 161:19 | caused 224:3,20 | changed 100:2 |  |
| 172:4,21 173:7,24 | 272:24 273:1 | changes 123:18 124:5 | claimed 256:1 |
| 175:22,23 188:2 | causing 148:2 225:6 | 124:24 230:5 283:19 | claiming 106:24 144:18 |
| 201:18 202:11 208:6 | 238:25 243:10 | changing 199:10 | clarification 61:17 |
| 209:3 212:21,25 | cease 129:20 130:3 | Chapter 291:8 | 247:1 |
| 214:2 223:8 282:19 | 228:19 229:3,15,21 | character 250:23 | clarifies 251:1 |
| 290:4 291:24 | ceased 252:1 | characteristics 16: | clarify 74:14 174:2 |
| called 21:12,21 23:6 | ceases 284:12 | characterization 244 | 206:1 244:9 |
| 67:10 69:11 79:3 | C | - | clarifying 122:1 |
| 88:19 89:4 95:9 96:6 | center 14:19 | charge 157:16 178:13 | 139:11 |
| 115:16,17 208:7,11 | central 153:2 | 198:11 | clarity 143:5 |
| 208:23 209:8 219:24 | certain 16:14 | Cha | Class 17:14 221 |
| calling 42:12 276:8 | 104:2 107:20 111:9 | chat 183:25 184:8 | classified 57:16 |
| calls 21:5 28:25 34:17 | 199:17 237:8 285: | 185:15 186:7,14 | clear 12:16 13:1 61 |
| 34:19 36:22,24 42:10 | certainly 167:23 225:14 | 187:9 188:6 252:1 | 67:21 79:14 87:1 |
| 42:16 156:8 172:2 | 248:21 | 252:22 253:4,14 | 173:5 175:4 207: |
| 218:13 | certificate 42:19 48:21 | 254:16 255:10 271:25 | 215:16 223:15 230:7 |
| calm 66:2 | 28 | chatting 204:17 | 244:2 246:9 251:2 |
| camera 2:24 4:1,2 | certification 198:8 | Chauvin 2:4 8:7,9,14,16 | 282:18 283:12 |
| 151:18 176:1,2,2,4 | certifications 198:7 | 8:17,18,21 203:4,5,6 | clearing 165:10 |
| 211:9,16 268:7 | certified 197:24 198: | 203:10,14,18,25 | clearly 14:4 19:24 |
| cameras 241:20 | 78 | 204:6,8,12 205:22,24 | 231:4,15 235:5 241: |
| cans 22:2 | certifies 27 | 206:3,6,9,17,24 | 242:3 275:5 283:15 |
| capacity 76:15 93:22 | Chain 2:20,20 | 207:13,16,23 208:13 | client 14:13 89:17 |
| 155:21 156:6 157:11 | Chair 6:11 29:10 35:8 | 209:1 210:2,5,9,20 | 151:7 255:16 256:7, |
| 173:22 256:3,4 | 35:21 45:6 113:19 | 211:2,16 212:8,13 | 256:12,13 271:25 |
| 275:17,18 281:13 | 145:24 149:19 150:16 | 213:10,11,19,20,25 | 274:9 280:15 281:24 |
| car 86:20,25 147:13,16 | 175:13 196:24 200:21 | 214:8,19 215:2,10,13 | client's 264:15 273:13 |
| Cardozo-U 24:12 | 201:9 220:19 226:20 | 215:18,22 216:5,14 | 273:23 280:15 |
| care 32:25 163:19 | 226:23 228:6 279:15 | 216:20 217:19,24 | clients 280:23 |
| cared 44:24 | 286:17,18 290:2 | 218:5 219:2,14,18,21 | close 31:25 32:1 75:14 |
| Caroline 108:8 120:10 | Chairman 6:21 7:9 | 220:2 254:17 277:7 | 136:20 137:2 163:3,5 |
| 124:22 127:11 | 10:17,20 17:7 20:9 | Chauvin's 8:12 | 164:9 188:19 240:18 |
| carry 89:13 | 62:4 71:3,19 75:11,17 | check 180:15 197:20 | 242:6 246:10 268:18 |
| cars 21:14 98:23 | 80:2 83:4 84:3 104:4 | checked 70:24 155:4 | 269:21 274:21 287:23 |
| 204:20 217:25 | 105:5 106:20 110:20 | checks 198:3,5 | 291:4 |
| case 1:8 3:3,4,8 9:18,19 | 110:23 114:1 115:6 | chief 227:9 | closed 26:11 44:17 |
| 9:20,23,24 12:5,6,10 | 115:14 116:6 132:15 | children 276:5 | 67:24 89:1 95:1,3,11 |
| 12:15 13:9,12,14,22 | 136:14,24 137:25 | chin 231:15 | 135:1,2,4 148:9 237:1 |
| 15:23 24:14,17 25:4 | 138:4,12,24 139:11 | choice 17:17 | 248:11,18 281:6 |
| 28:9 35:23 45:3,3 | 140:8 143:2 150:24 | choose 22:21 107:11 | 289:18 290:25 291:10 |
| 64:13 73:20 115:3 | $\begin{aligned} & \text { 151:4 160:12 161:12 } \\ & \text { 162:4.11 163:25 } \end{aligned}$ | 107:12 169:21 chooses 264:12 | 292:19 <br> closely 241:11 |
| 120:19 152:10 158:22 | 162:4,11 163:25 | chooses 264:12 | closely 241:11 |
| 159:14 188:1 189:12 | 164:14 171:3,7 | Choosing 232:7 | closing 2:6 13:15,18 |
| 189:15 198:11 213:6 | 188:25 190:24 191:3 | chose 115:18 | 49:8 74:13 160:19 |
| 227:5,9 243:20 | 196:13,17,19 201:5 | cigarette 147:10 | 269:4,5,19 279:9,24 |
| 244:10 269:24 270:2 | 202:4,17 203:6 | circumstances 20:25 | closure 288:9 |

closures 223:17
clothing 147:14 club 214:15 clubs 225:4 code 19:14 277:3,10,13 277:25 289:16,21,25
collect 276:12
collected 157:21
Columbia 1:1 24:1
26:13 43:18 44:1 83:7
145:9 146:8,14 148:1
149:1,2,11,23 164:24
197:25 243:7 280:21
289:16 291:8
come 16:18 24:14,20
24:22 25:4 40:13 56:1
68:12 89:17 93:6,7,25
107:1 116:2 121:13
132:5 143:12 144:21
147:1,15,21 153:24
162:17 178:4 184:18
187:2 200:13 208:6
216:25 218:8 223:22
240:23 242:23 243:19
246:19 249:20 256:8
256:13 276:11 278:22
comes 50:9 148:3
149:4 184:20,22
198:3,4 212:15
224:15 225:7 246:2
comfortable 219:13
coming 21:4 27:4 39:24 50:6,11,13,17 55:18 65:24 121:16 186:9 189:2 194:18 225:2 242:6 274:19
comments 32:5
commercial 18:14
153:2 165:3,18,23
166:24 168:7 245:10
commissioned 115:18
Commissioner 153:9
153:11 156:2 281:12
commit 162:13
committed 78:7,24 82:9
Committee 205:4,10
common 15:13 208:15 217:20
communicate 120:7,13 120:16
communicated 156:16 171:20
communication 156:20 253:4 272:7
communications 29:1 34:21 42:12 51:16 242:16
communities 280:24
community 14:19 18:1 155:6 156:10 165:2 243:14 244:6 245:13 246:6 277:16
company 133:20 144:5
comparable 155:15
compare 48:12 97:22 155:13
Compared 31:7
compares 48:9
competed 100:10
complaining 15:16 16:21 21:5 52:8 101:6 185:6 271:12
complaint 121:17 185:10,20,23 186:5 186:13,21 187:9,15 187:23 188:5 224:21
complaints 28:23 51:21 52:2,11,12,16 62:11 62:15,21 63:1 155:6 155:20,25 156:5 171:16 185:15,18 188:8 223:21,23,24 225:12 272:4,5 275:13,15
complement 285:1 288:16
complements 288:22 288:25
complete 24:14 248:22
completed 159:4 271:15
completely 96:8 111:14 254:22 255:5
compliance 15:6,9 70:24 74:7 154:13 242:24 243:16,17,19 274:1,12
complicated 286:6
complied 79:25 108:16 170:13 229:21 251:13 271:17
comply 149:10 276:1 278:24
compound 82:21
computer 288:13 289:10
concede 263:11
conceded 273:9
concentration 16:9 270:15
concern 222:2 225:18
concerned 239:7
concerning 291:12
concerns 27:7,21 97:13 99:13 104:3 106:11 172:22 173:3,3,5,6,6

173:23 236:11 242:20
246:13 264:9 286:19
concise 13:1 269:22
concisely 14:4
conclude 12:5
concludes 61:21
conclusion 106:6,8 244:2
conclusions 285:16 286:9,23
condition 17:2 22:18 206:25,25 210:21 274:13
conditions 21:2 173:2 174:8 204:13 235:23 240:19 261:8
condo 28:1,11 42:2 100:10
condominium 18:3 28:7 63:18 69:2,7 90:19 99:18,20 105:22,25 106:2 108:6,9 120:14 122:17 127:5 169:10 187:10 221:13,15,21 225:7 232:20 233:14 233:16 235:16 240:10 241:20 242:12 248:7 248:18,25 250:13 256:4 271:10,14 280:11 283:1,2
condominiums 123:12 196:3
condos 270:16
conduct 23:24 78:13 137:7,8 143:15 210:19
conducted 26:21 38:20 53:5 225:14
conducting 54:19 74:25 75:5
conduit 110:17
conference 290:25
confidence 19:9 242:23
confident 16:25 224:13
confirmation 144:9
confirmed 265:12
conflict 160:15 162:23 287:20
confused 61:17 165:9
confusion 57:3
congregate 30:17
217:22,24 239:24
congregated 205:15 272:19
congressional 152:25 Connecticut 198:15 connection 74:23 261:7
consent 18:21 232:20 234:14 235:8 236:8 245:17 284:11
consequence 147:16
consider 22:18 43:20 43:24 44:22 275:6 277:11
consideration 279:14
considered 29:15 32:20 273:21
consistent 210:20
constant 192:10
constraints 10:3 278:15
construction 100:15 105:25 270:25
consultation 158:25
consulting 250:6
consumer 107:20,21
consumption 21:17
contact 135:12 154:10 154:10 158:16 168:6 168:10,20 189:17 242:6 287:24 288:5
contacted 74:14 174:14 235:15
contained 104:22
content 71:17
contents 2:1 114:22
context 263:21
continue 27:3 145:17 162:16 239:20 244:1 277:8 283:12
continued 20:21 44:20 238:13
continuing 21:15
continuous 42:15 224:3
contract 124:17 137:8 248:10 250:5
contractor 100:13,24 107:13 124:10,17,18 124:20 126:4,5,10,15 174:3 250:5
contrary 263:23
contribute 50:10
control 1:2,13 19:25
39:19 119:8,11,21 177:20 178:17,18 181:8,11 200:16,16 200:18 289:15 291:7
controller 119:11,13 179:1 181:4
controlling 178:13 181:6,23,25
convened 172:12
conversation 60:11 61:3,10 172:12

173:16,21 253:9 conversational 76:3 77:5 183:6 224:8,12 conversations 172:5 209:2
cooked 234:1
cooking 234:4
cop 216:5 282:9
copy 157:25 198:7
corner 77:23
corrected 198:16
correctly 10:8 60:8 68:6 247:2
correspond 261:5
corresponding 52:1
corridor 24:12 171:23 245:10
corridors 153:2
cost 122:3 174:23
Council 270:23
Councilmember 172:14 172:15
counsel 1:22 4:23 160:13 237:24 291:15
counsels 285:2 289:19
country 280:21
couple 13:4 34:24 36:10 85:14 196:25 213:22 250:24 270:20 274:15
course 19:6 20:19 66:5 81:15 139:14 140:10 179:16 190:20 219:14 219:15 250:8
court 97:12 196:7 209:20
cover 46:2 124:21 250:25
covering 148:15
COVID 20:22 32:24 33:8 40:20,22 43:10 51:5 58:25 61:4 75:24 76:1,15 77:5,14 78:7 78:23 82:5,9,10,14,17 84:5,16,18,24 128:15 128:17 149:7 182:9 191:25 192:1 214:11 217:1 275:13,14 277:8 278:2,10 280:25 281:7,25 282:1
COVID-19 226:1 COVID-related 37:13 224:7
create 41:9 246:2
created 18:13,15 120:15 245:8
crime 173:3,9,19
criminal 291:13
crisis 19:23 20:22
Crockett 1:17 290:13 290:14,14 291:20,20 291:22,25 292:8,9,9
cross 86:23 108:24 109:4 138:18 139:16 161:21 163:14 164:5 189:14 248:4
cross- 9:21
cross-examination 11:21 61:21 64:1 246:19 255:12
cross-examinations 83:17
cross-examine 11:15 11:17,19 209:16 264:9
cross-examined 12:1
Crostino 81:24 82:9 84:5
crowd 214:24
crowded 214:9
crowds 16:16 65:25 215:23
CT 1:8 17:14 221:17
current 26:13 33:1,9 207:15
currently 14:16 23:15 76:19 123:1 136:8 158:12 243:20
cursor 46:5 233:18
customer 147:23 191:16
customers 66:10,14 95:14 127:21 147:21 155:3 232:8,9,14 239:19 243:14 251:5 251:10 252:2 280:24 281:1
cut 163:14 272:7
D

D 6:24
D-E-R-E-G-E 5:8
D.C 167:14 195:5 197:11 270:13
daily 156:7
damaging 115:3
dancing 281:16
dangerous 232:15
dangers 18:23
date 27:9 28:13 135:18
167:9 233:2 247:22 251:9 261:4,4,6,9 263:14,20
dated 103:19 232:25
dates 135:18 207:14

David 6:24
day 13:23,24 52:21 55:7 55:8 95:12 156:8 177:11 179:23 181:21 185:9,19 186:15 191:10,14 192:25 202:11 206:16 207:2 207:19 214:4 238:3 239:5,13 245:5 250:22 254:24 255:4 263:17,18,19 270:10 274:24 284:24 288:13 288:14 289:5,7,10,11 291:5 293:8,10
day-to-day 177:10
days $27: 844: 17$ 64:5 87:25 88:7,8 148:9 184:10 190:6,7,22 191:6,7,13,15 223:19 238:9 278:20 288:8
DC 1:21,25 2:12,19 16:5 16:10 19:14 32:16 33:10 47:9 72:21 73:3 221:24 225:20,23 226:5 228:24 234:20 236:1 240:2 244:22 245:7 258:7,10 270:20 276:6 277:10 277:13 289:16,21,25 291:18 292:24
DC's 234:7
DC9 79:3 95:17,20
DCRA 101:7 195:20 197:12 198:11
DD 230:19
DDOT 99:5,6 131:6,10 132:3,12 135:14 136:8 165:13 169:18 235:22 236:20 237:8 237:15 251:12 266:19 267:16
DDOT's 157:23
deadly 232:5,10 282:12
deal 186:24 252:22 254:20 271:4
dealing 19:6 59:12 83:18 245:6 270:24 272:1
dealt 272:4
decades 14:15 15:18
December 153:7 231:11,11
decibel 191:22 192:9 192:10 193:10 194:22 195:9,24 196:2 279:4
decibel-reading 192:14
decibels 179:19 180:18 181:2 194:8,13 195:6

195:16,21 196:9,10
decided 93:19
deciding 22:18
decision 288:8
decline 151:9
declined 58:10
deconstructed 239:12
deemed 243:12,13
defer 226:20,22 228:5 286:6
define 65:21
definitely 47:16,18 152:2
definition 18:10
degree 20:23
deliberating 289:23
deliveries 89:13
demonstrate 15:3 19:24
densely 16:12 47:6,21
density 205:7
deny 264:14 273:18 283:25
department 2:12 70:2 73:16 129:10,25 157:6 158:24 166:20 225:23 226:5 228:19 228:21,24 236:3 237:23 238:1 258:7 281:17
departments 164:25
depending 152:1
161:21 235:20
depends 181:9
depict 96:22
Derege 1:24 5:1,7 14:13 26:20 86:7
describe $30: 11,13,14$ 43:13 47:5 48:15 53:20 89:6 93:1 98:17
210:7 211:12,13,14
described 48:5 137:17
describes 28:8
description 2:11 125:5
designated 14:21
designation 16:6
designed 17:24 18:10
desire 217:17 278:13
desires 12:3
desist 129:21 130:3 228:19 229:3,16,21
desists 284:12
despite 82:15 222:19 224:6
detail 57:4 59:24 92:23 173:17 174:4,12,22 175:8
detailed 279:7
details 52:16
deteriorated 242:19
deterioration 204:13
determination 14:6
210:1 273:22 278:21
determine 74:6
determined 69:19
137:15 140:25 158:11
167:1 168:3
develop 275:21
developed 101:24
developer 100:11,13,18 101:22 105:22 115:18 124:6 249:5,23 250:2 250:3,4,16,20 271:13 280:10
development 18:12
29:16,18 165:1 245:3 245:9
device 211:19
dial 183:11,18
differ 75:24
difference 125:19 131:22 137:17,21 141:2 202:19
differences 75:22
different 88:11 97:1 133:20 157:14 181:10 199:19,20,20 200:2 263:1
differently 84:23 224:2
difficult 205:8 278:10
difficulties 153:18 183:21
dining 95:15,16 167:14 234:10
dire 105:13 107:7
direct 29:22 101:10 111:8,15 112:16 126:3,5 189:10 284:8 293:8
directed 126:10 140:22 240:12
directing 71:1 97:17
direction 36:2
directions 239:5
directly 18:20 19:10 21:4 27:24 29:21 30:3 39:7 41:11 90:18 99:18 184:18 194:1 221:13 223:2,5 232:19 246:13
director 6:22 152:25 153:7 154:8 173:22 174:2 237:25
disagree 140:10 disclose 250:16 disclosures 250:20
discomfort 282:11
discretion 140:11
discuss 44:8 52:21 100:12,13 163:16 189:12,15,18 228:2 257:20
discussed 173:17 discussing 291:11 discussion 60:1 98:16 257:4 258:4
discussions 100:11
dismissed 201:16
disorderly 210:19
disposal 13:25
disregard 21:2 276:24
disregarded 277:24
disruption 224:3
disruptive 223:15
distancing 281:14
distinguish 50:17
district 1:1 16:7 18:6,11 18:15 24:1 26:13 43:17 44:1 83:7 145:9 146:8,13 148:1 149:1 149:2,10,23 154:12 157:6 159:8 164:24 166:19 197:25 198:12 243:6,12,12 245:2 270:12 280:21 289:15 291:7
District's 276:18
districts 16:5,11
disturbance 225:6 272:24 273:1
disturbances 16:17 20:20
disturbing 218:6
DJ 5:1 14:14 87:16 99:7 117:23 119:9,18 122:13 126:9 128:19 132:7 136:15 137:14 137:23 140:15,18,24 145:6 175:5 178:4,17 179:12 181:9 264:23
DJs 119:9 178:6,10,14 178:18 181:7 199:20 199:22
doc 265:9
document 25:16 27:10 54:7 101:14 103:17 103:20 114:14,17,22 116:10,10 144:2 222:17 226:12 227:2 228:6,7,23,25 229:7 229:24 230:11,24 231:8,19 233:7,20 234:17,23 235:1,4 236:14 237:19 238:18

