

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
:
UND Necessities, :
LLC, t/a DC Smoke :
717 D Street NW : Protest
Retailer MC - ANC 2C : Hearing
License #126787 :
Case # 24-PRO-00009 :
:
(Application for a New :
License) :
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Wednesday
April 3, 2024

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
SILAS GRANT, JR., Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
ALEXANDER COBALT, Witness
CALVIN L. FOSTER, Witness
MEREDITH KINNER, Applicant's Counsel
THOMAS S. LEE, Protestant's Representative
JOHN MCGOWAN, Applicant Counsel
TOMMY MOUNGKHOUNSAVATH, Applicant
INVESTIGATOR JASON R. PERU, DC ABCA
MICHAEL SHANKLE, Protestant's Representative
DAVID STEVENSON, Witness

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

2 1:35 p.m.

3 CHAIRPERSON ANDERSON: And the next
4 case I'm going to call which is the protest
5 hearing that we have this afternoon is Case No.
6 24-PRO-00009, DC Smoke, License No. 126787. Hold
7 on a minute. Let me tell Mr. Orellana that --
8 let me look at the attendee log.

9 What I'm going to have us -- what's
10 going to occur, I'm going to have our IT
11 specialist elevate the parties in this case, just
12 the parties. So Mr. Orellana, please elevate
13 John McGowan's -- Mr. John McGowan, Meredith
14 Kinner, Michael Shankle. And I'll find out from
15 Mr. -- I'll find out then from the attorneys once
16 they're online who's the client.

17 MR. ORELLANA: They --

18 (Simultaneous speaking.)

19 CHAIRPERSON ANDERSON: I'm sorry. Mr.
20 Kinner or Ms. McGowan, who is the client that we
21 need to elevate?

22 MR. MCGOWAN: Good afternoon, Mr.
23 Chair. It's Tommy Mounghounsavath. I'm saying
24 his last name incorrectly. I'm sorry. But he
25 should be in attendance. There he is.

1 CHAIRPERSON ANDERSON: All right. Is
2 there another -- not witnesses. Is there anyone
3 else who a party that we need to elevate, not
4 witnesses currently?

5 MR. MCGOWAN: No, sir.

6 CHAIRPERSON ANDERSON: That's it? Mr.
7 Shankle, you are the -- I'm sorry. Is someone
8 saying something?

9 MR. SHANKLE: Yes, Mr. Chair. Mike
10 Shankle. Could you elevate --

11 CHAIRPERSON ANDERSON: Mr. Shankle,
12 that's what I was about to do, sir. I was
13 turning to you to ask you who is it you're asking
14 us to elevate, sir? Who's that person?

15 MR. SHANKLE: Commissioner Lee.

16 CHAIRPERSON ANDERSON: All right. So
17 Mr. Orellana, can you please elevate Thomas Lee
18 who is from the ANC?

19 MR. SHANKLE: Thank you, sir.

20 CHAIRPERSON ANDERSON: Thank you.

21 MR. ORELLANA: Mr. Lee, your access
22 has been elevated. That is all, Chairman.

23 CHAIRPERSON ANDERSON: Thank you. So
24 as the hearing progresses, everyone else, our
25 witnesses, and so therefore once a witness is

1 called, then we will elevate that witness, once
2 the witness is called. All right. Hold on.
3 Okay. Hold on. Now so let me have the parties
4 identify themselves for the record. Let's start
5 with the applicant and then I'll found out if
6 there's a lead attorney so I can find out the
7 roles of the different attorneys. So let's start
8 with the applicant.

9 MR. MCGOWAN: Thank you, Mr. Chair.
10 John McGowan, J-O-H-N M-C-G-O-W-A-N, co-counsel
11 for the applicant. I'm here with my co-counsel,
12 Meredith Kinner.

13 CHAIRPERSON ANDERSON: Good afternoon,
14 sir. Ms. Kinner, you're on mute, ma'am.

15 MS. KINNER: I am co-counsel on behalf
16 of the applicant. My name is Meredith, M-E-R-E-
17 D-I-T-H K-I-N-N-E-R. And my role will be to
18 cross examine any witnesses that the protestant
19 puts on.

20 CHAIRPERSON ANDERSON: Thank you. I
21 was just about to ask that question. And so you
22 have answered the question I'm about to ask. So
23 thank you, ma'am. Mr. Shankle, can you please
24 spell and state your name for the record, please.

25 MR. SHANKLE: Sure. My name is

1 Michael Shankle, I-C-H-A-E-L, last name Shankle,
2 S-H-A-N-K-L-E. I'm the chair of ANC 2C and will
3 be leading this for the ANC.

4 CHAIRPERSON ANDERSON: I know that you
5 also ask us to elevate Thomas S. Lee. Mr. Lee,
6 can you please identify yourself for the record,
7 please?

8 MR. LEE: Yes, my name is Thomas S.
9 Lee. I am the ANC Commissioner for 2C03.

10 CHAIRPERSON ANDERSON: So Mr. Shankle,
11 how is it that -- are you the lead attorney in
12 this case or both if you're going to represent
13 the ANC? Tell me how we're going to move
14 forward.

15 MR. SHANKLE: We -- I am going to be
16 the lead in this matter. And Mr. Lee --
17 Commissioner Lee will be cross examining.

18 CHAIRPERSON ANDERSON: Okay. All
19 right. Thank you. All right. This matter comes
20 before the Board as a protest on the application
21 for medical cannabis retailer. The application
22 was filed by UND Necessities, LLC, trade name, DC
23 Smoke, License No. ABRA 126787, located at 717 D
24 Street, Northwest.

25 The applicant is represented by Mr. --

1 I'm sorry, my Meredith Kinner, Esquire, and Mr.
2 John McGowan, Esquire. The applicant intends to
3 sell cannabis flowers, cannabis concentrate, and
4 a line of edible products. This application is
5 also requesting a delivery endorsement to provide
6 home delivery services to registered patients in
7 Washington, D.C.

8 The proposed hours of operations are
9 Sunday through Saturday, 10:00 a.m. to 9:00 p.m.
10 And its hours of retail sales to the public are
11 Sunday through Saturday, 11:00 a.m. to 8:00 p.m.
12 By way of background, the license application was
13 placarded on December 8th, 2023.

14 Advisory Neighborhood Commission
15 represented by Chairperson Michael Shankle filed
16 a protest on January 19th, 2024. The grounds for
17 the protest were peace, order, and quiet,
18 including measures to prevent noise disturbance
19 and litter. A roll call hearing was held on
20 February 12th, 2024 where standing was granted to
21 the ANC.

22 Both parties were in attendance at the
23 status hearing held on March 13, 2024. Now let
24 us turn our attention to the hearing at hand.
25 The hearing will be conducted following the

1 Board's standard format for contested protest
2 hearing. We'll hear from the Board's witness
3 first, Supervisor Investigator Jason Peru,
4 followed by examination of the Board's witnesses
5 by the parties and members of the Board.

6 The Board will then permit both sides
7 to present opening statements, no more than five
8 minutes, followed by applicant's case in chief
9 who carries a burden in this matter. Once the
10 applicant rests, the protestants may present
11 their case. At the end of the hearing, the Board
12 will entertain closing arguments of no more than
13 five minutes for each side. Thank you. Are
14 there any preliminary matters that we need to
15 discuss before we -- yes, Mr. McGowan.

16 MR. MCGOWAN: Thank you, Mr. Chair.
17 I'm not sure if this is the time you want to
18 discuss. But we do have as a preliminary issue
19 objections to exhibits and witnesses provided in
20 the PIF.

21 There are three different competing
22 exhibit lists that were produced by the
23 protestant, each with different exhibit numbers.
24 And so we are not clear on the exhibits that will
25 be presented and their numbers, et cetera.

1 There's also been too many witnesses listed as
2 well.

3 CHAIRPERSON ANDERSON: Well, as I
4 stated before, each side is permitted five
5 witnesses, an hour to present your case. I
6 stated that it's the status hearing. And so
7 therefore, no motion was made to the Board to
8 increase the witness list.

9 So both sides will not be permitted to
10 have more than five witnesses. It's my intent to
11 complete this hearing today if it can -- if we
12 can. But we will see.

13 I believe for everyone's purpose I'm
14 going to say 6:00 o'clock. If this hearing
15 cannot be completed by 6:00 o'clock, then we have
16 to continue it. Okay? That's what I'm going to
17 say as I'm hoping that we can finish this case by
18 6:00 o'clock, but we'll see.

19 What I think that I will also do, I
20 will take a break every two hours, like, a ten-
21 minute break. So you'll know that in two hours,
22 I'll take a ten-minute break just to make sure
23 that people can have a bathroom break. There's a
24 court reporter here, a lot of people working on
25 the sideline that we're not seeing.

1 But I'll try to take a ten-minute
2 break every two hours. So keep that in mind. If
3 you need to take a break to do something, you can
4 do that.

5 Unfortunately, I can't do that and
6 neither the Board members. We always have to be
7 on screen because we always have to let the
8 public know that all three of us are here
9 listening to the case. As a preliminary matter,
10 this is what I'm going to ask.

11 What I'm trying to do, find out from
12 the protestant, is the protestant asking us not
13 to grant the license? Or is the protestant
14 saying that we can grant the license with
15 condition? I'm just trying to get some
16 clarification from the protestant to see if
17 there's any way we can streamline this case. Mr.
18 Shankle.

19 MR. SHANKLE: With a condition. I'm
20 sorry, Mr. Chair. What do you mean by with a
21 condition?

22 CHAIRPERSON ANDERSON: No, what I'm
23 saying is that I'm trying to find out what the
24 protestant's position is. So say for example, if
25 the protestant says that, we would allow you, the

1 Board, to grant the license. However, you can
2 only grant the license with these conditions
3 attached. And if that's what you agree, then we
4 would only have testimony on why the Board should
5 attach conditions or if you're going to say that
6 our position is that you should not grant the
7 license. I'm just trying to get some
8 clarification to see where the protestant is.

9 MR. SHANKLE: Absolutely. We are --

10 MR. LEE: Can I speak?

11 MR. SHANKLE: Our recommendation is to
12 not --

13 CHAIRPERSON ANDERSON: I'm sorry. Who
14 just mentioned, can I speak? Who is that?

15 (Simultaneous speaking.)

16 CHAIRPERSON ANDERSON: -- can I speak?
17 Who was that? Hold on, Mr. Lee. Mr. Shankle is
18 speaking and the -- hold on. But I need you and
19 Mr. Shankle to be on the same page. All right.

20 So if you need to call him because I'm
21 just going to have one person speak for the ANC
22 and either as the chairperson. So if you need to
23 say something, then we can just pause for a
24 minute so you can call him and have a
25 conversation with him. What were you saying, Mr.

1 Shankle?

2 MR. SHANKLE: Our recommendation is to
3 not approve the license --

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: Okay. That's
6 fine. All right. That's fine.

7 MR. SHANKLE: If the Board has the
8 option to allow --

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: No, that's not
11 -- hole on. Hold on, Mr. Shankle. I'm not --
12 the Board does not have the option -- as you
13 know, we've never had a cannabis one before. We
14 have always had protest hearings on alcohol.

15 And I routinely ask to see especially
16 for a new license where is the protestant. If
17 the protestant says that we could grant the --
18 you can grant the license, but we want these
19 conditions. And then we would have a hearing on
20 what conditions, if any, should be placed on the
21 license.

22 If the protestant said that we do not
23 want to grant the license, then we're going to
24 just have a protest hearing and the Board will
25 make a determination whether or not to grant the

1 license or deny the license or if we grant the
2 license with conditions or without conditions. I
3 was just trying to find out from the parties
4 where the parties were. So you don't have to --
5 I'm not asking you to tell us at this juncture to
6 say what the Board should do because that's not
7 required at this time, sir.

8 MR. SHANKLE: Thank you. I appreciate
9 that. But I was going to offer that one of our
10 big sticking points in this case is the location
11 of this establishment. And if the applicant
12 moves the location of this establishment to an
13 area that is 300 feet away from a school, then
14 the ANC will agree to that. Otherwise, we were
15 protesting the licensing being issued.

16 CHAIRPERSON ANDERSON: Mr. McGowan --
17 well, I think part of the problem, I think -- and
18 you don't need to respond to that, Mr. McGowan.
19 Part of the problem with that, Mr. Shankle, is
20 the way the law current stands. They don't have
21 that option.

22 So they have to -- yeah, they don't
23 have that option. The law does not grant them
24 the ability to change location. The law
25 basically states that you have applied for this

1 location.

2 The Board either grants or denies a
3 license. And if the Board denies the license,
4 then so be it. But they do not have an option to
5 move to a different location, sir. Okay? That's
6 not currently the state of the law.