240:6 241:6,23
257:25 258:13 259:9
259:20 260:4,13
265:22 266:5,15
267:1,12,24 268:13
268:25
documentation 52:4 129:24 159:18,22
documented 21:25
documents 114:13
157:22 227:4,6,10,16 227:24 228:9 257:10
257:11 265:7,10,14
265:16,19 268:2,20
doing 39:15 45:21 51:7 53:13 55:7 100:15 107:14 129:2 130:25 130:25 145:18 149:7 149:8 153:5 219:13 243:22 276:15 282:23 282:24 286:22
dollar 270:16
domain 265:12
dominant 31:21
don't' 199:25
Donovan 1:14,16
Donuts 158:17 168:14 170:24
door 16:20 17:11,16 18:4 27:24 50:12 54:9 54:10,17 55:16 69:2 78:4 90:18 99:18 106:23 155:5 186:23 187:17 188:3,7 193:12,13,16,19,22 193:23 218:9 232:12 239:7 240:12,17,21 240:22 241:21 242:4 254:21 271:10
DoorDash 89:15
doors 18:22 81:24 167:6 212:5
doorway 28:11 240:10 241:10
dot 183:12,16
doubt 243:25 275:1
downturn 275:14
draw 16:4
drawings 157:21
drill 53:3
drinking 92:24 93:11
driving 86:19 97:5 147:13 154:25
dropped 287:23
drove 170:18
drunk 208:1 210:18
drunken 210:9
drunkenness 212:19
due 15:9 26:10 76:9
237:1 240:19 272:6
dues 165:5
duly 23:7
Dunkin 158:16
durable 19:11
duties 23:18 177:7,18
duty 279:1
dying 15:22
E $\quad$ E
E-V-A-N 7:11
earlier 77:17 80:14
102:9 187:7 215:7
$238: 3247: 3$ 255:15
$270: 22$ 279:10 281:12
earliest 248:20
early 167:18,23 242:12
easier 226:19
eating 92:23 93:10
Edward 1:18 290:19 292:14
effect 17:25 20:1 22:16 50:23 65:5 226:1 277:11
effective 20:24 110:15
effectively 244:25
effort 15:18 223:20 271:22
efforts 19:9 27:4
egregiously 277:1
eight 198:14 204:20
Eighty 194:9,10
either 102:16,17 138:24
142:21 159:13 163:13
167:20 169:14 174:15
186:8 229:21 245:25
elected 149:1,23 277:20
electronic 292:22
elevate 3:7 6:6,10
elevated $3: 11,12,13,14$ 3:15,17,18,19 4:1 5:25 8:12
elevator 166:10
email 2:20,20 27:5,20 101:13,25 102:2,6,9 124:20 132:3 154:10 156:17 168:15 174:16 236:17,24 237:21 238:15 239:11 266:8 266:18 267:4
emailed 236:9 238:10 238:21 239:9 251:25
emails 267:5
Emals 2:21
emergency 26:10 29:4

37:19 158:2 174:7
221:25 223:18 225:25 231:17 273:17 274:2 281:11
emphasis 29:17
employed 23:15
employee 256:12
employees 239:12
253:1 277:7 280:23
encounter 240:18
encourage 18:13 243:15,17,19 245:9
encouraged 245:3
encouraging 18:11
endeavor 219:8
endorsements 234:9
enforce 277:20
enforcement 21:24
46:21 223:3,8,9 243:24
engaged 250:5 271:14 288:20
engaging 288:21
engineer 102:10 107:13 113:10 118:8 123:23 123:25 125:8 126:7 126:10 137:15 140:25 143:12,19 144:25 197:18,19,21 198:2 255:19 271:15,18 278:22
engineer's 119:3,7 120:6 123:19 137:6
engineering 107:8 123:20 125:2
engineers 141:4 198:16 198:19
English 125:5
enjoy 202:24 205:9
enjoyed 289:12
enjoyment 22:16 211:25
ensure 73:25 222:11
enter 54:10 67:4 239:23 240:13,14
entered 73:19 248:10
entering 240:10 263:11 283:4
entertainment 281:16
entire 165:23 243:6
entirety 233:13,16 237:3
entities 26:5
entrance 28:11 38:24 133:6,11 166:3 233:17 234:2 241:9
entries 214:14
environment 232:15

246:1
epicenter 270:14
episodes 224:1
equipment 39:18
179:18,21,25 180:16 181:21 192:14 197:13 199:4,23 230:22
erected 234:3 236:7
erecting 235:17
es 265:9
especially 30:15 31:9 110:16
essentially 106:10
223:22 227:10 251:22 253:13
establish 107:7
established 107:4 139:9 155:18
Establishing 78:10
establishment's 19:22
27:22 222:6 270:3
establishments 15:25
16:2,8,10,19 21:14
22:3 24:1 26:8,11
29:13,25 30:6 32:3,16
33:10 42:5 47:2 48:10
48:12,18,20,24 49:5
49:25 50:12,18 55:12
78:14 79:10,24 80:3,7
80:8,13,15,16,17,24
82:13 88:23 96:23
97:23 98:11 154:9
155:14 216:4 226:2,6
234:8,13 258:9
270:16,18 273:10,12
etcetera 230:9
Ethiopia 14:21,23
Ethiopian 14:19
Ethiopians 31:22
EV 111:17 112:4,5
Evan 1:23 2:5 7:10
17:10 26:5 27:20
38:11 156:15 221:11
evening 211:4 213:1 215:5,7,25 236:10 242:9 250:22 254:5 254:11 278:19
evenings 30:15 155:1
event 103:1
everybody 14:14 89:15 97:25 121:14 145:18 238:2
everybody's 98:3 everyone's 34:3,6
evidence 13:10 14:5 15:2 17:1 19:16,21 82:22 107:2 114:9,14 114:17 116:2,19

134:6,12 144:16,19
148:15 209:22 212:23
226:16 227:2,4,12,13
227:17,24 257:5,12
257:25 258:13 259:9
259:20 260:4,13
263:12 264:6,10
265:19 266:5,15
267:1,12,24 268:13
268:20,25 270:2,8
271:7 273:3 276:13
280:4,5 283:24
evidently 106:18
Exact 135:18
exactly 63:3 106:7,19 135:17 218:11 282:1 282:23,24 286:4
examination 23:6 86:24 108:25 109:4 163:14 164:5 189:14
examine 138:18
examined 23:7
examining 9:22
example 41:21 56:12 245:16
examples 45:2
exceeding 162:8 180:21
exceeds 181:1
excellent 45:5,19 87:14
exchange 236:17 266:9
excuse 41:4 49:14 103:3 196:22 231:5
excused 85:9
executive 6:22 152:24 153:6 154:7 161:25 173:22 189:21 293:9
exempt 129:23 226:6
exemption $73: 2,6,8,11$ 130:4,5,8 145:10,13 145:16 225:22 226:9 281:18 284:14
exemptions 226:3 258:9
exercise 93:4
exhaust 185:20,21 186:8,10
exhausted 214:3
exhibited 218:3
exhibits 2:9 35:9,11,17 35:25 36:5 38:3,4,5 51:15 53:16 87:7 176:14 220:23 226:16 246:20 257:5 260:24 261:19 263:12 265:20 268:16
exist 105:3 238:13 274:8
existed 261:8
existence 15:19 16:2
existing 19:24 21:3
222:6 234:8
exists 246:6,8
exiting 240:11
expanded 33:23 39:1,4 69:11,14
expect 6:8 77:12 109:10 285:12 287:22
expectation 285:5
expectations 83:23
expecting 13:2
expense 124:13,21
experience 47:8 63:6,7 211:13 217:20 224:15
experienced 210:18
experiences 206:22 212:12
experiment 225:5
expert 104:6,22 105:15
106:22 107:8,11
109:9,13,15 125:2 198:21,21
expert's 107:21
expertise 107:25 114:25
expired 159:13
explain 31:4 92:22 121:8 141:7 200:1
explained 46:10 53:22
explanation 142:23
explore 108:25
exposed 232:15
expound $34: 18$
extend 233:15 236:23
extended 237:4
extending 241:10
extends 233:3,4
extensive 21:25
extent 16:22 166:15
exterior 154:25
extraordinary 281:8
extrapolate 275:16
extremely 21:13 224:13 239:7

## F

F-R-A-N-K 8:18
facing 39:14 41:13,14 41:18 91:3 92:14 205:20
fact 15:22 16:3 18:6 77:3 100:25 114:4 115:4,14 134:11 144:10 216:15 218:16 232:1,1,11 242:15
244:13,14 245:25

255:4 283:24 285:16
286:9,23 287:4
facts 82:22 134:5 214:6 215:19 236:24 272:19 272:25 286:12
failure 21:11,20
fair 50:15,18,20 77:1,6 77:15 204:2
fairly 5:23 81:16 82:5
faith 242:17
fall 277:16
falling 208:4 210:10,13
false 283:23
familiar 24:6,9,10 72:20 77:18 82:2 112:23 113:6 154:2,6 158:15 172:18
familiarity 204:3
familiarize 112:21 113:2
family 1:6 14:18 24:25
Family-owned 15:21
fan 185:20,21 186:8
far 18:25 139:3 162:8
219:24 227:16 241:10
250:11 281:20 286:16
faster 270:12
fearing 276:13
February 24:23 26:19 27:19 28:19,24,24 35:2,3 38:20 41:3 51:22,23 52:23 56:5 60:16 61:5 62:16,16 62:22 63:2 64:25 67:11 74:15,19 99:8 174:17 181:16 184:12 185:9
fed 254:20
feedback 4:8
feel 17:16 19:12 30:16
30:20 192:4 211:15
211:20 219:11,13
240:20 288:13 289:6
feet 26:9 30:3 42:9 54:17 238:5
felt 69:5 222:22 242:16
fewer 15:25
field 151:9
Fifteen-day 64:7
fifth 64:12
fighting 210:13
fights 21:9
figure 162:7,15
file 130:15 131:5 212:23 224:20 285:15,22
filed 132:8 156:23 157:22 165:12
filing 166:14 169:4
filled 77:3
final 102:7 170:20 175:22
finally 264:4 278:16 279:6
financially 175:2,7
find $22: 8$ 31:15,18 32:21 35:15,20 40:1 110:15 255:10
findings 285:16 286:9 286:23
fine 9:4 64:4 104:7,10 107:10 109:19 111:9 137:13 145:5 148:8 163:22 175:11 228:14 243:16 274:17 288:3 288:4,7
fined 204:22
finish 100:16 138:5 164:6
finished 112:10,12 115:11
firs-hand 208:25
first 3:3 5:5,7 6:23 11:7 12:12 23:3,6 24:17 39:13,19 41:7 44:11 44:14 51:14 60:2,9,25 61:2 67:9 74:14,18 85:12 86:6 89:9 91:2 92:13 94:23 102:5,20 157:1 167:11 179:4,5 183:12,15 203:2 213:22 224:16 235:13 236:1 246:4 247:4 248:12 263:1,10 275:8
first-hand 209:5 210:17
fit 138:14 277:5
five 10:24 11:3 13:16,17 13:18 14:9 29:3 37:18 43:12,20 44:14 60:2
82:17 152:6 162:8 188:21 189:5 191:7 191:13 215:3 239:14 243:3 269:7,21 274:21 279:24
five-minute 85:13
fixture 14:14
fixtures 167:5
flag 90:15
flagrant 21:1 276:24
flagrantly 277:23
flashed 211:7
flavor 31:12,13
flavors 72:19 230:17
flexible 83:19
flip 101:17
floor 28:1,2 39:19 40:5

40:6 41:7,13,17,20,22
41:24,25 53:12 54:11
54:25 68:20 91:2,23
92:13,13,14,17 94:22
94:23 110:14,16
118:24 120:11 165:19
165:24 166:2,6,10,16
166:24 179:4,6
224:18 234:15 235:9
235:10 236:21 237:3
237:5
floors 89:20,21
flouting 281:20
flouts 280:25 281:7
flow 22:3
focus 50:8 57:12 98:16 101:8 206:11 273:25
focusing 58:9
folks 10:2 205:15 269:19
follow 106:16 141:16 218:8,9,10 219:6,11 278:9
follow-up 11:21 12:2 85:5 201:2,7
follow-ups 62:9
followed 89:11 114:23 115:5 243:11
following 21:1 26:15 44:8 110:9 112:4 113:1 119:3,6 120:5 137:9 141:4 143:13 255:25 256:15 278:18
follows 23:8
followup 121:1
food 2:13,14 40:10,11 72:12 89:12,13,15 228:22 229:10 233:25 259:2,2,12
foot 16:8 42:5,8 47:2,25 79:10 80:17
football 207:25
force 270:18
forced 224:2 240:22 275:21
forcing 92:9
forever 32:18
forget 279:20
forgetting 251:11
forgive 43:4
forgotten 115:10
form 107:23 154:15 241:19
formatting 230:4
former 226:19
formerly 18:14 245:9
forthcoming 159:20
forward 72:5 152:3

245:12 257:18 258:16
found 28:20 43:9,10
44:19 62:14 84:11
124:13 150:1 154:20 159:7
foundation 82:21 114:2 114:17,18,25 116:2 228:2
four 28:18 50:25 64:21 64:22,24 70:6,22 74:22 75:1,3 177:4 213:6 215:3 238:9 277:3
four-hour 27:11 33:20 39:10
fourth 60:9
Frank 2:4 8:7,17,18 203:4
frankly 22:10 254:20
free 219:20
Frequent 21:9
frequently 154:8
fresh 147:7
Friday 27:17 205:13,18 276:3
Fridays 33:6 223:18 279:9
frighteningly 15:13
front 18:20 33:19 68:24 91:6,9 101:9 133:6,8 133:11 136:11 187:10 188:6 204:21 212:19 213:2,8 215:3 217:25 219:4 232:12,19 233:4,4,5,13 234:12 235:7 236:7 237:4 238:5 240:11,13,21 241:21 245:16 253:15 272:23 284:9,11 288:12 289:9
frustrating 245:15
frustration 246:2 272:6
full 237:13 284:24
fully 162:20 254:8
functions 148:4
furniture 170:14 252:6
further 17:2 39:11
52:17 57:19,23 75:11 85:3 108:25 112:16 114:25 131:11 136:15 140:11 142:23 143:16 143:20 145:21 159:24 160:5 168:18 175:12 189:22 196:20 213:10 216:11 219:17 238:7 242:25 255:7 256:19 274:13 275:19 293:9
Furthermore 225:23
future 212:23 245:7
G
game 207:25
garbage 22:1
garden 2:19 234:9
gardens 50:3
gather 25:22
gathered 25:23
gauge 39:23 68:11
general 37:14 154:18 156:5 160:13 173:1 237:24 243:21
generally 48:11 81:15
genre 178:1
gentlemen 209:14,15 209:15
gentrification 270:12 271:5 280:13
getting 14:25 85:18 88:20 109:2 208:17 211:21 276:10
GIS 26:13
give 10:24 11:20 12:23 13:15,20 15:9 22:22 25:11 31:13 34:13 56:11 71:6,9 72:4 87:6 132:6,18 140:4 187:24 188:23 257:8 263:20 265:9 269:5 274:15 278:5 289:1,2 290:23 291:3 292:18
given 108:15 109:11 128:4 235:23 275:18
gives 35:24 147:10,11
glad 253:11
goods 157:8
gotten 205:8
government 14:25
154:12 197:11 244:23 291:9
governments 164:24
Graham 129:7,8
Grandis 1:18 290:18,19 290:19 292:13,14,14
grant 164:23 284:1
grayed 71:18
greater 57:4 59:24
grill 234:1
grocery 205:18 216:22
ground 165:18,24
166:2,6,10,16,24
234:15 235:10 236:21 237:3,5
grounds 38:12 270:6
group 120:15,20,23 183:25 184:2,8 186:7 186:13,22 187:3