7 MR. SHANKLE: Got it. Then we oppose
8 the license.

9 CHAIRPERSON ANDERSON: All right.
10 That's fine. All right. So the way this matter
11 will work, both the licensee will have an
12 opportunity to an opening statement. The
13 protestant will also have an opportunity to do an
14 opening statements. Or the protestant could
15 defer until they present their case.

16 Then the Board will call its first
17 witness which is Mr. -- Supervisor Investigator
18 Peru. He will testify. The Board will ask him
19 questions about his report. Once the Board has
20 questioned him regarding his report, then the
21 applicant would have an opportunity to ask
22 questions of the licensee -- I'm sorry, ask
23 questions of the Board's witness regarding the
24 contents of the report.

25 After the licensee has asked

1 questions, the protestants will have an
2 opportunity to ask questions. And then if the
3 Board wants to ask further questions of its
4 witness, the Board will ask questions of its
5 witness. Once the Board has dispensed of this
6 witness, then the licensee will call its first
7 witness to present its case.

8 And we'll follow the same process in
9 the sense of the protestant will have an
10 opportunity to cross examine. The Board have an
11 opportunity to ask questions. Once the applicant
12 has presented its case, then the protestant will
13 have an opportunity to present its case. Any
14 question before we start?

15 MR. MCGOWAN: No.

16 CHAIRPERSON ANDERSON: So we can then
17 start with opening statements. Mr. McGowan or
18 Ms. Kinner, do you wish to make an opening
19 statement?

20 MR. MCGOWAN: Yes, Mr. Chair. Thanks.

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

23 MR. MCGOWAN: Good afternoon, Chairman
24 Anderson and members of the Board. We are here
25 today because the applicant applied for a medical

1 cannabis retailer license and the protestant has
2 a fundamental misunderstanding about D.C.'s
3 medical cannabis program, the applicant's
4 proposed operations, and the law. Protestant
5 seems to conflate licensed medical cannabis
6 relatives in this city with the unlicensed
7 cannabis retailers that are not seeking the
8 license with methadone clinics, with open air
9 drug dealing, with needle exchange facilities.

10 Additionally, protestant disagrees
11 with D.C. law which allows businesses like
12 applicant's to lawfully operate within 300 feet
13 of certain schools. Additionally, they
14 improperly are seeking a legal remedy here to
15 change the law. On November 1st, 2023, applicant
16 submitted an application for a new medical
17 cannabis retailer license to be located at 717 D
18 Street, Northwest in downtown's Penn Quarter
19 neighborhood. Applicant submitted its
20 application as an unlicensed operator meaning
21 that it was an existing retail business gifting
22 cannabis that was eligible to transition to
23 D.C.'s regulated medical cannabis market.

24 These eligible unlicensed operator
25 applicants are distinguishable from many of the

1 unlicensed cannabis retail stores that operate in
2 the district and are not going through the
3 licensing process with ABCA. The November 2023
4 application period was also unique because only
5 eligible unlicensed operator applicants were
6 permitted to apply. And pursuant to D.C. code,
7 they were allowed to be located within 300 feet
8 of a daycare facility, primary or secondary
9 school or recreation center if that daycare
10 facility, secondary school, primary school, or
11 rec center was located in a commercial or
12 industrial use zone.

13 ANC 2C filed a letter of protest on
14 January 19, 2024 protesting the applicant on the
15 basis of its impact on the peace, order, quiet,
16 and public safety in the neighborhood. But
17 because applicant does not and has never operated
18 at 717 D Street, Northwest, the protestant did
19 not point to any evidence in its letter or
20 otherwise that the applicant has had any impact
21 on the neighborhood whatsoever. It reasons that
22 any impact alleged by protestant is purely
23 speculative.

24 While applicant respects the ANC's
25 right to protest, they cannot protest -- they

1 cannot present any substantiated or relevant
2 evidence to support the reasons for their
3 protest, merely that applicant should relocate
4 and the Board should reevaluate the law. It's
5 clear that protestant is seeking a legislative
6 change from D.C. Council and applicant is caught
7 in the middle. Protestant's reasons for this
8 protest are really that the Board should
9 reevaluate the setback exception that applied to
10 unlicensed operator applicants, not that this
11 specific applicant will have a negative impact on
12 its community.

13 This is because protestant cannot base
14 its protest on being unhappy with the law. That
15 is why they structured it as being based on a
16 negative impact on peace, order, and quiet. We
17 believe that this protest is truly a political
18 agenda led by concerned parents of nearby schools
19 and daycare centers who have no standing in this
20 proceeding and have a gripe over the status of
21 the law.

22 But we all know this is not the forum
23 to change this law. While D.C. Council may make
24 future changes to the law, these changes will not
25 and should not apply retroactively to unlicensed

1 operator applicants. Once licensed applicant
2 intends to be a responsible community member with
3 a mission to serve registered patients and
4 operate in accordance with the law. To deny them
5 a license based on pure speculation and stigma
6 would be unfair. Thank you, Mr. Chair.

7 CHAIRPERSON ANDERSON: Thank you. Mr.
8 Shankle, do you wish to make an opening
9 statement, sir?

10 MR. SHANKLE: I do. Thank you. Good
11 afternoon, members of the ABCA Board. Even
12 though I have been before you many times before,
13 this is the first opportunity that I have led a
14 protest hearing. I am an elected official with
15 the Advisory Neighborhood Commission 2C and the
16 chair of ANC 2C serving the Chinatown Penn
17 Quarter and downtown D.C. neighborhoods.

18 I am a volunteer elected leader
19 representing this community. And I'm not an
20 attorney. So please bear with me today. Today
21 we come before you with a deep sense of concern
22 regarding the proposed location of D.C. Smoke, a
23 medical marijuana dispensary proposing to locate
24 less than one block from three educational
25 institutions, literally across the street from

1 BASIS DC, a tuition free public charter school
2 providing world class education since 1998, The
3 Templeton Academy, a private tuition free college
4 preparatory high school that offers personalized
5 education and experiential learning, and Penn
6 Quarter KinderCare, providing preschool and
7 enrichment programming for children from 6 weeks
8 of age to 8 years of age.

9 This hearing presents a critical
10 juncture where we have to carefully consider the
11 potential ramifications of the decision to allow
12 the applicant to locate in this particular
13 location. The question before us today is not
14 whether the applicant is legally allowed to
15 choose 717 D Street, Northwest as its location.
16 But it is about the appropriateness of the
17 facility locating less than 300 feet from the
18 schools and daycare in Penn Quarter and its
19 impact on peace, order, quiet, including measures
20 to prevent noise disturbances, litter, and
21 measures to foster public safety.

22 The latter is the standard in which
23 the ANC is offered in the legislation to protest
24 the applicant. I want to stress the word
25 appropriateness defined in what a reasonable

1 person feels appropriate and the principles of
2 fairness and equity in assessing this given
3 situation. Is it appropriate for dispensaries to
4 locate less than 300 feet away from a school?

5 And just because it's in a densely
6 populated area, we would say no and think today
7 after this hearing testimony you will too. Let
8 me be clear that we are not in opposition or
9 condemning medical cannabis or its benefits. We
10 understand the respect and the importance of
11 access to medical treatments for those in need.

12 However, the proximity of the medical
13 marijuana dispensary to the school raises
14 legitimate concerns that cannot be overlooked and
15 ignored. Downtown D.C. is a large area, and
16 there are plenty of areas that this establishment
17 could have chosen to locate its operation. But
18 it decided to choose the block that houses not
19 one, not two, but three educational institutions,
20 the closest being 220 feet away from across a
21 parklet and the Navy Memorial where children
22 lunch, play, and participate in educational
23 activities.

24 Today we will present evidence to the
25 inappropriateness of this location by examining

1 the proximity of the establishment to the schools
2 and daycare centers, hear from the administrators
3 and educators on the effects of the establishment
4 on the operation -- on their operations and the
5 students of the school. and examine the concerns
6 of BASIS parents and examine the safety and
7 wellbeing of children that may -- what they may
8 experience as a result of medical marijuana
9 facilities across the street. Our position as an
10 ANC is that the ABCA Board should deny outright
11 this application and/or require them to find a
12 more appropriate location for the applicant's
13 facility away from this restricted area.

14 CHAIRPERSON ANDERSON: Thank you, Mr.
15 Shankle. I just want to just to clarify to you
16 so when you present the evidence, you can make
17 the appropriateness argument and you can tie the
18 appropriateness argument with a distance. But I
19 just want to let you know that the law does
20 require -- the law affords an establishment in a
21 commercial district.

22 This particular type of establishment
23 in a commercially zoned area to be less than 300
24 feet. I just want to let you know that the law,
25 that's the current state of the law. And

1 secondly, that because of the state of law, this
2 licensee cannot withdraw his application and move
3 to another location because the law -- the state
4 of the law says that this is not available to the
5 applicant.

6 I'm just stating what the law states.
7 I'm not saying this is what the Board is going to
8 do. So just make sure that when we have
9 testimony, you can talk about if it's an
10 appropriateness argument. You can make the
11 appropriateness argument.

12 But the distance in a sense that the
13 law says they can be at that distance. This is
14 the exception. And so we can't argue distance,
15 per se. But you can argue it from another
16 perspective.

17 But you can say because it's less than
18 300 feet, then it is inappropriate because it's
19 less than 300 feet, if you follow what I'm
20 saying, sir, because I'm saying that's the state
21 of the law. Okay? That's not anything -- the
22 Board cannot do -- the Board can reject the
23 application. But the Board, however, we can't
24 make a decision regarding the 200 feet or the 220
25 feet or the 300 feet because that's the state of

1 the law, sir. okay? I just want to say that.

2 MR. SHANKLE: Right. I think I
3 understand what you're saying, sir.

4 CHAIRPERSON ANDERSON: All right.
5 Okay. All right. So the Board will call its
6 first witness. So Mr. Orellana, can you please
7 elevate Supervisory Investigator Jason Peru?

8 MR. ORELLANA: Investigator Jason
9 Peru, your access has now been elevated.

10 MR. PERU: Good afternoon, Board.

11 CHAIRPERSON ANDERSON: I cannot see
12 you, Mr. Peru.

13 MR. PERU: Yes, I am working on that,
14 sir. Good afternoon, sir.

15 CHAIRPERSON ANDERSON: I still can't
16 see -- okay, all right. All right, Mr. Peru. I
17 see that you're in a vehicle. Are you in a
18 stationary location, sir?

19 MR. PERU: Yes, sir. I am parked on
20 the side of the road, downtown D.C.

21 CHAIRPERSON ANDERSON: Okay. Just
22 want to make sure that all my witnesses, if
23 you're in a vehicle, I need to make sure that
24 you're in a stationary location before you can
25 testify. Mr. Peru, can you raise your right

1 hand, please. Do you swear or affirm to tell the
2 truth and nothing but the truth?

3 MR. PERU: I do.

4 CHAIRPERSON ANDERSON: Mr. Peru, can
5 you state and spell your name for the record?

6 MR. PERU: Yes, Supervisory
7 Investigator Jason Peru, J-A-S-O-N P-E-R-U.

8 CHAIRPERSON ANDERSON: You stated that
9 Supervisor Investigator Jason Peru, what does it
10 mean, Supervisory Investigator, sir?

11 MR. PERU: I'm a supervisory
12 investigator in the enforcement division for
13 ABCA. I lead a team of alcohol investigators and
14 I also conduct cannabis enforcement.

15 CHAIRPERSON ANDERSON: And how long
16 have you been working for the agency, sir?

17 MR. PERU: Ten and a half years.

18 CHAIRPERSON ANDERSON: How long have
19 you been in a supervisory role for the agency?

20 MR. PERU: For five and a half years.

21 CHAIRPERSON ANDERSON: And how long
22 have you been working in the cannabis enforcement
23 area, sir?

24 MR. PERU: For the last four and a
25 half years.

1 CHAIRPERSON ANDERSON: And so can you
2 tell us as far as cannabis enforcement, what has
3 been your duties and responsibility during these
4 last four and a half years?

5 MR. PERU: I've been conducting
6 routine inspections and investigations of
7 licensed cannabis retailers and cultivators in
8 the district for the last four and a half years.
9 And most recently started conducting inspections
10 of unlicensed cannabis locations in the District
11 of Columbia.

12 CHAIRPERSON ANDERSON: Now are you
13 familiar with this applicant protest?

14 MR. PERU: Yes, sir. I am.

15 CHAIRPERSON ANDERSON: How are you
16 familiar? How did you become familiar with this
17 establishment?

18 MR. PERU: My first -- my first
19 interaction was checking the placards that were
20 required to be posted after they got placarded.
21 So I drove by to make sure the placards were up.
22 And then I received the protest investigation
23 request.