210:3 211:11 252:18
252:22,25 253:4,14
254:16 271:25 276:9
283:14,17
grous 283:16
grown 235:9
Grubhub 89:14
guess 31:11 153:23
200:2 212:15 216:7 287:19
guidance 154:15
guideline 265:25
guidelines 2:19 159:8 234:21,22
guiding 24:15
guilt 150:2
guilty 148:10 150:1
gun 213:6
gunfire 212:14 213:4,23 214:6,17,23
gunshot 276:16
gunshots 212:19 215:7
H

H-L-O 7:12
Habersha 89:4
half 163:18 167:12 177:5 205:16 206:17
hand 86:10,11 152:14 176:6 203:8 220:16 285:4
handle 160:21 226:20 227:20
hands 92:9 93:8
hang 31:9 219:22
hanging 187:4
Hansen 1:18 290:16,17 290:17 292:11,12,12
happen 223:11
happened 94:1 167:19 213:3 270:23 274:5 274:10
happening 223:16,20 270:11,12
happens 15:20 245:14 281:6
happy 36:1 79:16 178:8 226:22 228:5 235:22 263:10,15,22,24 264:7 287:1,1,8,24,25
hard 50:8 214:3
harder 211:21,21
harm 147:5 148:2
harmed 147:21
harms 280:25 281:1,1,2
hazard 239:1
head 274:16
headphone 121:11
headphones 40:12,15
40:25 41:3 121:8,14 121:25 128:1
health $2: 12$ 18:23,24
19:23 20:20 26:10
43:17,25 73:3,16
129:11 147:2 155:11 174:7 225:23,25
226:5 228:19,21,24
229:2 232:1 243:10
243:23 258:8 273:16 274:2 277:25 280:16 280:17 281:9,9,17
hear 5:24 15:2,12 18:8 19:3,5 40:4 49:17 50:11 53:12 55:17 56:2 68:20,23 69:1 74:10 76:11,12 83:9 86:15 88:4 97:12 101:5 102:21 120:16 121:13,18 122:21 150:8 162:19 183:23 184:19 213:4 224:8 225:1 227:6,7
heard 14:3,3 55:25 63:22 69:22 82:1 95:8 105:4 208:10 212:13 212:16,20 213:23 214:17,23 229:18 245:1 246:15 252:17 255:15 261:17 262:19 275:2,2,20 276:15,17 277:1,7,21 279:10 281:23
hearing 1:7 3:4 8:5 9:16 16:25 45:9 85:7 97:13 108:7 147:14 153:13 162:22 198:13 201:1 202:25 209:19 276:13 276:20 280:2,10 291:11 292:22 293:5 293:6
hearings 285:3
hearsay 208:24 209:5,7 209:19,23
heart-shape 90:15
heck 248:6
help 243:8,9 276:9
helped 246:1
helpful 285:24 286:2
helping 281:4
helps 148:3
Hi 102:6
high 16:9 77:13 184:15 184:16 270:16 273:11
higher 181:12
highest 182:8,18 230:18 243:24 282:3
highlighted 230:6
highlighting 28:10
highly 79:18
hire 113:13 115:25 124:17 250:3
hired 93:4 115:25 123:23,24,25 124:9 124:19
history 34:23,25 37:4 37:11,12,15 57:2 64:2 69:15 244:18,20
hit 71:16 146:13 147:15
Hm 144:7
hold 40:18 53:23 97:13 101:16 114:8 134:14 140:2,19 148:5 180:3 262:21 263:6 288:9 289:18 290:24 291:10 292:19
holder 156:24
holding 283:7
holds 81:23
home 96:24,25 195:24 210:19 211:15 230:18 260:1
homes 18:19 205:9 240:23
homicide 213:5
honest 254:22
honestly 57:2 172:9 264:22
hook 274:18
hookah 2:16 28:12 72:18,19,22 73:1 128:20 129:5,8,12,16 129:21 145:8,17 146:18 147:5,5,7 210:25 211:6 225:19 225:21 226:1 228:20 229:4,17,22 230:6,7,8 230:9,14,17,19,21 231:5,12,24 232:2,8 260:7 276:19,22 278:1 281:18 282:23 284:12
hope 10:8 32:19 79:8 81:2
hoped 19:2 242:13
hopefully 98:14 163:5
hoping 10:1 32:17 86:22 163:2,15,15 189:17
hopping 216:24
hose 147:7 278:17
hostage 283:7
hot 103:9
hotline 28:23 223:9
hour 9:17,18 13:19,19

163:18 178:8 278:19 279:8
hours 21:15 32:7 33:1,3 33:9 66:4,9,13,22
85:14 94:6 127:18 156:8 162:24 167:7 232:13 240:21 242:10 278:19
house 178:15 195:1
204:21 210:12 212:20 212:20 213:2,8 217:25 219:4 272:23
housing 15:16
HUD 129:24
Hum 97:3
hundred 128:18
hundreds 31:1 48:1
I
idea 62:25 63:21 66:14
66:23 246:2 264:22
IDed 2:11
identification 222:17 226:12 229:7,24
230:11,24 231:8,19
233:7,20 234:17
235:1 236:14 237:19
238:18 240:6 241:6
241:23
identified 13:5,6
identify 4:11,16 8:14
25:16 38:5 52:2 53:25
IDs 155:4
ignore 212:24 274:5 ill 244:5
illegal 21:17,22 232:18 238:22,25
illegally 232:2
imagine 276:2,8,12
immediate 48:13 156:2 276:16
immediately 20:16 80:3 172:24 217:21 234:12 235:7,25 237:9 238:5 271:11
impact 20:3 26:15,17 28:5 51:8 148:18 231:25 270:4,7 280:15
impacted 212:11 221:19,21
implemented 107:13 109:20 125:25
importance 44:8 222:21
important 212:22 271:23 280:20
importantly 19:22
impose 22:13 277:5
imposed 281:10,13,14 281:15
imposes 277:13
imposition 155:11
impossible 204:18 242:4
impressions 154:18
improper 104:5
improved 254:8
improvement 242:20
incident 272:17
inclined 235:19
include 65:16 70:12,16
70:18 105:12 230:9 262:1 278:18
included 17:23 20:25 28:9 270:6
includes 153:3
including 110:11 222:13 224:21 225:21 226:2 237:12,23 239:23 263:3 277:12 282:6
incredibly 223:15
incurred 174:23
indicate 47:1 50:25 215:20 231:15 247:16
indicated 77:12 158:20 174:18 175:1,6
indicates 48:22 49:2 51:20 52:23
indicating 94:5
indication 59:6,11
indications 115:23
indifferent 105:2
individual 64:20
individuals 218:21 272:21 273:1 281:1
individuals' 281:9
indoor 95:14,16 157:10 167:14
indoors 157:9
indulgence 102:25 274:25 285:13
infiltration 250:17
inform 236:10 237:24
information 25:21,24 27:6 52:17 106:25 144:21 148:16 286:13 286:15,22
informing 40:8 238:2 238:11
infractions 148:18
initial 159:16 175:2 285:21
initiation 174:6
inordinate 50:6
inquire 216:7
inquires 159:16
inserted 56:20
inside 63:18,22 69:1,6 74:5 97:6 119:10,11 127:5,21 170:21,23 179:7 186:9,10 193:18,19,25 194:3 195:24 196:2 206:15 225:22 234:1,3,4 241:21 242:3 261:12 263:23 264:2
inspection 2:13,14 26:22 38:19 39:16 129:20 143:22 228:22 229:11 259:2,2,13 279:5
inspections 23:25
inspector 45:20 75:21 77:17 81:8 84:3 121:16 229:2,15 277:2
inspector's 229:20 275:12
Instagram 2:16,17,17 2:18,18,23 231:2,4 232:23,24 233:10,11 233:23,23 241:1,2 260:17,18 264:15,19 265:3,4,13
install 106:11 107:19 113:9 116:1 124:5 126:11,12,17
installation 115:16 118:15 124:24 256:15
installed 107:20 113:17 124:3 158:3 225:10
instance 84:6 157:10 206:23
instances 157:2 210:18 277:23
instruct 138:1
instruments 197:20
intend 104:20
intended 235:14
intends 226:16
intent 263:15 278:13
intentionally 240:12
intently 83:23
interest 7:17 171:3 196:13
interested 202:20
interesting 144:3
interests 171:17
interference 191:12
intermittently 213:4
interpose 208:16
interpret 104:7,9,16,19

105:10,15
interpretation 106:4 interprets 138:11
interrupt 60:23 97:9 128:25
intersection 98:18
intervene 21:11,20
introduce 4:14
invested 244:11
investigate 23:23 70:1 73:7,15 134:21 156:13 166:14 223:10
investigation 24:24 43:7 62:8,10 65:4 66:6 67:3 69:19 70:1 73:7,15,20 74:5,23,25 75:5 77:10
investigations 23:25 57:7,24 58:4 174:5 291:12
investigative 37:4,11 37:15 45:25 56:6 57:1 59:3 60:2,12 90:3 291:16
investigator 1:25 9:12 18:9 23:20,22 30:11 30:12,13 34:4,8 43:5 45:10,14 46:11 47:9 54:5 58:11 61:15 62:2 62:5 72:21 75:10,16 80:14,25 90:2,25 91:21 92:5 94:10 96:1 96:16 102:16 118:1 119:15 121:6 178:20 181:17 182:11 223:12 223:13 245:1
investigator's 227:11 239:18,18
investigators 223:21 223:25
invoice 126:24
involve 26:14
involved 158:9 159:22 174:10 232:5 276:12
involvement 155:18
involves 146:15,16 232:9
involving 21:9 44:9
irrelevant 79:23
irrespective 276:7
isolate 110:14
isolated 206:23 210:16
isolation 110:9,13
issue 10:1 15:24 107:3 108:19 109:1 148:19 156:20 186:25 213:22 232:16,17 240:8,17 252:8 253:14,18,21

253:23 254:4,15
258:18 270:15 276:23 276:23 278:22 288:7 288:8
issued 59:18 64:17 157:24 236:3,4 247:10 251:16
issues 16:17 19:9 20:21 26:14 27:21 28:8,12 38:12,13,18 51:1 63:9 65:9,15,20,21 114:5 154:12 171:22 172:21 173:9,10 205:5 223:1
252:23 255:4
issuing 247:11
item 59:7
items 57:11,14 58:24
135:21 284:10
iteration 271:9
$\bar{J}$

J-E-R-E-M-Y 9:8 23:12
JAMES 1:19
January 29:5 37:18
60:14 123:7 153:11
153:12 174:16
Jeni 1:18 290:17 292:12
Jenkins 2:20 237:24
Jeremy 1:25 2:3 9:7 23:3,5,11
Jim 129:7,7
job 177:17
Johnson 3:12 26:7
28:15 38:17 172:7
join 116:6
joint 76:4
joists 110:12
JR 1:17,19
judge 274:9,11 281:24 281:25
judged 282:2,4
July 133:24 134:3,23 232:21,25 233:11 235:13 236:18 237:12 247:9 251:4,8,8
June 27:25 101:13 103:19 167:10,12,21 221:16 231:3 248:11 248:20 260:18
jurisdiction 156:12
K

K 113:1
K-10 111:18 112:4 125:10,15,16,19
K-8 125:19
keep 4:4 43:18 100:20 113:21 164:3 180:15

194:7 243:13 281:5
keeps 141:20
kept 251:20
kitchen 91:12 185:21 186:10
knew 67:19 74:24 146:17 159:20
knob 56:16 68:11
knobs 199:3
knowing 18:3,4 147:5 147:14 276:20 283:2
knowingly 276:18
knowledge 36:24 78:23
79:15 80:25 96:22 134:9 208:22,25 209:5,24 210:8,17 225:9,15 234:22 256:13,17 264:1
known 14:13,23 29:19 221:12
knows 234:6 282:22,24
Krupicka 168:13

## L

label 56:8 182:11
labeled 54:7 137:7
labored 289:8,9
lacks 82:21
laid 114:2
laminated 158:1
lane 136:11 157:4 232:22
lanes 234:11 235:7
large 65:25
larger 48:19,23 236:8 251:14
late 178:7 248:10
late-night 18:19 21:6
law 46:20 147:17 148:6 177:14 209:20 225:20 226:7 242:24 276:1 285:16 286:9,12,23 291:14
law-abiding 281:3
laws 72:21 146:8 149:25,25 150:5 195:6 221:24 258:10 276:18 277:21 278:9
lawyer 287:5
lawyers 285:3
lay 114:16 228:2 285:8 288:25
Iayman 109:10
layman's 109:11
lead 169:4
leading 51:5
leads 41:24
learn 135:14 170:1
learned 135:22 136:2 170:3 244:4
learning 170:7
lease 133:23 134:3,22 135:10 168:25
leaser 136:6
leases 134:7
leasing 168:18,21
leave 158:18 162:12,15 187:3
leaves 223:14
led 26:7
leeway 79:21
left 151:8 152:1,6,10 199:16 231:14,14 242:22 251:21
left-hand 183:18
legal 148:18 237:23 289:19 291:15,15,16
legislation 270:24 271:5
leisure 147:14
let's 3:25 7:6 9:15 35:5 38:3 46:25 51:4 57:6 58:7,23,25 67:8 90:23 92:11,22 98:13,16 101:8 111:6 144:23 177:22 188:20 204:24 205:13 213:21 215:6 257:1,8,10,11 273:15
letter 38:15 99:5 131:5 235:22 236:22
letting 13:2
level 39:14,15,21,23 40:2 50:10 55:17 56:9 56:20 68:13 76:3 178:17 179:15 180:14 181:4 182:3,5,9,12 183:1,1,4,6,10 185:7 185:8 200:15,18 224:8,12 279:4
levels 21:3 77:5 181:7 196:9 199:21 211:14 275:24
license 1:7,10 3:6 12:7 12:19,20,21,22,24 17:1,14,21 19:18 21:2 22:14 25:2 29:21 33:1 38:14 42:6,17 49:2 81:23 88:11 99:6 123:1,3 128:2 132:4 135:8 221:17 224:24 247:8,11 270:3 274:13 275:9 277:24 283:5,7
licensed 15:25 16:19 23:25 47:1 83:7 234:7
licensee 60:1,4 61:3,10

100:8 157:25 265:12 271:16,16 273:9
licensee's 32:23
licensees 47:6,10 156:5
licensing 291:17
life 202:13 206:6 270:16
liked 116:18
likes 245:6
limit 40:9 80:8 93:21,23 195:6 208:24 285:25
limitations 22:19
limited 27:13,16 33:18 33:21 93:22 109:17 109:24 222:14 239:21 275:4 277:12 278:15
limiting 94:5 223:23 224:1
limits 33:20 195:20 281:13
line 3:21,21 6:7,17 8:10 8:16 34:7,9 108:11 187:11,17 201:17 241:13
lines 28:10
link 228:24
liquor 277:24
list 22:6 36:22 42:4,10 42:16 79:17 81:3 226:10
listed 35:22 43:11 52:14 57:7
listen 40:24 83:22 122:8 143:8 219:23 286:10 289:3
listening 202:20
listing 42:7
lists 105:23 110:18 226:5 230:16 258:8
lit 39:1
litany 22:14
literally 218:8
little 6:2 14:21,23 21:6 21:23 48:8 53:2,4 56:20 57:1,4 59:24 92:23 101:16 160:8 165:9 206:11 230:4
livability $22: 17$
live 17:11,16 18:1 20:15 120:21 203:16 204:25 208:4 211:21 215:8 221:11 272:2,10 274:4 281:16
lived 20:17 94:20 203:16,18 221:15 283:9
lives 27:23,25 90:21 99:17 120:10 224:3
living 152:23

LLC 1:6 24:25
lobby 224:17
local 165:1
locate 224:22
located 25:24 30:1 79:4 81:25 179:3 203:21 205:2 221:14
location 96:18 147:1 153:3 155:1 167:4 271:8
lockdown 82:10
locked 167:6
$\log$ 85:25 269:11 278:25
logged 5:22 6:1,12,15
login 144:21
long 18:21 24:3 37:6 46:22 88:3,9 94:17 99:20 153:4 163:16 177:2 203:16 240:15 274:24
long-term 19:10 223:4 242:19 255:3 283:18
longer 39:2 69:16 93:23 204:16 281:6
look 13:11 57:3 58:7,24 59:2 90:24 94:8 96:1 103:16 112:18 113:2 118:2 121:5 163:13 167:9 177:10 191:18 241:11 275:7
looked 52:7 113:7 168:2 207:25 233:1 239:3 250:21 264:2
looking 47:22 57:9,14 59:1,4 94:9 96:3,15 110:7 119:14 245:12 247:13 253:6,8,11 269:22
looks 56:14 59:2,17 90:13,17 92:24 98:15 118:11 133:3 264:2
losing 278:10
lost 211:24
lot 9:25 10:7 29:19
30:17 31:24,25,25
33:23 80:15 83:17 93:22 94:17,23
137:20 245:21 251:18 280:4,6
lots 98:23,23
loud 21:13 29:20 30:19 40:24 50:10 53:11 55:23 65:24 111:23 112:9 120:16 121:13 185:24 194:18 205:8 218:5 222:20 237:13 louder 55:25 77:2