24 CHAIRPERSON ANDERSON: Now where is
25 the -- where is it that this licensee tends to

1 open a business?

2 MR. PERU: In the -- it's on D Street
3 between 7th Street, Northwest and 8th Street,
4 Northwest at the corner of 7th and D.

5 CHAIRPERSON ANDERSON: Have you been
6 to this location, sir?

7 MR. PERU: I have.

8 CHAIRPERSON ANDERSON: Can you
9 describe to us what's -- tell us -- describe for
10 us the location.

11 MR. PERU: Yes, right now it's just an
12 empty office building space. It's a pretty large
13 office building. The space, it seems to be no
14 construction has started from what I can tell.

15 It appears to be in the same state it
16 was to whatever business was prior there.
17 There's parking out front. And when you --
18 directly across the street on the 8th Street
19 side, so the building has windows on all sides --
20 on all two sides should I say on the 7th and 8th
21 Street side. And on the 8th Street side,
22 directly across the street is the BASIS charter
23 school that you're hearing about.

24 CHAIRPERSON ANDERSON: All right. Now
25 who's the protestant in this case?

1 MR. PERU: It is the ANC that was
2 protesting the license.

3 CHAIRPERSON ANDERSON: Now let me ask
4 you a question, sir. Do you have the ability to
5 share your screen?

6 MR. PERU: I do have the report up,
7 sir. So if I can be elevated, I think I can do
8 that.

9 CHAIRPERSON ANDERSON: Mr. Orellana,
10 can you please allow Mr. Peru to share his
11 screen?

12 MR. PERU: Access has been elevated.

13 CHAIRPERSON ANDERSON: Thank you.

14 (Pause.)

15 MR. PERU: Is it working?

16 CHAIRPERSON ANDERSON: Yes, sir. All
17 right. Mr. Peru, can you identify the document
18 that's on your screen, sir?

19 MR. PERU: Yes, sir. This is the
20 protest report that I completed.

21 CHAIRPERSON ANDERSON: All right. And
22 when did you complete this report?

23 MR. PERU: It was turned in last week.

24 CHAIRPERSON ANDERSON: Okay. So I
25 mean, what month and what year?

1 MR. PERU: Oh, I'm sorry. Yes. March
2 -- March of 2024.

3 CHAIRPERSON ANDERSON: And what were
4 the protest issues in this case?

5 MR. PERU: So the protest issues
6 listed in the letter from ANC 2C was the adverse
7 impact of peace, order, and quiet, and decided
8 including measures to prevent noise disturbance
9 and litter and measures to foster public safety,
10 is what they listed.

11 CHAIRPERSON ANDERSON: Now did you
12 have an opportunity to speak to the protestant?

13 MR. PERU: I did not. Unfortunately,
14 I emailed apparently the -- I emailed Mr. Shankle
15 who was not back in town until after the report
16 was completed. So was not able to speak with
17 him. I did not realize there was another ANC
18 person that was involved because Mr. Shankle was
19 the contact on the letter. So I did not speak
20 with him before the report was submitted.

21 CHAIRPERSON ANDERSON: What was the
22 turnaround time for you to get a written response
23 back from Mr. Shankle?

24 MR. PERU: It was maybe five -- four,
25 five -- five, six days. I can't remember exactly

1 when I -- when I emailed him. It was -- it was a
2 -- it was a couple days.

3 CHAIRPERSON ANDERSON: All right.

4 MR. PERU: Or more than few -- a few
5 days, yes, sir.

6 CHAIRPERSON ANDERSON: Okay. Thank
7 you. Did you have an opportunity to speak to the
8 applicant?

9 MR. PERU: I did.

10 CHAIRPERSON ANDERSON: And what
11 information, if any, were you able to gather
12 based on your conversation with the applicant?

13 MR. PERU: The applicant essentially
14 -- when I spoke to the applicant, they stated
15 that the current, you know, location was -- was
16 vacant. They also mentioned that the ANC because
17 of the charter school across the street was a
18 concern of the ANC. And they stated that they
19 were -- you know, they're currently operating
20 obviously at a different location on 8th Street,
21 Northeast. But they -- they -- they said that
22 the ANC, they were -- they were ready to sign a
23 settlement agreement with the ANC. However, the
24 ANC chose to come to a hearing instead.

25 CHAIRPERSON ANDERSON: All right. So

1 tell us about the zoning for this area, sir.

2 MR. PERU: So the zoning, according to
3 D.C. zoning maps, the proposed location of 717 D
4 Street, Northwest and BASIS charter school
5 located at 410 8th Street, Northwest are both
6 located in a D6R zone. The D6R zone according to
7 zoning are to permit high density commercial
8 development in the downtown core while promoting
9 residential development throughout the zone with
10 residential requirements and incentives. A
11 building with frontage of designated primary or
12 secondary streets shall meet the design
13 requirements. It also says that the following
14 downtown subarea DR6 zone.

15 CHAIRPERSON ANDERSON: Now we talked
16 about schools. So tell us about what schools and
17 recreational centers ore in this area.

18 MR. PERU: So the -- the map that was
19 provided, the GIS map, right, only -- only shows
20 BASIS charter school. According to the GIS map
21 provided created on July 17th, 2023 by licensing,
22 there was no recreational centers within 300
23 feet. But there is one public charter school
24 BASIS located within 300 feet from -- located at
25 410 8th Street, Southeast. And like I stated

1 earlier, that is directly across the street on
2 the 8th Street side of the location -- proposed
3 location.

4 CHAIRPERSON ANDERSON: Now how is --
5 if they have a school located within less than
6 300 feet from this proposed location, why are we
7 even considering granting a license to an
8 applicant that's located less than 300 feet from
9 a school?

10 MR. PERU: Well, the law was passed --
11 legislation was passed and the statute states
12 that during the unlicensed period, unlicensed
13 retailers could apply through November and
14 January -- November of last year to January of
15 this year that allows that group of individuals
16 to locate to a commercially zoned area within 300
17 feet of a school if the school is also a
18 commercial zone.

19 CHAIRPERSON ANDERSON: So now what are
20 the proposed hours of operation for this
21 establishment?

22 MR. PERU: The hours on the
23 application that they submitted says that the
24 hours of operations were from 10:00 a.m. to 9:00
25 p.m. But the hours of open to the public were an

1 hour later than that, 11:00 a.m. till 8 p.m. So
2 the closing to the public an hour before their
3 operations ended and opening to the public an
4 hour after their operations begins.

5 CHAIRPERSON ANDERSON: So as a
6 supervisory investigator, what's the difference
7 between the hours of operation and the hours of
8 sales open to the public?

9 MR. PERU: Yes, sir. Operations means
10 they can have employees in there receiving
11 orders, preparing the medical cannabis, setting
12 things up, putting things out, retrieving things
13 from the safe. And employees can be in there
14 operating and conducting their business. And
15 then the hours of sales obviously open to the
16 public would be to where medical cannabis
17 patients and customers can enter the business to
18 purchase.

19 CHAIRPERSON ANDERSON: All right. I
20 know that this -- is this facility currently
21 open?

22 MR. PERU: It is not, sir.

23 CHAIRPERSON ANDERSON: All right. Did
24 you have an opportunity to go to an observation
25 of the area?

1 MR. PERU: I did. I went on a couple
2 of locations. The first location was obviously
3 when I checked the placards. Then I went by
4 again December 13th about 3:00 p.m., Friday,
5 January 26th, around 10:00 p.m. in the evening,
6 and then on Monday, March 25th, around 4:30 I
7 visited the location.

8 CHAIRPERSON ANDERSON: So let me ask
9 you a question specifically when you went on
10 December 13th at 3:00 p.m. I guess it appears
11 that there might be an error in your report.
12 Were you there from 3:00 p.m. to 3:00 a.m. --
13 3:30 a.m.?

14 MR. PERU: Yes, sir. That is
15 definitely an error. I was not there till 3:00
16 a.m.

17 (Simultaneous speaking.)

18 CHAIRPERSON ANDERSON: So what time
19 were you there till?

20 MR. PERU: Till 3:30 p.m.

21 CHAIRPERSON ANDERSON: So what did you
22 observe between 3:00 p.m. and 3:30 p.m.?

23 MR. PERU: Normal activities. Nothing
24 significant. Normal foot traffic. Normal
25 vehicular traffic in the area. Nothing --

1 nothing out of the ordinary.

2 CHAIRPERSON ANDERSON: Did you observe
3 any activity since you said the school is a very
4 short distance from the establishment? During
5 the period of time you were there, did you notice
6 -- I do not want anyone to add any information to
7 the chat. Okay? So we are having a hearing.

8 If you're going to be called as a
9 witness, you will have every opportunity to
10 testify. But I would hope that you do not add
11 information to the chat that no one has
12 testified. All right. So please do that. Thank
13 you very much. All right. So did you notice any
14 activities of the school during that time period
15 of time you were there?

16 MR. PERU: On that date, that's why I
17 didn't list it, sir. On that date, I did not
18 notice any activity. However, on my other visit,
19 on March 25th when I conducted physical
20 measurements, I did see a couple kids being
21 picked or kids coming out -- coming in and out of
22 the facility along the street.

23 A couple kids were playing tag or
24 chase on the streets and actually got yelled at
25 by a teacher to stop running around on a

1 sidewalk. But not in the streets, on the
2 sidewalk. I'm sorry. But yeah, that's when I
3 conducted my measurements to determine the
4 distance -- the actual physical walking distance
5 between locations.

6 CHAIRPERSON ANDERSON: So what is the
7 actual physical walking distance between the
8 school and the proposed -- excuse me, licensee?

9 MR. PERU: Yeah, so I did -- I
10 measured twice. I like to do that just to make
11 sure it's right. And both times, I got the
12 measurements of 220 feet from the front door of
13 the school to the proposed front door of the
14 proposed location.

15 CHAIRPERSON ANDERSON: And I guess
16 because the establishment is not open, were you
17 able to find any record search about any noise
18 complaints or anything like that regarding this
19 establishment?

20 MR. PERU: No, sir. There's no
21 records with ABCA or any record about any kind of
22 calls to this location.

23 CHAIRPERSON ANDERSON: All right. I'm
24 going to say this one more time. I'm trying to
25 conduct a hearing. Okay? And the Board is going

1 to make a determination based on the testimony
2 that are elicited from the witnesses that are
3 being called.

4 This is not a hearing where folks are
5 going to -- you're going to add comments in the
6 chat to try to influence the Board members. So I
7 can see comments about this is a public hearing.
8 This is not a public hearing.

9 This is a hearing where lawyers are
10 called and I know Mr. Shankle is not a lawyer.
11 He said he's not a lawyer by training and so
12 therefore both sides are presenting their case.
13 And the Board will make a determination in
14 whether we're going to grant this license, deny
15 the license, or grant the license with conditions
16 based on the testimony elicited at this hearing.

17 It's not based on any comments that
18 are placed in the chat. And so I am asking you
19 whoever is placing information in the chat,
20 you're placing information in the chat that's
21 available that I can see because it's distracting
22 to me. That's why I'm responding.

23 I am trying to ask questions, and
24 there's comments in the chat that is visible to
25 the Board members and it should not be. Okay?

1 And so I'm going to say that one more time. I'm
2 going to ask whoever is putting information in
3 the chat please refrain from putting information
4 in the chat because this is not public hearing in
5 a sense.

6 This is a hearing that's open to the
7 public. It's not a public hearing for the public
8 to give us comments. The only parties who can
9 give comments at this hearing today are people
10 who are on the witness list who are called as
11 witnesses and they will be called for direct
12 examination.

13 And they will have an opportunity to
14 be cross examined by the other side. Okay? As
15 I've said, Mr. Lee -- Mr. Lee -- Mr. Shankle is
16 the lead attorney. He said that you'll be cross
17 examining. So therefore, if you need to say
18 something, Mr. Lee, it needs to be done through
19 Mr. Shankle. Okay?

20 But you know what? Since you're an
21 ANC Commissioner, Mr. Lee, one question. Is
22 there something that you need to say, sir?
23 You're on mute, Mr. Lee.

24 MR. LEE: Talking with Mr. Shankle,
25 should I use the chat function here?

1 CHAIRPERSON ANDERSON: I would ask --
2 no, sir. You can text him. Call him on a
3 telephone because if you put it on the chat, it's
4 basically the public will see that. So you don't
5 necessarily want -- I don't need to see the
6 communication if you're communicating with Mr.
7 Shankle. I don't need to see that.