Lounge's 2:15 63:25
64:1 73:16,24 89:7 165:13 174:24 221:17 223:2 224:24 230:3 230:14 231:3 232:7 232:13,14,24 233:11 233:23 237:16 240:21 241:2 242:10,21 259:24 260:8,18 281:22
lounges 225:4
low 121:15 157:3 244:16
lower 27:15 33:25 39:11 40:23 76:22 97:18 223:11
lowered 223:6
lunchtime 284:23
lungs 146:15,16
Lynn 26:7 28:14 38:17 172:7

## M

M 6:21 7:12
machine 192:23
mailboxes 166:6
main 6:22 23:22 131:1 152:25 155:21 156:6 156:22 159:17 164:19 164:21 165:5 171:20 173:9,22 200:16 236:5
maintain 154:10
maintained 154:21 279:3
maintaining 278:25
major 232:16 238:25
majority 224:14 241:12
making 222:14 242:4 273:21 279:4
man 146:21,22,23
manage 87:21
managed 154:21 155:17
management 120:18,20 174:3
manager 5:12 161:19 177:8,10 279:1
managers 68:17
manages 278:9
manner 272:1 292:24
manuals 192:21
manufacturer 197:14 197:15
map 48:1 96:1,17
Maraki 88:13
marathon 280:2
March 1:12 2:12 28:19

41:4 61:1,9,11 65:1 158:18 168:14 205:13 205:13 206:13,20 207:2,16,19 210:2,16 211:3,11 212:18 214:17,20,22 222:8,8 226:7 229:1 230:3,16 232:25 233:12,25 240:2 241:3 242:2 247:11 258:7 260:19 272:17,18 291:10,17 291:18
mark 228:1
marked 45:25 56:16 101:12 116:25 118:3
222:17 226:12 227:14 228:16 229:7,9,24
230:1,11,13,24 231:1 231:8,19,22 233:7,20 234:17,19 235:1 236:11,14 237:17,19 238:18 239:25 240:6 240:25 241:6,18,23 257:6 265:23
markedly 76:21
Market 89:4
married 94:22
Martha 237:23
Mary 7:12
Maryland 204:21
mask 92:10 93:5,10 231:14 281:15
maskless 206:18 232:9 237:14
masks 92:25 241:13,14
massive 243:10
master 182:5
mate 212:20 213:2
material 137:17 141:1
matter 1:5 17:3 25:5 36:11 60:12 67:3 85:20 153:19 160:9 189:24 209:4 269:14 293:12
matters 163:19 205:11
$\max 56: 9,19181: 4$ 182:11 194:17
maximum 110:13 180:17 194:7,7,13,22 195:4,15 279:3
Mayor 146:12 149:1,24 172:15,15,16
Mayor's 29:4 37:19 43:10,14,21 44:2,18 44:24 65:5 66:1 75:25 84:11,17,24 146:18 148:10 149:5,6,10 155:11 174:7,11

221:25 223:17 231:17
McMullen 3:20
mean 30:22 37:13
60:23 65:11 66:1 79:7 79:8 80:21 90:8 97:11
100:1 104:11 106:15 106:16 108:11,19 125:4,7 128:24 129:14 131:10 135:4 141:6,22 142:21 147:2 177:25 186:6 192:20 203:1 209:24 211:20,25 213:3 219:2 227:8 263:18 288:18,18
meaner 285:6
meaningful 55:13 272:13
means 57:21,22 121:3 278:10
meant 162:9,14
measure 196:8
measurement 192:10 195:10,24 196:2 199:19
measurements 191:21 191:23 192:9,15
measures 20:2 32:18 179:18 225:11
measuring 179:18,21 179:25 180:16
media 92:9 258:18 260:17,23 261:4,14 262:13,18 263:17
meet 19:20
meeting 1:3 74:15 173:14 289:18 290:25 291:10 292:20
Meetings 289:17,22 290:1 291:1 292:20
member 1:17,17,18,18 1:19,19 42:25 43:4,7 43:13,19,24 44:4,10 44:14,22 45:4 86:4 145:24 146:1,4,7,10 146:20,25 147:4,9,20 147:25 148:8,23,25 149:18,22 150:8,11 150:15 164:19 189:16 196:24 197:2,5,7,10 197:21,24 198:6,10 198:23 199:1,3,6,9,12 199:15,22 200:5,8,12 200:20 205:3 270:23 290:2,7,9,11,14,17,19 291:20 292:1,6,9,12 292:14
members 4:21 7:9 17:7

20:10,15 22:24 42:24 45:9 85:6,24 145:23 149:3 150:19 175:15 175:16 189:10,21 196:23 200:25 216:13 217:3 239:22 256:21 256:24 269:18 274:23 277:18 280:1 284:18 288:19 293:2,4,8
membership 164:22
mention 40:3 283:19
mentioned 32:2 33:14
33:18 73:6 95:3 99:16
165:11 273:8 281:3 281:12
menu 40:10,11 72:12 72:17
merchandise 167:5
mercy 85:12
merely 58:4 59:12 114:22
message 120:23,23 187:23
met 1:14 26:20 52:21
meter 27:12 39:10
metered 33:19
meters 198:13
mic 97:18
Michael's 102:9
microphone 4:5,6,9
mid-2017 242:12,13 248:8 271:11
midday 274:25 284:22
middle 15:8 55:7 96:17
160:3 163:4 164:5 170:5 182:9,14,15 194:19,19 228:7 281:19
midnight 33:10
midpoint 194:16
mind 249:20 251:2 258:19
mine 162:6
minute 53:24 291:3
minutes 10:24 11:3
13:16,17,18 14:9
36:10 93:16,20,24,24
152:6,9,10 162:3,8,12
163:8 188:22 206:1
207:24 210:14 253:18 253:23 269:7,21
274:16,21 279:24
mischaracterizes 82:22
misconduct 291:13
misguided 114:19
missed 49:19
missing 105:8
mistake 147:18 278:3
mister 163:17
misunderstood 60:7
mitigate 17:24 20:3 104:3 106:10 278:24
mitigation 116:14,22 225:10
mixed 245:1
mixed-use 18:5,11 29:16
MK's 211:1
mkloung@gmail.com 102:3
MLK 289:20
model 111:17,18 112:4 112:4
modification 225:9
modifications 137:16 141:1,5 143:13 222:14 249:24 255:16 255:17,25 256:16
modify 80:21
moment 81:15
Monday 27:12,17
money 147:1
monitor 179:15
monitored 28:17 65:8 65:11
monitoring 24:11 41:1 65:12
month 99:4 135:16 160:3 167:12 170:19 205:10
months 95:22 229:11 239:14 248:22
moreso 104:16
morning 4:10,21,21 6:20 7:8 9:10,15 17:8 45:20,23 62:5 212:17 214:20 284:21 289:6
Morroci 88:19 100:1
motion 290:4,5,23 291:23,24 292:18
motions 10:11
motives 272:10
mounted 110:14 118:8 284:7
mounting 125:17
move 15:14 16:13,20 18:14 72:5 91:20 100:22 111:7 113:19 114:9 117:5 187:6 188:2 211:24 226:16 226:18 227:3,11,23 228:1,2 242:6 248:13 248:16,19 257:18 258:20 268:20 270:17 287:21 289:17 291:9
moveable 160:15
moved 15:24 89:1
119:9,17 123:15 135:24 212:14 225:16 225:17 227:2 242:11 245:25 248:7,10,11 259:7,18 265:16 266:3 268:11,25 271:11,12 276:7
movement 270:20
moving 46:6 86:25 120:4 122:24 257:4
MPD 21:11,20 173:17 174:12 175:7 276:8
multiple 29:7 82:18 162:24 172:17,21 230:9 239:21 277:3,4 277:5
murder 215:3
Muriel 149:1,24
music 21:3,13 26:25 39:21 40:4,23,25 53:11 55:18 65:24 68:19 69:6 74:1 77:4 120:17 121:12,13,15 177:18,20,22,23 178:4,5,7,13,15,17,18 178:25 179:12,15 180:15,20 181:9,11 183:5,10 185:18,19 200:3,17,19 222:11 222:20 223:6,12 224:7,9,19 275:23 278:20 279:2
mute 4:5,9 7:3 34:3,5,7 34:9,11 102:18 122:20 263:7 270:20 279:16,19,20,21
MX 205:1 206:2,3 212:6
$\bar{N}$

## N 7:10

N.W 1:7 221:12,15 232:22
Nadeau 172:14,15
Nadeau's 270:24
name 4:18,19,22,23 5:1 5:3,6,7,8,14,15,17 6:18,23,24 7:9,11,22 7:25 8:15,17,18 9:6,7 9:8 17:10 20:12 23:10 100:3,7 176:20,21,23 190:9,13 192:17 195:10 197:3 221:3 221:11 261:10
name's 8:7
named 81:24 108:7
Nancy 7:11
natural 225:5
nature 114:11 232:9
near 232:14 272:19,21 272:23
nearby 21:7 22:4
nearly 77:13 276:1
necessarily 31:19 105:11 251:13 261:5 272:22 282:18
necessary 73:25 115:1 157:22 158:2 222:10 237:10 243:13 283:3
need 5:4 10:11 13:1 34:2,6 38:4 56:25 80:12,23 93:10 96:7 97:10 111:22 112:8 129:23 130:22,23 131:9 140:3 142:22 160:19,20 162:2,3 163:13 164:6 180:8 219:6 238:4,7 257:20 269:11 270:5
needed 132:12 146:24 170:9
needing 6:2
needs 12:16 34:11 76:3 284:2
negative 17:24 20:1,3 28:5 231:25
negatively 221:19,21
neighbor 209:6,9 222:25 276:3
neighborhood 8:2 12:13 15:4,15 16:13 20:5,14,17 22:11 26:6 28:6,15 29:13 31:17 38:16 50:5 88:23 94:17,18 98:5 172:13 204:15 211:22 212:4 212:14 216:25 221:20 245:25 250:18,21,23 271:6 273:5,24 280:16 282:20
neighborhoods 47:20 neighboring 97:23
neighbors 17:15 18:18 19:1,12 95:9 120:13 204:15 208:8,11 209:3 210:11 218:6 222:3 223:22 225:1 225:12,18 231:25 232:11,18 240:20 242:11 244:20 245:6 245:12,24 246:9 271:21,22 272:2 281:2
neighbors' 256:14
neither 223:3 256:3
Nellie 79:1

Nellie's 77:21,23 78:8 78:24 81:10,11,12,16 84:5 95:10,12 98:8
never 63:14,17 73:19 74:5 129:19 133:21 170:25 196:1 199:12
212:13 235:15,23 239:10 256:10
new 15:12,14 17:21 93:25 136:6 147:7 247:8,11,17,23 248:24 258:9 270:16 270:25 271:5 286:13 286:14,21
news 129:13
NFA 57:17
night 21:16 29:20 93:12 98:19 172:15,16 174:10 178:7 179:16 191:23 192:3 204:20 205:13,19 211:2 212:17,17 214:3,18 223:20 270:15 276:19
nightclub 16:5 17:25 244:25
nightlife 16:7,9,10 18:6 29:19 30:16,18,20 31:21
nightly 156:7 222:23 223:16
nights 156:9 213:22 276:4
nine 16:1 262:1
nip 208:19
Nocturne 170:24
noise 16:16 18:19 28:10,22 50:6,9,10,11 51:21 52:1 55:13 62:10,15,21 68:13 69:5 74:1 75:23 76:3 77:1,10,12 99:13 100:11 101:5 106:10 116:12,14,22 120:8 120:17 121:16 185:10 185:16 195:6 197:11 198:13 205:7 222:2 222:11 223:1,16 224:12,14,16,20,23 225:2,12 250:17 252:22 271:13 273:8 275:13,15 277:13 278:25 279:22 283:4 noise-level 26:25 noncompliance 221:23 nonprofit 164:22
normal 32:20 128:12,15 128:16,17 167:7 264:6 281:21
normally 39:21 55:25 62:24 96:24 157:8 242:9
north 221:14 240:13 252:11
Northwest 154:3 158:14 165:19,24 166:16 170:22 193:14 198:15 203:19
notation 57:17,18
notch 182:7,10
note 26:9 231:13 243:22 264:4,13 270:5
noted 17:11 64:13 165:18 169:3 216:20 225:20,24 264:5,6 283:6
notes 173:13
notice 65:24 235:14 245:17 290:23 292:18 292:21
noticed 63:8 77:20 86:19
notified 236:23
notify 235:16 254:16
noting 204:12
notwithstanding 18:16 224:4
November 229:12 238:24 259:13
NQS 112:4
nuisance 282:10
number 3:5,6 17:23 22:7 47:19 54:4,7 57:13,13,13,13,13 58:8,15 59:2,7,11,17 59:18 62:7 63:5 68:4 76:22 90:2,24 91:20 91:21 92:5 94:10 95:23 113:20,21,23 121:7 159:4 178:20 187:25 220:23 227:13 227:14 237:22 247:14 248:17,22 249:24 250:25 252:12 275:16 278:15 289:20,23
numbered 54:6 57:11 113:20
numbers 58:7
numerous 21:5 82:16 84:10 275:15
NW 17:12 25:25 26:9 27:24 29:2 42:14 63:19 88:25 96:18 124:7 127:6 130:20 131:18 133:7
 162:12 163:20 189:2 207:24 284:21 289:6
OAG 58:10
oath 190:4 263:25
object 82:21 104:5 110:21 114:15 115:7 148:14 149:12 258:16 260:21
objected 106:18
objecting 226:15
objection 78:9,17 79:5 79:7 80:6,22 82:20 83:13,25 104:11 106:21 109:8,23 110:22 111:2 113:25 114:10,13,18 116:23 134:5 141:24 148:21 149:16 163:21,24 208:17,20 218:13,24 257:23 258:11,23 259:4,6,17,25 260:2,9 260:11,22,24 262:16 262:18 263:4 266:1,2 266:11,13,21,22,24 267:7,8,10,20,22 268:10
objections 116:7 226:17 227:7 259:15 267:19
objectives 273:7
obligating 283:3,8
obligation 276:6
obliged 160:16
observations 154:24 204:10
observe 51:7 66:19 77:9 155:8 207:3,20 207:22
observed 29:7 50:5 206:13,14 207:5 210:8,24 212:10
obtain 212:22
obtained 159:24
obtaining 159:22
obtains 284:13
obvious 211:8
obviously 66:25 160:17 162:18
occasion 51:6 207:3,20
occasions 70:7,22 82:18 84:11 277:4
occupancy 42:20 48:21 48:22 76:20 89:23 128:12
occupants 21:15
occurred 58:8,12,24

75:4 77:11
occurrence 208:15 210:16
occurring 276:20
October 29:9 160:3
170:5 225:1 237:13
237:15 238:9,15,20
251:4,11
odd 82:13,19
odors 16:17
Off-record 32:5
offer 33:24 40:25 98:2 275:4
offered 106:24
offering 98:3 282:23
offerings 97:24 155:16
offers 27:11
office 28:25 34:20
42:11 51:16 103:1 174:11 211:12 243:21 291:9
officer 46:19
official 16:6 24:17 234:20,22 289:16,21 289:25
officially 14:20,22 69:23 291:4
officials 277:20
offline 153:16 162:1
OIG 58:17
old 101:2
onboard 83:16
once 4:16 9:18,20 11:5 11:8,11,16,25 12:4,9 13:13 68:18 69:15 71:22 89:1 127:8 135:17,22 136:2 144:13 149:15 163:17 193:6,7 205:10 207:4 223:13 226:25 246:18
oncoming 205:21
one's 106:25
one-year 35:2 51:22
ones 131:21,24 272:22
ongoing 291:12
online 157:23
open 4:2 66:10,13 67:22 80:9,18,24 81:11,13 82:15 93:17 95:11 98:10 133:21 225:4 233:2 289:17 289:22,25 291:1,9 292:20
opened 15:7 129:2
133:24 134:4,22
232:21 247:4 251:9
opening 10:24,25 11:2 11:3,4,6 13:6,17

14:10 94:24 95:13
opens 50:12
operate 32:23 49:3
95:23 246:4,5
operated 88:19 232:19 251:3
operating 49:6 55:12 81:16 82:4,14 84:17 86:25 89:5 94:25 95:21 98:1 99:23 158:12 251:20 271:8 280:20
operation 33:1,4,9 155:9,13 167:7 273:6 operational 48:11 95:18 173:10 237:11
operations 32:7 49:12 49:21 50:1 89:7 99:2 183:11
operators 158:16 276:24
opinion 44:25 77:1 84:22 104:5 148:18 273:11
opinions 276:22
opportunities 11:19
opportunity 11:13,14 11:17,21 12:11 13:14 13:21 14:2 17:8 25:10 25:11 110:3 139:15 139:20 151:6 155:8 164:11 235:24 289:3
opposite 18:7 39:9 208:3
order 20:2,4 26:15 28:5 43:22 44:18,25 50:24 51:2,8 63:9 65:5,10 65:15,20,22 75:25 100:16 129:15,17 130:3 146:18 148:10 149:6 221:19,25 223:18 231:17 247:10 247:14 270:4 273:5 277:12 284:5
ordered 125:6 129:11 129:18 228:18 229:3 247:9
ordering 129:20
orders 29:4 37:19 43:10 43:15 44:2,8 66:1 84:12,18 146:14 149:10 225:25 229:15 229:22
ordinance 278:25 organization 153:1 164:22
outcome 249:22 outdoor 2:19 39:4

49:12,21 50:1 69:11
69:14,20 130:11,12
130:16 157:7,11
234:10,21 265:24
outliner 31:16
outreach 174:14
outset 109:16 270:6
outside 38:24 39:1,7
53:11 55:16 63:12
65:13 66:12,22 68:23
75:25 76:7,12 77:5,14
90:10 99:2,17 170:19
180:7 186:23 193:12
193:16,22,22 194:1
194:23 195:2 200:13
205:1,15 210:19
211:12 214:25 239:7
264:2
overflow 21:7
overflowing 22:1
overlay 18:10 205:1,2 245:8
overload 223:21
overrule 78:17 79:7 109:7 116:22 148:21 149:16 218:24
overruling 80:22 109:23
overview 13:7,8
owned 14:16
owner 5:1 7:7,13 10:15 12:12 22:20 26:5,20
27:1 38:11,21 39:21
39:25 40:14 41:7 42:2 44:5,23 68:7,12 69:22 86:7 87:16,19 101:21
108:12 113:15 116:18 123:23,24 135:10 136:5 149:9 168:7,10 168:13,24 174:24 175:5 223:2 234:15 234:15 235:9 276:24 278:8,16 279:1,11 282:16,22
owner's 277:22
owner-manager 275:22
owners 21:5 108:6,8 131:23 159:3,19 175:1 244:6,15 245:19 271:10 276:1 282:19
ownership 252:25
owns 14:16

| $\frac{1}{P}$ |
| :--- |
| P 6:24 262:2 266:7 |
| P-A-D-R-O 6:25 |
| P-I-E-R-S-O-N 7:25 |

P-R-O-C-E-E-D-I-N-G-S 3:1
p.m 27:13,18 85:21,22 153:20,21 187:6
189:25 190:1 214:21
216:22 236:19 242:2
269:15,16 279:8
287:21 293:11
P1 257:19 258:24
P10 262:4,5 265:15
P11 262:6,7 265:15
P12 262:8,9 265:16
P13 265:23
P14 266:8,12
P15 266:17,18
P16 267:3,4
P17 267:14,15
P18 262:10 265:16
P2 258:5,6,24
P20 268:3,5
P3 258:25,25 259:1,5
P4 259:11,12,16
P5 259:22,23
P6 260:7
P7 260:15,16 261:20 262:2 265:15
P8 262:2 265:15
P9 261:24
packed 214:10
Padro 1:23 2:3 5:24 6:6 6:17,20,21 7:2 151:16 151:17,19 152:3,17
152:22,24 153:6,10 154:1,4,7,19 155:10 155:15,23 156:1,7,16 156:21 157:2,16,20 158:10,23 159:15 160:5 164:12,14,15 164:16,21 165:7,15 165:21,25 166:4,7,11 166:18 167:3,10,16 167:19,25 168:5,9,12 169:2,7,12,17,22 170:6,11,14,18,23 171:2,11,12,19,24 172:3,18,25 173:8,18 174:1,13,22 175:9,12 236:4,9,18,19 237:7 266:9
Padrow 131:10
page 2:2,6,12,16 37:7 46:2 54:6 56:7 57:9 59:1 103:16 110:6 111:9 112:17 113:1 226:4,7 229:2,14 230:14 235:3 236:2 260:1,8
pages 46:24 54:5
paid 124:4 148:8 249:23 250:3 286:25
pair 40:15
pairs 121:24 128:9
pandemic 15:8 18:23 19:8 26:10 31:4 32:10 44:1 46:16 64:2 68:8 76:4,7 78:8,24 88:6 121:22 146:13,13,15 148:9 157:5 222:1,20 224:11 231:17 232:5 232:10 237:2 240:15 240:16 242:21 274:6 281:5,19,22
pandemic-related 28:12 223:17 243:4
Panel's 85:12
panelist 3:22
paper 136:5
paragraph 50:25 51:14 51:19,20 110:8
pardon 241:15
park 39:1 170:1 204:18
parking 16:17 20:5
21:22 26:16 27:12
33:15,17,19,23,25
39:7,10,11 136:11
157:3 158:2 159:11 204:19,19 221:22 232:22 234:11 235:6 235:6 236:6,9 239:21 239:22 252:13
parklet 18:20 95:21 130:11 131:7 132:15 133:2,24 134:4,23 135:14 136:7 156:22 157:1,2,19 165:13 168:17 169:11,16 170:3,10 205:20 232:18,21 233:1,13 234:1,3,5 235:12,15 235:17,20,25 236:5,6 236:23 237:10,11,16 238:4,8,12,22,23 239:13,15,20 245:16 251:3,4,13,14,15,21 252:7,8 266:10,19 267:6,17
parklets 159:5 235:5
part 30:8 31:16 34:15 40:20 50:21 51:13,14 58:9 62:9 67:3 69:18 69:25 73:5,6,15,20 74:4 79:1 92:12 102:6 108:19 172:2 234:7 237:4,4 239:1 244:11 252:24 254:18 257:19 257:20 258:4 265:17

280:20
participant 160:16
participants 3:8
participate 162:21 181:20 183:24
participated 252:21 275:9 293:3
participating 279:6
participation 219:19 293:1,7
particular 9:24 42:13 42:20 46:7 47:24,24 48:10 76:12 78:12 96:2 158:21 173:1 186:5 195:7 222:21 227:16 254:5 263:17 270:14 272:12 273:6 273:24 280:12
particularly 19:7 28:6 221:20 239:6 245:15 278:9 286:5
parties 10:5 11:20 158:11 161:23 163:17 164:8 172:17 227:3 269:20 285:15 286:4 286:21 288:10 289:2 293:1
partners 88:13 245:13
party 21:15 52:8 121:19 172:8 249:9 250:9
pass 40:16 278:6
passages 230:9
passed 241:10 290:23 292:18
passionate 202:17,17
patently 278:7
patrons 18:22 28:10 40:8,12,16,24 41:2 76:22 77:4 84:16 128:5,5 206:14,18 207:3,21 208:1 210:10 216:3,18 217:20 237:13 240:12 240:18 241:12 242:3 272:20 277:7
pattern 21:25 78:11 224:19 244:1
Paul 101:19,20 108:5 113:16 124:11,19 126:4,7,9 144:6
pause 37:6 86:1 116:8
pay 15:15 124:12,14 126:16,22 147:16 165:5 204:14 282:8,9
pdf 230:15,16 260:17
peace 20:4 26:15 28:5 50:24 51:2,8 $63: 9$ 65:10,15,20,22

211:25 219:25 221:19
270:4 273:5 277:12
pedestrian 26:17
pedestrians 216:25
penalties 277:5
penalty 279:2
pending 59:8 64:13 117:19 243:20 257:4 283:7
people 15:14 30:17 32:1 33:22 43:17,18 89:17 92:25 93:5,9,23 95:23 98:22,23
100:22 120:18 121:13 122:23 123:11 132:6 163:13 186:22 187:2 187:4,6,10,17 188:2,6 200:13 208:22 214:24 215:14,20 216:2,16 218:8,9 221:7 270:17 272:18 276:10 285:8 288:25
perceive 218:20,21
percent 76:20 275:17 275:18 280:18
perfect 72:13
perfectly 190:11 263:10 263:15 264:7 287:1 287:25
perform 144:25 256:9 256:14
performed 68:5 137:10 141:15 143:19 144:4 144:10 225:17 255:18
period 36:25 37:21 51:22 61:4 76:13 77:8 77:11 79:24 82:10 98:14,15 177:23 189:12 223:7
periods 218:3
perjury 279:2
permanently 26:12 135:2,4 253:21
permissible 275:23
permission 34:13 131:3 131:11 132:6,18 133:14 158:7,25 159:2,10 235:18
permit 2:22 33:25 70:2 135:14,22 136:2,8 156:24 157:21 159:13 159:15 160:2 170:4,8 236:3,4 237:9,16 238:3,11 239:15 240:3 251:5,12,14,15 251:16,20 266:20 267:18
permits 27:17 157:25

204:20
permitted 234:9,12
permitting 157:24
236:2 267:16
perpetuated 275:25
persistent 21:1,20
206:24,25 225:11 276:23
persistently 277:24
person 91:15 93:25 101:24 106:23 113:16 115:25 116:1 124:5 142:8 147:12 161:9 174:16 202:12 214:13 244:14 248:12
personal 63:6 80:25 156:9 190:18 208:22 209:24 225:8,15 244:3,9,10 256:3 264:1 276:14 282:14 282:15
personally 60:4 115:15 165:16 166:7,11 167:3 209:4 212:10 219:3 225:8 244:12 289:12
personnel 28:18
persons 148:3 210:4
perspective 30:12 109:11 245:11
pertaining 172:23 277:25
pervasive 246:3
Peter 6:24
phase 32:10 76:20 167:15,17,23,23 234:7,20 265:24
phone 34:3,6 101:15 102:15,21,22,22 103:1 111:21 154:10 156:8,9 172:2 174:16 184:21,22 187:25 209:3 211:19 253:7 263:7
phones 102:19
photo 39:3,6 41:25 42:1 54:10,13,16 56:21 69:10 90:7,9 118:4
photograph 38:23 39:13,17 53:17 54:23 72:14 90:1,24 91:20 118:2 121:8 178:21 231:16 233:3 239:2 242:7 254:1 261:6,7 263:13,16
photographs 239:17 261:13 265:15
photography 88:25

94:21
photos 35:14
physical 240:17
pick 194:16
picking 31:8
picture 92:25 211:7 231:13 261:2,3
pictures 261:1,11 265:2 265:2,11,11
Pierson 1:24 7:24 20:12
place 19:13 22:12,20 32:18 43:15 64:25 65:4 74:24 89:16 100:23 104:3,23 145:4 147:22 170:17 181:6 215:24 216:24 230:19 232:4 254:2 258:17 263:14 272:17 284:3,9,10
placed 44:18 182:11 284:6 292:22
places 31:9 47:10 48:16 194:11 195:7 252:14 281:18
plan 80:2 162:24 227:3 227:23 228:1
planned 291:12
Planning 237:25
platform 103:2
play 93:14,19 94:1 178:3,5
played 21:13 77:4 93:6 93:15 178:15 224:7
playing 178:18 179:12 181:13
please 3:7,9 4:2,2,4,9 4:13,14 5:2,3,6,13 6:6 6:9,18,19 7:3,22,23 8:14,16 9:5,6 11:22 23:10 25:12,17 38:4 43:4 53:10,24 56:15 65:18 71:10 72:3,3,5 72:11,17 75:14,20 77:8 83:2 85:25,25 86:10,11 97:13 102:19,22 111:4,19 117:22 122:8,11 132:16,19 136:20,21 138:1,20 140:2 142:10 143:5 152:14 171:9 174:20 176:2 176:20 180:6 188:19 189:11,12,14 203:8 203:15 204:10 210:23 210:24 220:16,22 221:1 258:23 262:22 263:7 268:19 269:22 269:22 274:9 288:9

291:4
pleasure 156:18 point 6:9 20:22 32:22 45:13 46:7 55:16 59:14 61:9 79:22 85:14 105:9 109:1,5 112:7 139:5 148:14 159:12,18 188:16 194:16 208:17 230:20 237:1 258:23 263:10 272:8 273:20 286:20
pointed 41:7 241:20
pointing 239:4
points 61:18 111:16 112:3 247:1 263:1
poles 239:4
police 46:19 208:6,6,7 208:11,23 209:4,8 210:14 212:21 213:1 213:24 214:2
policemen 216:6
policies 181:6
popular 48:16 155:1 populated 16:12 47:6 47:17,22
portion 92:17 111:9 113:8 170:25 237:5
position 13:9 22:8 164:18 247:4,7
positive 19:2 242:14 possession 213:7 possible 110:13 163:3 164:8,9 216:1 248:3
possibly 27:4 39:23 68:11 152:12
post 2:16,17,17,18,18 2:23 231:2 232:23 233:10,23 241:1 260:17 261:4
posted 21:24 44:2 79:18 241:2 260:18 263:14,17,20 292:21
Postmate 89:14 posts 258:18 260:23 262:18
potential 174:2 250:17 278:11
practical 292:24
practice 229:4,16
pre- 32:16
pre-COVID 15:6 31:3 37:12 40:19 48:6 49:11,20 80:18 98:14 98:19,20 99:1,8 121:21 177:22 178:5 180:22 183:1,7
pre-pandemic 31:6 39:22 46:15 56:1
prearranged 67:12
precisely 106:17 281:10
predominantly 214:12
prefer 113:21 285:20
preference 285:21
prejudice 162:20
prejudicial 106:25
preliminary 10:10 160:9
premier 31:9
premises 141:4 143:12 156:13 181:7 222:13
prepare 220:22,24
prepared 96:2 105:21
107:12 129:23 157:21
presence 31:21,22 61:5
present 1:15,20 9:18 11:24 12:6,14 13:1,10 13:14 14:9 45:2 60:17 81:15 83:10 160:19 181:16 271:8,9 289:1
presentation 12:15 13:12 227:9 279:23 284:20 288:11
presentations 285:14 285:17 286:16 289:12
presented 12:9 80:14 83:1 270:8 286:13
presenting 83:12
president 172:7
president's 275:11
presiding 1:14
pressing 164:8
presumably 77:2
presume 276:21
pretend 274:7 275:3
pretext 278:6
pretty 48:18 50:10 61:17 66:2 76:21 77:18 96:25 97:25 98:9 244:16
prevent 283:4
prevents 240:10
previous 82:23 158:17 246:12 274:12
previously 153:8 174:25 253:22
primarily 225:7
primary 222:2
printed 158:1 226:7 228:23,25 230:15,16 231:3 232:24,25 233:10,12,24 241:3
printout 2:15 230:2 236:16 240:1 241:1 258:6 259:1,23 260:16,19 266:8

267:15
prior 20:22 30:21 37:22 57:8 62:21 63:1,6 206:22 222:20 223:16 250:15 274:2 275:13
priority 232:3
private 21:18
probably 5:23 12:11 31:2,7 113:22 161:24 167:11 193:6 205:15 226:19 227:21 282:20
problem 9:23 187:2 190:24 198:15 244:24 271:6
problems 105:24 198:4 244:19,21 283:12
procedurally 160:21
procedures 243:11
proceeding 78:15 290:24
proceedings 34:14
process 10:22 17:18 158:9 159:9 168:16 223:3 246:15
producing 55:13
product 107:20,21
products 110:18 113:9 155:16
professional 113:13 206:6
professionalism 285:1
professionals 198:17
proffer 104:20 106:24
proffering 260:23
program 279:7
prohibited 145:9,16
prohibiting 276:19
prohibition 278:13
prohibitions 281:16
prolong 281:4
promise 80:1
pronounce 190:14
proper 14:6 114:2,17 116:1
properly 290:5 291:24
properties 159:1 250:10
property 7:7,13 10:15 12:12 20:6 21:18 26:5 26:18 27:1 38:11 39:25 41:23 42:2 92:12,19 120:7 122:23 123:19 124:5 133:23 134:22 135:9 145:1 159:19 166:15 168:3,21,24 211:1 221:22 234:15 235:9 249:15 250:22 270:7

270:8
proposal 174:5 245:19
propose 134:11
proposed 69:13 285:16 286:9,22
prosecute 58:10,18
protect 224:5
protecting 7:13
protest 1:7 3:4 7:6,19 24:16,24 25:18,22 26:14 27:8 38:11,15 75:7,8 96:3 131:22 132:1 244:3 246:14 270:6 275:9
protestant 1:23,24 12:10,14 156:15 226:4
Protestant's 222:5,18 226:13 228:16,21 229:8,10,25 230:2,12 230:13 231:2,9,10,20 231:21 232:23 233:8 233:9,21,22 234:18 234:20 236:12,15 237:17,20 238:14,19 239:1 240:1,7,24,25 241:7,15,17,18,24 257:25 258:13 259:9 259:20 260:4,13 265:20 266:5,15 267:1,12,24 268:13
protestants 2:10 11:5 11:18 12:1,16 15:24 285:20 286:5
protested 26:4
protester 9:3
protesters 11:1,2
protesting 17:13 27:1 28:3 38:17 131:24 221:17
prove 19:15 277:16
proved 286:11
proves 225:5
provide 14:4 79:17 109:13 110:8 144:8 144:16 154:14 157:8 159:18 165:1 174:3
provided 109:12 116:13 157:7,9,25 162:19 228:24 271:16
providing 13:8 27:6,20 138:14
proving 277:14
provision 74:7
provisions 17:24 70:23 222:9
proximity 32:1 96:23 155:14 207:21 240:19
public 18:24 19:23
20:20 25:9 31:4 43:16 43:25 44:2,24 67:22 130:23 135:21 136:2 146:14 187:5 225:25 228:23 229:13 232:1 234:10 235:4 238:13 238:25 239:21,22,22 243:2,4,10,23 265:11 273:16 274:2 280:16 280:17 281:9 284:10 293:2
publications 159:8
publicly 234:24
published 291:17 292:23
pull 36:5
pulled 229:13 230:15
pulls 282:9
punishment 64:3,17
purchase 250:16
purchaser 248:24
purely 63:16 285:24
purports 264:21
purpose 104:25 114:24 264:11 272:1 285:24 289:19 291:11
pursuant 289:21 291:1 292:20
put 12:21 39:21 43:15 56:17 102:22 104:3 104:23 125:6 140:3 146:14 182:3 187:16 195:12 224:2 253:21 254:2 263:7 272:15 273:3,19 279:19
puts 245:16
putting 253:19 254:6
$\frac{\mathbf{Q}}{\text { QSC 111:18 125:9,13 }}$