8 So you can text him. You can call him
9 on the phone. Mr. Shankle can just mute his line
10 and you can talk to him.

11 MR. LEE: Okay. I think there's a way
12 for me to chat with Michael Shankle using the
13 chat function here.

14 CHAIRPERSON ANDERSON: If you can
15 check with him directly, that's fine. But it
16 should not be information -- I don't -- and I
17 don't know who is communicating, sir. So I'm not
18 picking on you.

19 So I don't even know if you're the one
20 who's doing it. All I see is the information in
21 the chat that's distracting to me because there
22 is -- I'm asking the witness questions and I see
23 that's disputing what has been stated by the
24 witness. And that's one of the reasons why.

25 I don't know who's putting information

1 in the chat. I don't know who is, sir. So I'm
2 not picking on you. I was just saying whoever is
3 doing it, that's not the way we operate here.
4 Okay?

5 MR. LEE: Yeah, okay. It looks like
6 chat has been disabled now. So I think that
7 would solve the issue.

8 CHAIRPERSON ANDERSON: Okay, thanks.
9 I didn't ask for that to occur. But since that's
10 what's done, that's appropriate. All right. Mr.
11 Peru, are there any exhibits attached to your
12 report?

13 MR. PERU: Yes, sir. I will scroll
14 down to those exhibits. The first exhibit was
15 the copy of the letter from the ANC, Exhibit 1
16 and as I discussed their concerns earlier. Then
17 the second exhibit, you can move down. You can
18 see Exhibit 2 which is the -- I tried to do some
19 drawings on it to give some guidance to it, you
20 know, so you can see this is the proposed
21 location front of the building.

22 As you can see, I drew the highlighted
23 areas myself just give an idea that the main
24 entrance to the building has a call box on it.
25 But there's a second set of double doors that I

1 also put in there just so you can get a good
2 perspective if you're standing there yourself.
3 And then as you can see towards the crosswalk
4 across the street, that is moving towards 8th
5 Street which is then leads to the -- where the
6 charter school is located.

7 As you continue down to my next
8 exhibit, you'll see the front of the charter
9 school, right, which is 410 8th Street. That's
10 the school. You can see that there, the front of
11 the school.

12 And then I also took a picture of from
13 across the street from the school. I'm not sure
14 what's happening here. Across the street, so
15 this is me standing -- I'm standing at the door
16 of the school.

17 And the highlighted area that I
18 highlighted in yellow is the proposed location
19 corner. That's some of the windows that are
20 facing the charter school side. And that's what
21 you see in that exhibit. And then of course I
22 included the zoning that I talked about earlier
23 and what the zoning says for those locations are.
24 And I also included the GIS map provided by ABCA.

25 CHAIRPERSON ANDERSON: I want to ask

1 you a question, Mr. Peru. This is not in your
2 report.

3 MR. PERU: Yes, sir.

4 CHAIRPERSON ANDERSON: You stated that
5 you have investigated -- as part of your duty you
6 got into investigation enforcement action against
7 cannabis establishments. How many such
8 investigations have -- you can close your screen,
9 sir. You can close your screen. I want to ask
10 you another question.

11 MR. PERU: No, that's fine.

12 CHAIRPERSON ANDERSON: So
13 approximately how many cannabis establishments
14 have you -- licensed or unlicensed established
15 have you visited over the years?

16 MR. PERU: Well, licensed, when we got
17 the program, we had 15 licensed locations. That
18 kind of dwindled down some with locations
19 closing. But every quarter, I conduct
20 inspections of all the licensed businesses. So
21 you could take a quarter from the last four years
22 and how many inspections I've conducted at
23 licensed facilities.

24 I've also had the opportunity recently
25 to conduct pre-inspections of unlicensed

1 locations that are placarded to get licenses with
2 us, some of which you guys have approved in
3 recent weeks. And I've been to the locations and
4 offered guidance based on the statute
5 requirements for them to open. So the number, I
6 think I'll be giving you an unfair number, Mr.
7 Chair. But all I can tell you unlicensed
8 businesses, recently we've been conducting
9 inspections of unlicensed businesses which is
10 about 14 businesses that we've gone to take
11 enforcement actions to unlicensed I71 shops.

12 CHAIRPERSON ANDERSON: Now let me ask
13 you a question. When you approach either a
14 licensed or an unlicensed establishment, how do
15 you know that it's an establishment that sells
16 cannabis?

17 MR. PERU: Well, a lot of -- it
18 depends. Some of them are pretty obvious with
19 they have these sandwich boards on the outside,
20 call themselves a smoke shop or advertising
21 cannabis from the windows. Some of the I71
22 unlicensed shops are really the ones that are
23 advertising.

24 To be honest with you, the license
25 dispensaries in the District, you could probably

1 walk by most of them and not even know they're
2 there to be honest with you. So, you know, some
3 of them, D.C. Health did provide them some kind
4 of signage back in the day. Some of them have
5 that signage on it. But besides that if I didn't
6 point it out to you or you don't do a research
7 ahead of time for the current medical
8 dispensaries, you probably would not know exactly
9 where to find them.

10 CHAIRPERSON ANDERSON: Thank you. All
11 right. Any other questions by any Board members?
12 Go ahead, Mr. Short.

13 MEMBER SHORT: Thank you, Mr.
14 Chairman. Good afternoon, Investigator Peru.

15 MR. PERU: Good afternoon, sir.

16 MEMBER SHORT: You've established the
17 time you worked for ABCA. And thank you for your
18 service. You've been quite (audio interference)
19 to a lot of the Board meetings I've attended.

20 Can you describe the address of the
21 applicant, 717 D Street, Northwest? Describe the
22 building, the height, width, floors, anything
23 pertinent that would help us know exactly. You
24 showed some videos but you didn't -- we show the
25 front door.

1 We saw the walkway. We saw the
2 school. But just give us in your overall view as
3 an investigator or inspector. Describe the
4 building for us. I can't hear you.

5 CHAIRPERSON ANDERSON: I can't hear
6 you, Mr. Peru. Mr. Peru.

7 MEMBER SHORT: I can't year you. I
8 can't hear you.

9 CHAIRPERSON ANDERSON: Hold on, Mr.
10 Short. Mr. Peru?

11 MR. PERU: In the building --

12 CHAIRPERSON ANDERSON: Mr. Peru, Mr.
13 Peru.

14 MR. PERU: Yeah, I broke up. I saw.

15 CHAIRPERSON ANDERSON: You have to
16 start at the beginning. We heard nothing you had
17 to say, sir.

18 MR. PERU: Yeah, I saw that happen.

19 CHAIRPERSON ANDERSON: Okay, go ahead.

20 (Simultaneous speaking.)