QSC 111:18 125:9,13 qualified 104:6,9 105:9 105:14,15 107:5
qualify 109:15
quality 230:18
question 36:17 43:1
66:21 78:18,19 79:11 79:12,13 80:12 81:1 81:21 83:14,25 84:1 96:8 104:19 106:13 111:3,4 117:19,20,23 126:9,23 131:16 134:17 136:1 137:23 138:9,9,10,13,15,17 138:20,21 140:3,5,8 140:20,21,21 141:18 141:19 142:11,17,18 142:19,23 143:3,5,8,9

144:20 149:21,22 150:22 160:12 162:6 164:11,11 169:20,20 170:21 178:3 191:5 199:1 201:8 211:10 212:8 216:14 217:19 218:24 219:1 264:17
questioning 80:8 166:25 247:3
questions 11:10,11,23 12:2 42:24 45:8,10,14 53:3 59:21 62:1,8 63:5 68:4 75:11,15 79:21 80:23 84:4 85:3 85:6 117:18 122:6,8,9 122:15 123:17 131:12 136:19,25 138:2 145:6,21,23 150:18 150:21 151:2,3 160:5 164:17 165:12 171:5 171:14 175:12,15,16 180:9 188:15 196:12 196:18,20,22 200:24 201:2,2,3,7,7 213:10 213:13 216:13 217:2 217:6,7,10,10,14,15 219:17 246:21 256:19 256:21,24
queue 240:13,14
241:10 284:8
queued 35:23
queues 18:21
queuing 240:9 253:14 254:14
quick 85:13 191:5 211:7
quicker 258:20
quickly 152:12 164:7 164:16 236:19 237:7 287:12
quiet 20:4 26:16 28:6 50:24 51:2,9 63:9 65:10,15,20,22 211:25 214:11 217:1 221:19 270:5 273:5 277:12
quite 14:24 22:10 37:25 57:2 77:19 94:25 160:17 240:15 277:18 quote 222:10 236:21 237:8 275:20

| R |
| :--- |
| R 23:13 |
| R-2 245:2 256:4 |
| R-0 6:25 |
| race 280:14 |
| rack 70:3 136:10 |

239:16,20 252:3,4,7 252:10
racks 170:15,17
radius 16:9 42:5,8 47:2 48:1
Rafi 1:17 290:14 292:9
raise 86:10,10 152:14 160:10 176:5 180:8 203:7 220:15 223:13 240:9 264:9
raised 14:18 99:13 172:22 173:7,23 223:7 253:13
raising 253:23
Randall 287:25
range 195:12
rating 47:20
rats 16:18
re-imagining 265:24
reach 26:25 168:20 169:5,10 194:7
reached 158:20 169:14 271:21
read 72:16 107:18 108:1 109:17 111:19 111:23,23 112:9,19 114:21 125:4 192:20 194:12
reading 111:8,25 112:10,13 194:22 270:23
readings 193:10 194:11 194:23
ready 85:18 86:4 103:11 269:4,4
real 20:5 26:17 221:22 270:7 280:2,19
reality 274:4
realize 22:5 284:23
reapply 238:4
rearrange 119:2,6,24
reason 17:15 93:19 106:19 116:15 169:12 199:18 254:13 275:12 279:19
reasonable 39:25
reasons 12:24 84:15 254:18 288:22 289:24
reassessment 255:25
rebuilt 154:22
recalibrate 193:1
recall 51:10 53:9,13 70:22 79:1 127:16 167:8 172:3,10,12,25 173:5,6,10,15 192:17 195:10 251:25 252:18 255:19,21 268:9
RECD 2:11
receive 102:9 120:23 130:2 155:20 156:5 168:22 184:25 185:15 187:9 188:7
received $27: 10,19$ 28:14,22 64:4 103:23 104:8,15 109:17 110:2 114:20 129:19 130:5 155:5 174:4 185:6 186:13 188:5 237:22 243:3 257:25 258:9,13 259:9,20 260:4,13 265:19 266:5,15 267:1,12,24 268:13
receiving 159:10
recess 189:20,22 269:10 290:24
recipient 101:25
recipients 116:20
recited 22:5,15
recognize 90:4 101:13 103:20 118:4 178:22
recognized 16:24 110:2
recognizes 114:21
recognizing 15:1 271:5
recollection 167:16 172:1,11 251:7,9,23 252:1 253:12 275:11
recommendation 108:16 116:13 278:23
recommendations 102:8 103:18 104:2 104:22,23 105:2,10 105:16 106:7,9,15,16 107:6,9,14,19,22 108:15 109:21 110:9 113:8 114:23 125:25 271:17
recommended 113:16 118:9 120:1
record 4:12,14,17,19 6:18 7:22 8:15 9:6 15:5,9 19:7,23 23:10 36:10,12 43:14 51:13 52:14 53:25 73:16 85:19,21,24 86:3 103:12 117:3,6 148:16,17 153:16,17 153:20 176:21 188:21 189:5,9,25 190:3 203:15,23 207:8 229:13 242:21 243:5 257:19,21 258:3,5 265:14,17 269:12,15 269:18 281:22,23,24 281:25 283:12,23 291:4
recorded 70:8 178:4,7 178:15
records 28:21 51:19,21 52:7 62:10,21 243:2
red 56:16 240:4
redecorated 154:22
redefine 138:19
redirect 138:19,24 139:6,10 151:6 175:17 201:11,12 217:16
redirecting 138:25
reduction 278:18
refer 173:13
reference 235:10
referenced 35:5 206:2
references 230:6
referencing 71:23,24 249:3
referred 222:16 226:11 229:6,23 230:10,23 231:7,18 233:6,19 234:16,25 236:13 237:18 238:17 240:5 241:5,22 257:24 258:12 259:8,19 260:3,12 265:18 266:4,14,25 267:11 267:23 268:12
referring 53:24 56:6 203:24 206:2 207:13 207:14
reflect 246:6 263:25
reflected 26:12
reflects 133:2 263:13 263:19
refresh 172:11 253:11
refuse 22:13
refuses 245:18
regarding 11:9,12 24:21 25:1,5,22 27:7 27:21 44:5 84:4 116:12 137:6 165:2 266:10,19 267:5
regards 43:8
Register 291:18 292:24
regular 81:17 158:15 224:9
regularly 82:5 224:16 240:9
regulate 15:18 199:6 200:12 246:11 283:22
regulated 197:11
regulations 76:8 83:22 159:1 221:24 234:23 280:25 281:7 291:14
regulatory 26:22 38:19
reimbursable 173:17

174:4,22 175:8 279:7
reinspection 255:18,24
relate 250:9
related 65:22 154:12
156:21 159:9 173:2
173:10 214:7,23
225:25 249:9,14
relates 106:4 250:12
272:14 273:6
relating 29:1 63:9
relation 54:24
relationship 19:2
215:21 242:14,18
244:19 246:12
relaxed 285:9
relevance 78:9 80:6
relevant 11:23 78:14 79:18 148:15,19
reliant 277:19
Rema 1:19 292:6
remained 225:4 237:11 238:24 239:14
remains 115:4,14 252:8
remarks 280:3
remediated 108:18
remember 51:5 52:24
53:6,7 78:7 139:15 172:21 249:12,17
250:19 251:8,11
286:8
remembers 61:14
remind 7:2 9:16 10:2,4 77:8
reminded 9:21
remove 135:21 136:1
removed 170:15 238:8 252:6
renaming 113:23
renew 1:9 12:7,19,19
17:1 22:19,21 274:12
renewal 17:14 22:13 25:1 26:3 27:22 28:4 38:13 221:18 247:16 247:22 275:6,9
277:14 278:14 283:6 283:25 284:2
renewed 12:23,24 19:18 159:16
renewing 270:3
Renzulli 108:8
reopening 234:7 265:25
repeat 49:15 78:21 140:8 143:3,5 149:21 275:24
repertoire 206:4 repetitive 7:18 10:5,9 rephrase 83:14 134:13

134:16,17,20 138:17
reply $28: 14$
reported 28:23 62:19
reporter 97:12 196:7
reports 60:3,5 104:24 291:11
represent 7:23
representative 9:4 206:22 242:8 256:7 256:12
representatives 172:14 172:16
represented 171:17
representing 4:25
reprieve 20:23
reputable 278:21
request 128:5,7 138:5 253:19
requested 159:7,18
require 107:22 158:24
required 131:3 138:13 140:9 169:17 236:22
requirement 166:19 169:8,22 222:20
requirements 75:23 76:16 277:8 281:14 281:15
requires 73:24 277:10 requiring 224:7
researched 52:14
resent 270:24
reserve 152:7
reserved 158:3 204:19
residence 63:15 74:6 213:23 283:4
residences 21:4 63:13 67:4 73:19 74:2
resident 20:15 22:24 204:2 248:16 277:17
residential 18:12 20:5 21:23 26:16 29:17 133:6,11,12 158:21 158:25 159:6,19 166:2,6,10,15 170:24 204:19 212:3,4 221:22 222:13 234:2 235:11 237:5 245:3,4 245:9 270:25
residents 18:13 20:23 21:10,19 130:18,19 131:5,17 158:8,21 169:5,14 218:6 245:6 245:7 248:13 275:21 275:25 276:7 282:11
residents' 236:11
resolution 22:9 223:4 242:20
resolve 154:15 173:23

205:11 223:1 244:22
resolved 244:21 254:5 254:8
respect 118:15 156:20 177:18 181:6 186:5 206:14 245:21 251:2 252:16 289:2
respond 21:11,20 238:16,23 239:10 245:18
responded 216:6,8 236:19 237:7 239:11
response 21:6 53:2 59:21 121:3 122:19 130:3 165:11 168:22 187:23 217:4 256:22 276:11
responsibilities 23:18 150:2
responsibility 148:5 149:9 150:4,12,14 280:22 282:2
responsible 44:23,25 45:2 147:22 148:1 149:4 158:11 159:25 175:7,10
responsive 242:16
rest 90:16,17 220:7,9 257:2,4 268:16 285:17
restaurant 1:6 3:5 25:1 25:19 26:4 28:22 42:18 81:23 88:13 89:4 96:6 235:7 289:21,24
restaurants 30:8,9 31:24 94:18,23 157:13 281:11
restriction 12:8
restrictions 12:20 19:19,25 21:24 22:13 32:15,23 33:8 75:23 76:1,5,11,15 84:24 183:10 235:21 278:17 281:11 284:3
restroom 91:3,14
rests 201:24 220:10 restudy 255:25
result 21:6 25:21 34:25 36:25
resulted 174:23 223:3
results 19:11 103:17 143:25
resumed 36:13 85:21 153:20 189:25 269:15
retail 158:13 236:21,24 237:2
Retailer 1:8
retailers 157:14
retesting 256:15
return 32:19 189:21 293:9
returned 145:1 275:23
returning 98:15
review 28:21 62:20 110:3 113:2
reviewed 62:10
revitalization 153:1 165:3
revocation 2:22 251:19
revoke 131:13
revoked 99:6 132:4 135:15,23 136:3 159:13 160:2 170:4,8 237:15 238:3,11 239:15 240:3 266:20
Reynold 160:14
rich 270:17
Richard 1:22 4:22 26:21 35:21 38:22
rid 272:11 283:21
rights $3: 8,11,12,13,14$ 3:15,16,17,18 4:1 5:25 6:6,10 8:12 257:14
rigid 192:6
ringing 102:21
rings 103:1
risk 243:10,23,23 276:14,15 281:20
282:3,10,11
role 154:7
roll 290:4 291:23
rolling 93:17
roof 100:16 110:12 185:21
room 140:4 290:25 292:22
roughly 210:3 251:4 routinely 222:23
ruin 147:16
rule 195:20 209:21
rulemaking 29:4 37:20
rules 83:21 150:5 224:7 243:16,18 264:6 276:25 277:25,25 278:2 281:20
rulings 285:9
running 88:9 147:17 177:13
runs 133:5

$|$| S |
| :--- |
| s 1:18 7:11 265:9 |
| S-C-H-L-O-M 7:12 |
| $221: 4$ |

S-T-O-E-C-K-L-E-I-N 8:1
safe 43:18 101:1 219:11 240:20 243:14
safely 240:11
safety 20:21 26:17 44:2 44:9,24 146:14 238:25 239:8 276:14
sake 144:24 231:22
sale 225:19 284:12
sales 210:25
Sam 7:11
sanitizer 93:7
Saturday 212:18 276:4
Saturdays 33:6 223:18 279:9
saw 126:15 133:21
167:4 170:14 199:3 212:18 214:9 215:5 216:15 235:12 236:4 252:2 272:18,22
saying 12:18,22 100:20 100:23 105:8 106:5 126:9 131:25 139:13 139:13 141:25 160:23 190:10 195:14 236:20 244:17 251:20,21 282:7 286:10 287:11 289:4,8
says 56:9,19 58:10,13 90:19,20 92:23 102:6 103:17 106:9 110:8 111:16,17,18 115:24 182:5,11 230:17 283:21 287:12
scenario 39:20
schedule 192:2
scheduling 162:23
Schivan 3:17
Schlom's 54:24 105:22 105:25 108:6 116:7 261:11 273:7
schools 42:7,9
scope 138:15
screaming 207:25 208:5 210:12 215:15 215:20 216:2 276:9
screen $25: 8,12,14,17$ 34:4 35:25 42:23 45:13,18,25 46:3 71:3 71:9,12,15,20,23 72:2 72:4,8,10 75:14 87:7 87:13 90:1 92:7,24 93:2,12,14 94:9 101:10 122:11 132:16 132:18,22,24 136:21 137:2 176:14,18 188:19 220:22 221:1

221:6,8 222:5 257:9 257:15 268:18
screenshot 2:24 241:19 242:2,8 268:7
scroll 36:1 50:22 53:16 54:22 57:5 72:11 93:11 96:1 102:13 103:16
scrolling 112:15 231:6 se 16:6
search 51:14,16,19,20
seating 40:9 41:21 94:6 157:11,12
second 12:13 28:2 40:5 40:6 41:13,17,20,22 41:24,25 44:15 51:19 53:12 54:11,25 61:10 68:20 91:23 92:13,14 92:17 94:22 96:4 103:3 120:10 131:4 131:15 133:2 151:21 166:22 183:13,16,16 196:17 205:23 206:16 213:1 214:2 224:24 231:14 243:5 248:16 248:19 263:10 290:1 290:2 291:19
second-level 41:15
second-story 55:17
seconded 290:4,5 291:23,25
seconds 291:21
section 57:10,12 65:7 222:9 289:17,21,25 291:1
security 2:24 187:21 188:1 241:20 268:7
seeing 214:14 215:23 234:10 235:25 283:18
seek 278:13,15
seeking 22:8 109:15 289:19 291:14
seen 155:3 190:8,12 212:10 277:4 285:17 287:19
sees 138:14
sell 128:20,24
selling 129:4,11,16 229:16 232:2
sells 229:22
selves 93:22
semblance 278:17
send 186:7
sense 10:2 74:13 80:22 83:17 113:22 132:5 209:20 227:21 274:18
sent 108:3,4,12,22 114:20 116:11,15,17

116:17,19 124:1,20 132:3 168:15 253:24
separate 13:20 243:3
September 29:8,9
224:25 233:24 237:12 241:3 272:9
Series 113:1
serious 43:21
seriousness 44:6
serve 89:11,15 145:17 146:17
served 29:8 64:10 68:1 239:19 251:5,8
serves 153:1
service 28:25 34:17,20 36:22,25 42:11,13,16 154:9 260:7
services 155:16 157:8 165:1
serving 205:4 251:10 252:2
session 161:25 189:22 293:9
set 68:15 74:15 135:17 182:21,22 183:11 234:9 235:5,6,12,20 236:1 271:25
setting 199:17
settlement 2:12 17:19 17:22 18:16 21:3 70:16,19,23 73:24 76:10 123:6 221:24 222:6 224:4 245:18 247:7,10,15,21
seven 87:25 88:7,8 198:14
severe 18:18 223:19 224:1
severely 28:5
Shack 130:21,24 133:14 135:4 168:13 170:23
Shack's 168:25
Shake 158:16
shaken 211:20
shape 107:23
share 25:8,8,11,14 35:9 35:24 45:13,18 71:3,9 71:12,17,19,22 72:2,4 72:8 87:7,12 132:16 132:18,21 176:13,18 204:10 211:17 220:22 221:1,6 257:9,14
shared 34:5 261:3,5 284:6,7 285:1
sharing 42:23 122:11
Shaw 6:22 24:11
152:25 153:3 155:21

156:6,22 164:19,21 165:5 171:20 172:15 172:16 173:22 236:5
shell 31:7
short 1:19 42:25,25
43:3,4,7,13,19,24
44:4,10,14,22 45:4 59:25 145:24,25
146:1,4,7,10,20,25 147:4,9,20,25 148:8 148:22,23,25 149:17
149:18,21,22 150:8
150:11,15,18 161:20
171:14 196:24 197:1
197:2,5,7,10,21,24
198:6,10,23 199:1,3,6 199:9,12,15,22 200:5 200:8,12,20 269:5 281:12 290:2,3,6,6,7 290:7 291:25 292:1,1
Short's 59:21
short-term 32:15
shot 54:23 91:5 92:1
show 29:12 67:15 71:4 91:1,22 92:6 93:5 105:14 118:6 178:20 223:9 254:2 263:13 263:20 284:16 288:24
showed 272:23
showing 46:1 71:14 101:11 267:16
shown 270:2
shows 54:23 96:18 233:1,12,25 238:14 239:2 240:3 271:7
shredded 112:7
shut 94:2 95:24 130:22 130:24 133:19
shutting 94:24
side 9:17,22 12:25 13:13,16 25:25 33:25 39:9 72:17 78:2 91:16 92:19 100:17 163:14 183:18 187:4 194:4 208:3 225:3 226:25 232:22 252:11,12
sides 27:14 33:20 226:25 285:10
sidewalk 39:5 130:25 205:17 208:5 210:10 211:5 214:25
sidewalks 21:19 22:4 218:1 234:11
sign 93:11 100:23 133:21
signed 17:19,21 18:2 123:6,11 124:16 247:7 282:25 283:8
significance 121:9 significant 225:2 244:18
significantly $278: 1$
signs 39:6 94:4,11 158:2
silence 102:22
silent 121:18
similar 97:2 155:18 210:18
Simone 1:21 176:13
simple 139:23
simply 18:24 135:1 141:18 223:13 237:1 253:6 254:15 263:19 274:5 277:18 283:22
Simultaneous 88:2,16 91:11,13 110:24 114:7 117:10 126:21 200:10
simultaneously 141:13 142:13 143:23 177:16 184:4 185:13 219:8
single 223:20 245:5 254:24
sit 202:24
sitting 147:13 208:2,5 210:11 216:16 219:4 288:12
situated 18:4 84:22
situation 188:5 198:17 242:7 272:7 274:11 275:17
six 154:22 274:1,12
Six- 15:25
size 98:9 125:20
skip 231:21 266:7
skipping 59:17 241:16
sleep 276:5
sleeping 212:25
slipping 212:1
small 32:3 47:11 101:16 164:25
smoke 186:9 230:20 232:8
smoking 146:15 147:6 225:21 226:1 228:20 229:4,16 231:24
smoothly 177:13
social 89:14 92:9 258:18 260:17,23 261:4,14 262:13,18 263:17 281:14
sold 133:20 147:4 230:22
solely 63:11 175:10 224:11
solution 255:3 271:2
solve 271:3
solving 255:4
somebody 5:22 113:16 124:1 198:11
somewhat 68:13 72:23 162:20
song 181:10
songs 199:20
soon 93:16 98:16
sooner 279:8
sophisticated 282:22
sorry 4:15 6:13 40:19 46:25 49:19 60:23 72:3 88:4 91:20 97:8 97:9 99:10,10 100:3 102:14,15,17,23 103:8 105:18 108:14 111:21 117:13,15,17 120:5 122:22 128:24 133:1 134:1 141:22
142:7 153:13 158:17 163:17 173:4 174:19 180:4 181:24 183:22 191:11 196:6 200:24 206:3,4 211:19 217:15 226:14 231:5 241:16 250:8 258:2 258:22 261:25 263:6 287:17
sort 14:23 47:25 48:4 53:5,17 173:25 204:16 243:25 248:4 258:15
sorts 239:5
sought 77:9 158:7
sound 53:5 54:19 56:4 68:5 69:6 100:19,20 102:10 103:18 104:3 106:1 107:8 110:17 118:8 119:3,6 120:5 123:20,23,25 124:24 125:2,7 126:6 137:6,8 137:14,18 140:25 141:2,4,15 143:12,19 143:25 144:4,25 172:18 179:18,21,25 180:15 181:11,21 182:3,22,25 183:1,4 184:10 185:4 191:21 197:17,19,21 198:2 198:16,19,19 199:19 200:6,14,15 225:10 225:14,16 255:17,19 263:3 271:14,18 278:22,24
soundproof 101:3,4,7 soundproofing 249:14 270:25
sounds 50:17 181:23
181:25 279:11
source 224:22 225:5
south 225:3 252:12 284:8
space 2:19 33:23 39:1,4
69:11,14,20 125:22
130:11,12,16 133:15 133:18 135:1,21 136:2 157:7,17 158:3 165:18,23 166:24 167:2 168:7 187:5 225:10 234:12,21 235:4 236:21,24 237:2 238:13 239:24 265:24 284:10
spaced 41:8
spaces 157:3 234:10,14
235:6,8 236:6,9
239:21,22
span 35:2
spare 151:10
speak 4:7 34:12,13 79:15,16 97:10 142:8 227:18 250:13 288:19
speaker 41:7,8 110:10 112:6 118:7,11,15 125:14 137:15 141:1 141:5 143:13
speakers 110:11,14 118:16,17,20 119:2,6 119:24 120:5 182:19 194:15,17,20 198:4 199:23,24 200:9 284:6,7
speaking 4:4,9 7:3
34:11 81:16 88:2,16 91:11,13 110:24 114:7,11 117:10,14 126:21 141:13 142:13 143:23 177:16 184:4 185:13 200:10 218:20 219:9 244:5
speaks 148:17
specific 24:15 29:24,25
32:22 81:22 83:17 156:20 178:3 184:11 192:9 204:4
specifically 31:5 34:21 57:8 99:8 110:7 116:11,16 118:2 119:12 164:25 204:24 245:8 269:23 286:1
specifications 112:18
specified 278:24
speculation $218: 14,16$
speed 282:9
spell 4:18,18 5:2,5,14

6:18 7:22 9:5 23:9 176:20
spelled 4:23 5:16 6:23
6:24 7:25 8:7
spelling $8: 15$
spend 9:21 147:1
spent 66:4 280:4
spite 225:11
spoke 60:8,19 82:16
spoken 168:12 171:22
spotlight 211:5
spots 27:13
spread 232:5 282:12
square 79:10 80:16
staff 1:21 223:5
staircase 91:24,25
stairs 224:18
stanchion 253:19,22 254:6
stand 3:10 25:13 45:15 71:7 132:20 189:19 194:19 221:2,5 257:13
standard 19:15 246:7 standards 246:4,6 Standby 176:15
standing 54:18 91:16 186:23 187:10,17 188:6 193:25
standpoint 48:11
stands 56:12 57:18 104:17
start 3:25 4:12 9:19,20 10:12 14:8 15:16 16:21 86:4 95:21 178:17 191:5 193:12 194:2 195:9 269:25
started 19:4 53:1 89:10 121:21,23 123:11 129:2 204:14 242:15 270:20 271:12 284:21
starting 92:22 224:17
starts 9:18 93:17
state 4:18,19 6:18 7:22 9:6 23:10 34:12 104:14 176:20 203:15
stated 26:24 27:5,23,25 28:3 34:10,16,16 102:8 108:17 109:16 171:19 255:11 282:13
statement 10:24,25 11:2,3,4,6 13:6 27:6 27:20 28:16 50:19 160:20 218:16 247:25
states 222:9
stating 8:15 134:10 stationary 86:24 status 95:19 267:17
statutory 22:17
stay 93:23 186:9 201:17 269:21
stayed 64:6,8,10
steel 224:9
step 56:4 92:11
stepped 53:11
steps 115:5 173:21 216:16 283:9
stereo 39:18 219:5
stipulate 263:16
Stoecklien 201:6 227:18 279:18
stoop 208:5 276:10
stoops 208:2 210:11,11
stop 42:23 122:11 129:11,16 149:7 205:23 263:6
stopped 129:7 251:10 277:6
storage 41:22,25 53:20 54:25
store 196:3 205:18 216:23
story 15:11
strange 230:4
strangers 218:10 219:12
Straw 159:17
streamline 248:2
street 1:7 14:15 17:12 24:12 25:25 26:1,2,2 26:9 27:11,14,16,24 29:2 30:17,18,24 33:20 39:9,11,14 41:14,18 42:14 48:17 63:7,19 68:24 70:4 77:25 79:4 81:25 88:17,25 89:3,3,9 91:4,16 92:15,17,19 94:21 96:17 98:20,21 98:21 124:7 127:6 130:20,23 131:1,18 133:7,9,10 153:2 154:2 158:13 164:20 165:5,19,24 166:16 170:22 171:22 193:14 193:20,22 194:20,24 203:19 205:20 206:20 208:2,3 210:4,7,12,13 213:4,7 215:8,16 221:12,15 232:22 239:4 249:10 282:21
Street's 156:22
streeteries 159:5
streets 6:22 21:7,18,23 22:4 98:18 152:25 155:22 156:6 159:17

164:21 171:20 173:23 236:5
strictly 209:21
strike 82:13,19 170:2
228:17 255:7
strong 15:5 31:22
222:21 238:24 239:6
structural 255:17
structurally 105:24
structure 39:2 69:16
struggling 205:6
stuck 211:16
studio 88:25 94:21
study 141:15 205:9 271:15
stuff 114:13 251:22
sub-woofers 110:11 111:17 112:3
subject 20:24 153:3
submit 19:20 130:1
submits 284:13
submitted 27:10 28:14 38:16 159:3 160:1
subsidy 279:7
substantial 19:16 160:14
substantially 77:2
substantiate 51:1 58:11 58:19 63:13,15 65:9 74:10
substantive 164:17
succeeded 14:20
suffered 18:18
Sugar 130:21,24 133:14 135:4 158:16 168:13 168:25 170:23
suggest 145:2 214:6 272:20
suggested 113:9 124:11,12 144:6
suggestion 123:25
suit 276:25
sum 15:15
summarily 224:25
summarize 275:12
summer 50:2 234:6,8 237:12
Sunday 33:5
Sundays 223:18 279:9
supervise 115:24 124:24
support 130:19 131:5,6 131:7,18 132:9 159:6 159:19 169:15,21 235:18,20,22 283:23 283:24
supportive 174:18,20 175:2
supports $275: 19$
suppose 247:3 264:23 272:6
supposed 224:5
surprise 16:3 282:17
surprised 55:22 97:1
surprisingly 55:20
surrounding 20:16
21:22 22:3,17 48:23 49:25 172:24 217:21 252:7 271:25
survive 146:24 243:9 274:10
suspect 244:10 287:24 287:25
suspended 110:12 112:6 118:21 174:5 224:25
suspending 110:15
suspension 29:6 37:21 64:5,8 118:8,14,18 121:12 128:2 137:16 243:18
sustain 83:13,24 104:11
Sustainability 238:1
sustained 111:3
swear 86:12 152:15,17
176:7 203:8,10 220:16
switch 186:2
sworn 23:7
system 26:13 53:5 157:24 200:6 255:18 267:16 275:21,24
systemic 78:11
systems 200:14

## T

T 26:2
t/a 1:6
tab 56:20
tables 41:18
taken 39:15 54:17
173:21 195:24 196:1
231:16 233:3 238:22
241:19 261:2,3,6 263:18
takes 9:22 243:25
talk 44:4,11,15,16 50:23
51:18 53:1 57:1,6
67:8 98:13 127:25 130:11 131:3 132:15 166:23 168:24 177:22 211:23 215:6 273:15
talked 60:4 100:18 191:20 216:15
talking 47:25 53:17

54:4 56:4 60:15 66:21 114:12 119:13 128:14 173:19 178:14 180:22 207:7 261:19 265:3 286:20
talks 51:14 226:17
taverns 30:7,8 31:25
technical 114:5 153:18 154:16 183:20
technician 197:15
technicians 198:20
telephone 7:4 156:17
tell 24:21 25:21 29:12
35:7 36:19 37:11,13
37:17 52:7,11 86:12
99:19 107:19 131:6
142:20 143:18 152:15 170:8 172:1 176:7 187:6 203:9 206:12 207:4 210:23,24
212:11 220:17 225:13 261:25
telling 71:14 93:9 189:18 208:22 283:25 284:1
temporarily 26:11 135:1,3 237:1
temporary 224:6
ten 46:23 64:5,8,10 125:23
tenant 158:12,17 167:1
tenants 120:21 124:1 159:1
tenders 120:20
tent 234:2 238:13,22,25 239:3,13 252:2
tents 135:24 252:6
terms 97:23 155:12,16 206:12 274:6
terrace 40:5 41:23,25 53:12,20 54:25 55:4 55:17 68:20
terribly 273:11
territory 212:15
test 53:5 54:19 56:4 68:5 69:1,6 144:25 145:4 181:21 182:3 182:23
testified 23:7 47:23 53:19 77:17 84:10 171:15 174:25 199:16 268:6 272:16
testifies 11:9
testify 8:4 11:8 54:1 107:1,15,18 108:13 108:21 114:3 116:3 180:7 198:18 209:7 209:11,24 220:1,8,12

263:24,25
testifying 7:15,19 13:7 104:8 110:25 114:22 115:4 123:18 158:6 161:9 201:16 208:21 209:2,13
testimony 7:18 10:6,9 14:5 19:6,21 32:22 45:5 46:10 48:7 57:15 59:21 60:3,24 61:8 82:23 85:8 86:23 95:4 95:6,9 99:17 104:21 104:24 106:3 109:4 109:16 110:1 114:12 115:15 121:6 122:16 134:6 138:14 140:12 151:12 162:19 163:4 167:2 175:5 200:22 201:15 206:11 208:19 208:25 215:1,15 228:3,7 247:12 251:1 252:17,18 253:3 255:7,20,21 256:25 261:9 268:5 271:23 273:13 275:4,18 276:17 279:10 282:14
testing 102:8 103:18 137:9 143:16,20 198:24 256:9
tests 143:25 144:4 225:14,16
text 112:3 120:15,17,23 120:23 183:25 184:7 184:14,18 185:1,3,6 185:14 187:9,23 188:6 252:18,21 275:22 276:2
thanks 42:23 140:14 201:13 213:9
Thats 125:13
theoretical 280:17
thereof 44:6
they'd 41:8
things $16: 15,18,21$ 18:25 66:1 70:4,13,14 89:16 126:4,5 242:8 249:25 250:25 251:18 254:19 271:18,19 274:9
third 28:1 44:15 111:18 182:7 224:18 239:9 240:8 248:16,19
thought 34:15 139:9 168:20 199:16 208:18 211:6 283:15 284:22 284:23
threat 43:25 281:8 three 37:23 66:4,11

111:16 112:2 127:7 127:13 149:13 194:15 224:10 229:2,15 252:13 267:5 269:20 277:3
three-and-a-half 18:17
threw 288:22
throttle 223:23,24
throw 85:12 288:25
Thursday 1:11 27:12
33:5 276:3
ti 287:2
ticket 282:8,10
ticketed 204:23
tied 243:5
tight 31:25
tighter 33:24
till 184:12
time-consuming 219:8
time-to-time 155:2
timely 292:24
times 21:9 28:18 30:23 31:1 34:24 48:2 51:6 60:19 64:22 66:18 83:18 127:3,4,7,8,14 127:22 128:12,15 149:14 178:16 179:9 190:13 192:9 214:1 223:7 224:11 240:15 264:5 275:2 278:4,10 281:21
timestamp 229:1 242:1
timing 52:11
Title 291:8
tobacco 225:21 226:6 258:10
today $8: 4,615: 2,12$ 17:1,9,13 19:3,15 20:11 45:21 90:13 95:5 118:11,19 133:3 147:15 170:17 171:17 172:23 201:16 203:14 211:3 219:20 220:1 229:22 232:17 239:14 246:7,8 248:6 252:6 263:3 271:4 275:2 276:20 280:2,5,22 281:12 283:25 284:15 284:24 285:2,14,18 286:13 288:11 289:13 293:1,4
today's 19:5 108:7
token 244:18 282:25
told 40:14 75:4 100:24 129:22 195:11,15 209:7,9 236:20 255:12
Tom 108:8 124:22

Tom's 127:11
tongue 190:8
Tooth 128:1
top 32:4 58:25 72:17
78:2 100:15 232:3
tops 157:23 236:2 240:2 267:16
torture 20:24
total 28:18 64:9 66:4
touch 160:13
tough 278:4
town 31:10 47:10 89:18
Townsend 172:16,17 174:2
trace 224:19
traced 224:16
track 50:13 164:3
trading 24:25
traffic 157:4 173:3,5,9 205:21
trailing 97:9
trained 192:19
training 123:20 197:12
transcript 286:10
transfer 200:17
transition 167:19
transmitting 106:1
transportation 70:3 157:6 158:24 159:9 166:20 236:3 238:2
trash 22:1 41:11 173:3 173:5
treat 281:22 282:5
tried 40:23 280:9,12,13 280:14
true 44:20,21 63:23 123:13 252:21
truly 96:21
Trust 139:12
truth 18:7 86:13,13 152:16,16 176:8,8 203:9,9 220:17,17 254:22
try 14:1 29:24 115:21 164:3,7 172:11 173:23 194:6 205:4 254:18,21 270:18 279:19 280:3 289:1
trying 31:12,13,15,17 32:21 41:9 65:21 68:10,23 106:22 109:2 115:22 124:15 136:5 141:16,21 162:6,15 194:12 205:6,11 231:5 242:17 248:2,5 254:19 274:10 276:12 278:4 279:21
turn 63:25 64:20 68:7 97:11 102:25,25 179:11 181:3,13 184:16 277:19
turned 53:10 55:22 56:13 68:19 182:12
turns 245:19
Twenty-five 64:9
twenty-two 89:24 128:18
twice 179:23 191:23 192:25 228:18
two 9:2 11:25 22:24 24:4 26:4 30:22 46:12 48:2 81:24 83:15 89:21 92:25 108:5 112:6 117:2 127:7,13 127:22 139:4 170:21 172:4,5 173:9 205:6 210:11 227:10,13 236:6,9,24 237:2 239:13 277:2
two-year 205:3
twofold 106:21
tying 215:4 216:21 272:25
type 29:12 30:5 73:2 98:2 159:23 177:22 177:23
types 157:14
typical 49:5 52:3 98:19
$\mathbf{U}$

U 26:2 30:17 77:25 78:2 98:18,20 270:14
ultimately 271:1
umbrellas 233:13,15
unable 35:16 162:19
unadjudicated 273:20
unannounced 67:16
unattended 204:22
unavailable 160:23
unclear 66:21
uncontroverted 280:6
undermined 19:8 242:22
underneath 93:12
underscores 272:9
understand 46:19 49:10 51:17 59:22 60:8 61:8 65:21 68:6 81:18 104:18 105:7 107:5,8,9 109:14 111:14 115:2,23 118:14 124:16 131:14 139:17,18 140:7,10 147:9,10 162:22 164:18 205:5,7

212:16 243:7,8 249:3
274:4 286:3
understandable 244:13
understanding 43:14
57:22 95:10,18
141:22 175:4 227:20
251:3 253:12 264:1
286:19
understood 59:25
80:11 84:2 247:2 278:14
undisturbed 272:11
Unfortunately 15:11
Unified 28:25 34:20 42:11 51:16
unique 275:8
unit 28:1 42:2 54:24 108:8 221:16 224:18 225:15 248:25,25 249:24 250:12
units 248:17 250:13,14
unjust 278:7
unmasked 18:22
205:16 240:18
unmitigated 20:20
unmute 3:21 4:6 5:5 6:17 8:16
unmuted 34:7,8 102:16 102:20
unoccupied 167:4
unpermitted 18:20
unprecedented 274:11
unquote 275:20
unrelated 185:16
unsuccessful 27:2
unusual 52:4 156:10
uphold 149:25
upload 211:18
upscale 230:18
upstairs 194:15
uptick 214:12
upwards 32:2 54:23
urge 275:7
urinating 21:18
use 21:10 28:11 40:15 46:7 110:19 152:2 157:17 158:4 179:21 180:7 183:5 184:10 192:14,19 193:2 199:19 200:1 210:25 212:9,23 234:12 235:4 240:22 245:2 246:7 254:21 269:7 276:22
uses 179:24
usual 52:5
usually 191:8,14

visiting 154:20
visits 50:4 51:1 64:20
64:21,25 65:3 74:23
75:3 127:17,20
visually $215: 5$
voice 97:9,14 180:7,8
voir 105:13 107:7
volume 39:18,19,25
40:3 56:9,12,16,20
68:7,15 97:11 119:8
181:7 182:8,12
184:15 185:7,8
194:18 199:10,13
211:14 223:6,11
vote 290:5 291:24

| W |
| :---: |
| $\mathbf{W}$ 1:14,16 |
| Wahabzadah 1:19 |
| 290:10,11,11 292:5,6 |
| 292:6 |
| wait 117:22 226:18 |
| $227: 5$ 228:10 248:17 |
| waiting 86:3 149:18 |

waiting 86:3 149:18 155:3 187:11 202:11 202:21,22 205:15 206:15 239:23 241:13 242:3 289:11
waive $287: 1,2,8,9288: 1$
walk 41:2 206:19 219:3
walk-in 95:14
walked 205:14 211:4 214:13,20 216:22
walking 48:5 65:13 98:22 154:25 194:3 211:8,9 215:23 232:12
walkthrough 26:22 38:21 52:22 60:16 67:10 181:18
wall 41:8,10 92:18 100:16 101:2,3,3,4 249:9 250:9 284:6,7
wanted 117:2 212:24 248:4 255:11 271:20
wants 105:12 114:9 138:19 140:5 142:2 202:15 243:8,9
warn 152:5
warning 59:18 64:4 243:15
warranted 277:15
warranty 248:25 249:14 249:22
wash 92:9 93:8
Washington 167:14 230:19
wasn't 55:11 60:14 67:1

69:16,23 104:19
115:11 116:17 123:24 137:22 138:23 255:3 255:4 289:7,8
watching 63:16
water-filled 252:11
way 10:22 19:4 40:3,4
56:13 58:25 82:19
91:8 95:20 98:25
101:5 104:7 106:5
107:23 115:21 138:11
140:5 151:8 194:3
214:7 224:17 226:19
244:21 272:13 274:25
280:12
WCNA 273:3
WCNA's 272:13
weapons 21:10 212:9 212:11 276:11
wear 40:13,16,17 92:10
wearing 41:2 92:25 93:5 241:12,13
web 226:7
WebEx 1:14 103:2
website 2:13,15 79:19 226:5 228:25 229:14 230:3,15 240:2 258:8 259:24 260:1,8 292:23
Wednesday 276:3
week 49:4 74:19 87:25 88:7,8 99:4 191:6,8 191:13 193:6,7 276:5
weekdays 21:8
weekend 98:19
weekends 21:8 30:16 49:9
weekly 276:2
weeknight 48:6
weeknights 49:4
weight 15:10 22:22 264:10 273:4
welcome 96:13 136:16 264:8
well- 21:24
well-known 5:23
went 36:12 68:19 74:5 85:21 129:7,24 153:20 167:3,9 189:25 236:1 269:15
weren't 58:2,18,18 66:23
west 232:22
westbound 25:25
Westminster 8:2 20:13 22:11 26:6 28:15 38:16 172:13
WhatsApp 184:2,3

252:17,24 253:8
283:14,16,17
whatsoever 49:12 235:14 263:4 whichever 261:20
white 234:2 270:17
wide 238:5
widely 212:3
wiggle 140:4
willing 40:16 124:21
144:8 278:16 286:6
willingness 175:6
window 95:13 208:1 213:2
windows 168:2
winds 238:24 239:6
wish 85:10 93:6 175:21 211:17 228:6 285:15
wishes 107:6 115:20 264:8,10
withdraw 138:8,9
witness 1:22,23 5:21 6:2 8:24 9:3 11:7,7,8 11:10,12,15,17,19,24 12:1 23:3 54:1 75:12 85:10 86:5,6 87:4 97:17,19 102:18 104:6 105:13 107:7 111:1,8 114:3,4 122:12 136:19 138:1 138:5 139:14,16,21 141:21 150:21 151:2 151:15,24 152:1,7 160:19 161:7,14,21 164:5,6 171:6 175:18 175:22 176:10 191:1 196:15,18 200:24 201:3,11,22 202:2,6 202:10,12,15,16,19 203:2,4,12 208:20 209:23 213:13 217:6 217:10,14,16 219:24 220:4 257:1 272:16 272:16,18
witness's 197:2
witnessed 210:3 232:4
witnesses 2:2 8:4 9:2 9:25 10:7,9 108:7 161:17
WNA 115:6 160:18 172:8 220:10 275:9 277:18 279:6
WNA's 162:20 278:12
woken 207:23
woman 231:13,14
wondering 205:3
word 229:19,20
wording 93:16 150:7,10
words 117:7
work 10:23 40:1 94:22 95:22 96:25,25 120:6 126:25 137:9 141:17 164:7 174:10 176:25 191:6,7,13 214:4 223:5 242:17 250:2,2 250:9 283:16,17 284:24 287:6,8,12
worked 30:22 46:20 77:19 157:18 177:3 246:14 271:21 293:4
working 24:3 85:17,17 85:17 124:2 168:16 174:2 191:16,23 224:17 272:2 285:10
works 142:6 164:23 197:18
worldwide 146:13
worrisome 232:10
worry 100:19,25
worsen 20:21
wouldn't 198:18
wrap 274:16
write 24:20 235:22
writing 286:3
written 144:1,9,11 234:14 235:8
wrong 53:10 56:15 96:3
wrote 25:4 106:23

| $\mathbf{X}$ |
| :---: |
| $\mathbf{y}$ 265:9 |
| year 19:8 34:17 51:5 |

62:24 153:12 167:21 184:12 185:9 207:7 207:15
years 18:17 20:18
22:25 24:4 30:22
37:24 46:12,23 48:2
94:20 146:5,6,7
154:23 177:5 198:14
203:21 204:2,14
205:6 211:23 213:6
215:4 222:4 225:11
270:20 274:1,12
275:10 283:13
yesterday 277:9
yielded 19:10
yoke 112:6 125:10,15 125:16,19
young 270:17

## Z

Z-E-K-A-R-I-A-S 5:16 176:23

Z-E-W-D-I-E 5:8
Z-O-L-L-A-R-C-O-F-F... 23:12
Z-O-L-L-E-R-C-O-F-F... 9:9
Zack 5:12
Zak 161:19
Zalarias 2:4
Zekarias 1:22 5:15
175:24 176:22
zero 183:16 274:3,3
Zewdie's 19:6,15
148:17 278:5
ZLX 112:4,5
ZLX12 111:17
Zollarcoffer's 36:1
45:14 54:5 90:3,25
91:21 92:5 94:10
178:21
Zollercoffer 2:3 96:2
Zollercoffer's 96:16
Zollerkoffer 121:6
Zollerkoffer's 118:1 119:15
zone 18:5 27:16,16 29:16 33:24,25 245:2
Zone-1 39:10


11:30 279:8
12 2:18 29:8 41:6 101:13 112:4 118:3 207:16,24 208:1 210:3,4,9 216:16
233:22 234:18 265:20
12:06 85:21
12:17 85:22,24
1200 16:8 26:9 30:3
47:2,25 79:10 80:16
122 48:23 128:12,17
12th 205:13,13 206:13
206:20 214:17,21 272:17
13 2:19 28:19 41:11 59:1 65:1 210:3 234:20 235:2 266:6
13th 41:3,4 61:1,11 207:2,19 210:16 211:11 212:18 214:20 214:22 272:18
14 2:20 37:8 41:13 57:9 91:21 236:12,15 266:16
1400 42:5
15 2:20 41:17 64:10 92:5 205:14 237:17 237:20 253:17 267:2
15-day 29:6 37:20
152 2:3
16 2:21 41:20 129:9 226:8 229:1 230:3,16 232:25 233:12,25 238:14,19 239:2 241:4 258:7 260:19 267:13
17 2:22 26:19 28:19 41:22 54:4,8 60:16 61:5 64:25 67:11 123:9 129:9 203:21 204:2 211:22 232:21 232:25 235:13 236:18 240:1,2,7 251:8 267:25
176 2:4
17th 38:20 52:24 74:20 181:17
18 2:23 41:24 224:25 240:24,25 241:7
265:20
1800 203:19 208:3 210:4,5,6 215:8,17 216:2
18th 29:9
19 42:1 54:22 231:11 241:15,17
1900 14:15 27:15 30:19 34:1 39:12 48:17 63:6

203:20 215:12 282:21
1918 88:25
1930 1:7 25:25 26:9 29:2 42:13 88:17 89:3 96:17 133:9 154:2 221:14 249:9
1932 17:12 27:23 63:18 90:20 101:22,24 124:6 127:6 130:20 131:17 133:6,9 136:6 158:13 165:19,24 166:16 170:22 186:23 221:12 249:9
1980 94:20
19th 63:18
1B 1:8 17:20

## 2

2 2:12 27:16 32:10 33:25 38:15 39:10 46:25 76:20 204:25 205:1,2 226:4,13 238:24 258:14
2:00 21:8 33:4 49:3 55:8 222:23 276:4
2:22 188:19
2:24 189:25
2:25 162:8 163:1,5
2:30 160:15,23 161:2 162:1,9,12 163:3,6,20 164:9 188:20
20 2:24 20:18 42:4 94:20 96:15 146:6,7 207:24 237:15 238:5 241:19,24 253:18 268:14
20-PRO-00024 1:8 3:5 289:20,23
2000 99:21 129:2,9
2001 153:12
2004 88:24 100:1 153:7
2005 14:18
2012 88:12 100:1,3 129:3,5,6
2015 88:11,12,14,18,18 88:24 89:1,5,10 99:24 100:3 271:9
2016 99:22 122:17,22 123:2,4 248:10
2017 2:12 17:20,20 27:25 37:25 101:13 103:19,24 123:7,15 144:14 195:9 221:16 222:8,8 242:12 247:5 247:9,12,22 248:11
2018 38:1 129:16,20 228:22 229:5,12 259:3,14

2019 38:1
2020 28:24 29:5,8 35:2 51:22 57:8 62:16,22 63:2 99:9 128:2 130:12,13 133:24 134:3,23 158:18 160:3 167:11 174:17 186:17 188:11,12 224:25 225:1 231:11 231:12 232:21,25 233:11,24 234:7 235:13 236:18 237:15 241:3 251:8 253:5,9 253:13 260:19 272:9
2021 1:12 24:24 26:19 27:19 28:19,19,24 29:6 35:3 51:23 61:5 62:16 64:25 65:1 67:11 74:16 181:17 207:15,17 210:3 226:8 229:1,14 230:3 230:16 231:3 233:1 233:12,25 240:2 241:4 242:2 258:7 260:20 291:10,17,18
203 2:4
20th 254:14
21 27:19 42:7
22 35:5,6,7,7 36:18,19 36:20,21 42:10 51:15 233:11
220 2:5
222 2:12
226 2:13
229 2:14,15
22A 42:15 51:15
22nd 56:5
23 29:5 42:17 231:3 260:18
230 2:15,16
231 2:16,17
233 2:17,18
234 2:18
235 2:19
236 2:20
237 2:21
238 2:21
23rd 37:18 60:14
24 42:19
240 2:22
241 2:23
242 2:24
24th 56:7 211:3 238:9 238:15 252:1
25 1:12 76:20 152:9,10 210:14 275:16
25-day 64:5 243:18
2574(b) 289:17 291:1

2574(b)(13) 289:25
2574(b)(4) 289:22
258 2:12,13
259 2:14,15
25th 211:3
26 291:18
260 2:15,16
265 2:16,17,17,18,18,23
266 2:19,20
267 2:21,21,22
268 2:24
27 28:25 34:17,19
270 2:7
274 2:7
27th 185:9
28 228:22 229:5 259:3
280 2:8
28th 238:20
29 253:9,13
29th 186:16
2C 153:11
3

3 2:13 29:5 38:19 57:8 59:11 101:12 103:16 110:6 113:20,21 116:24 117:1,5 137:7 160:15,23 161:2
162:12 163:20 189:1 225:1 227:14 228:16 228:21 229:8 259:10 291:8
3-1/2 222:4
3(b) 222:9,9
3,500 122:4
3/6/2021 2:24
3:00 21:8 33:6 49:4,9 162:13 188:22 189:5 222:24 276:4
3:05 189:9,20,23
3:14 190:1
3:45:59(simultaneou... 218:20
30 162:3,12 163:7 221:16 278:20
30th 185:19
31 291:10,17
33rd 54:6
3rd 29:9 37:18

## 4

4 2:14 38:23 50:21 65:7
90:2 229:10,25
239:18 259:21
4:43 269:10,15
4:50 269:11,13
4:51 269:16
400 42:8,9

| 405 291:8 | $\begin{aligned} & \text { 288:8 } \\ & 900 \text { 26:1,2 77:25 } \end{aligned}$ |
| :---: | :---: |
| 5 | 926 81:25 |
| 5 2:15 39:3 59:17,18 | 940 79:4 |
| 69:9 230:2,12 233:24 | 99.999 280:18 |
| 239:19 241:3 260:5 | 9th 1:7 14:15 17:12 |
| 5:00 287:21 | 25:25 26:9 27:16,23 |
| 5:20 293:11 | 29:2 30:18,24 33:20 |
| 50 40:14 122:1 128:9 | 41:18 42:13 48:17 |
|  | 63:7 78:2 79:4 81:25 |
| 6 | 88:17,25 89:3,9 91:3 |
| 62:16 39:6 57:13,14 | 91:16 92:15,16,19 |
| 58:7 229:12 230:14 | 94:20 96:17 98:18,20 |
| 230:25 242:2 259:13 | 124:7 127:6 130:20 |
| 260:14 | 131:17 133:6 153:2 |
| 6:00 187:6 | 154:2 158:13 165:19 |
| 6:30 27:13 | 165:24 166:16 170:22 |
| 60 195:20 | 171:22 193:13 203:19 |
| 65 195:20 | 208:3 210:4,7 215:8 |
| 68 48:12 49:5,25 216:3 | 221:12,15 232:22 |
| 69 15:25 16:8,19 26:8 | 249:10 270:14 282:21 |
| 30:2,3 32:3 47:1 79:9 |  |
| 79:24 80:16 97:1 |  |
| 273:10,12 282:19 |  |
| 6C 153:11 |  |
| 7 |  |
| 7 2:16 39:13 46:25 |  |
| 51:13,14 57:13 90:25 |  |
| 231:2,9 261:20,21 |  |
| 265:20 |  |
| 7117/2020 2:17 |  |
| 7122/2020 2:18 |  |
| 7:00 27:12,17 |  |
| 7:26 236:19 |  |
| 7th 98:21 153:1 |  |
| 8 |  |
| 82:17 39:17 46:25 56:6 |  |
| 57:10,12,13 119:14 |  |
| 178:20 231:10,20 |  |
| 261:22 265:20 |  |
| 8/28/2018 2:14 |  |
| 8:30 27:18 205:14,19 |  |
| 214:21 215:23 216:22 |  |
| 80 180:18 181:1 194:7 |  |
| 194:13 195:3,5,12,13 |  |
| 195:15 |  |
| 88787 1:7 3:6 |  |
| 8th 222:8 |  |
| 9 |  |
| 9 2:3 40:7 41:14 46:25 |  |
| 57:13 94:10 231:22 |  |
| 9/05/2020 2:18 |  |
| 9/27/2017 58:8 |  |
| 9/5/2020 2:23 |  |
| 90 93:16,19,24,24 194:7 |  |

Neal R. Gross and Co., Inc. Washington DC

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Before: DCABRA

Date: 03-25-21

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> Neae $\operatorname{cors} \rho$ ------------------Court Reporter