21 MR. PERU: Sorry. So no, so it's your
22 standard office building, you know, taking up,
23 you know, a quarter of a block. I think it's
24 four to six stories high. I can't remember
25 exactly to be honest with you.

1 But glass and brick, there's no other
2 real -- there's no major retail in that building.
3 Across the street is a sandwich shop which next
4 to the school on 8th Street. But it's your
5 standard building, sir.

6 MEMBER SHORT: So in the application
7 to use this building the use, what portion of
8 that -- so will consider this a large building in
9 Washington, D.C., this area of town?

10 MR. PERU: I'll say it's an average
11 building. But the -- the proposed location, I
12 have not been able to enter the location being
13 that they're not there and no construction has
14 occurred. But it's essentially in that picture
15 that I show, the corner, it sets -- it's taken up
16 -- you know, it's taken up a good -- a good
17 little section of -- of that building. I don't
18 know if it's 2,000 square feet maybe that they're
19 occupying. I can't -- I can't remember what the
20 proposal was of that actual physical space.

21 MEMBER SHORT: But you never saw any
22 drawings of what they are proposing to open up as
23 a shop itself?

24 MR. PERU: I did not -- I did not
25 receive drawings, sir, no.

1 MEMBER SHORT: So it's just a big
2 building just sitting there now, correct?

3 MR. PERU: Well, the building is
4 definitely occupied by other tenants. But
5 nothing, no cannabis, sir.

6 MEMBER SHORT: We don't know which
7 floor he'll be or this business will be licensed
8 doing. Do we have any idea what part of the
9 building they're going to occupy?

10 MR. PERU: The first, that corner,
11 that street level corner that I showed in the
12 picture.

13 MEMBER SHORT: Okay. That's what I
14 was trying to get.

15 MR. PERU: Yes, sir. I'm sorry. Yes,
16 sir.

17 MEMBER SHORT: But that's where they
18 -- how much square footage are they going to use
19 for the shell?

20 (Simultaneous speaking.)

21 MR. PERU: I couldn't tell you
22 exactly. I thought it was 2,000. But I'm sure
23 they can give you a better answer, the applicant.

24 MEMBER SHORT: Normally for a license
25 that you would expect, wouldn't they give you the

1 square footage normally?

2 MR. PERU: Yeah, when there -- if
3 there's new construction there, they're trying to
4 open. And if I could get in there and do a
5 walkthrough, they would definitely provide a --
6 start to provide floor plans to us for final
7 approval.

8 MEMBER SHORT: With the application
9 itself, was anything provided to let you know
10 what portion of the building would be used if it
11 was permitted, the license?

12 MR. PERU: I have not seen -- I have
13 not seen any diagrams, no, sir.

14 MEMBER SHORT: So what we would be
15 doing or what would happen if anything is
16 approved today, it could be anywhere in that
17 building, correct, or the whole building?

18 MR. PERU: Well, no, my understanding
19 is I believe the application -- or like I said, I
20 can't speak on what I don't know exactly. But
21 the location that I was told that the placards
22 were put up on in that corner of that facility is
23 -- to my knowledge, is the space that was -- is
24 proposed.

25 MEMBER SHORT: And you stated that

1 you, on one of your visits, saw children playing
2 on the sidewalk. How close were those children
3 to the proposed licensee's request for a license?

4 MR. PERU: Across the street -- across
5 the street, you know, the -- the -- the 8th
6 Street, that one picture I took from the -- from
7 the door. That's why I did that because you can
8 kind of see -- you know, it's basically a four-
9 lane -- four-lane road separating the sidewalk of
10 the school to the actual proposed location.

11 MEMBER SHORT: Okay, Mr. Peru. Thank
12 you for your report. Let me -- the word,
13 appropriateness, came up. In your experience as
14 an investigator, has that word ever come up in
15 license hearings before?

16 MR. PERU: Yes, sir.

17 MEMBER SHORT: And because you're
18 dealing with the department for ten years is it?

19 MR. PERU: Yes, sir.

20 MEMBER SHORT: In all of your time as
21 an investigator in ten years, you mainly have
22 done alcohol establishments, correct?

23 MR. PERU: Yes, sir.

24 MEMBER SHORT: Have you ever inspected
25 an alcohol establishment that close to a school?

1 In your experience?

2 MR. PERU: There -- there -- yes, I
3 have. There's -- there's locations in the city
4 that have liquor licenses that were either
5 grandfathered in or existing before the schools
6 appeared. And yes, there are liquor licenses in
7 the city that have been near and around schools.
8 And I've done measures to those as well.

9 MEMBER SHORT: That's very helpful.
10 But now normally, the schools move in after the
11 alcohol places. Is that correct?

12 MR. PERU: In my experience, that has
13 been the case, yes.

14 MEMBER SHORT: And not the other way
15 around?

16 MR. PERU: Correct. Based on statute,
17 sir, yes.

18 MEMBER SHORT: Okay, Mr. Peru. For
19 right now, that's all the questions I have.
20 You've been very helpful. And thank you for your
21 thoroughness and thank you for your supervisory
22 role with our investigators out there. Thank you
23 and be safe out there.

24 MR. PERU: Thank you, sir. I
25 appreciate it.

1 MEMBER SHORT: That's all I have, Mr.
2 Chair.

3 CHAIRPERSON ANDERSON: Thank you, Mr.
4 Short. Any other questions by any other Board
5 members? Go ahead, Mr. Grant.

6 MEMBER GRANT: Thank you for being
7 with us this afternoon. My question is sort of a
8 follow up with Mr. Short's line of question
9 around the actual space within the building in
10 question. Given your experience, do you think
11 there would be a difference if the applicant had
12 a space within the building that was not
13 considered to be a storefront?

14 MR. PERU: If I'm hearing you correct,
15 if the applicant had a second floor, that was not
16 accessible street level.

17 MEMBER GRANT: Exactly. Thank you for
18 that clarification. Thank you.

19 MR. PERU: Yes, there are -- there is
20 one particular medical cannabis retailer in
21 existence does not have access from the ground
22 floor. You enter the building through a lobby.
23 You go up an elevator with access to the second
24 floor which opens to the dispensary. So yes,
25 that -- that would not be unusual and would then

1 restrict access a little bit more from street
2 level, yes, sir.

3 MEMBER GRANT: In your estimation,
4 would that scenario -- would that set up provide
5 more comfort for neighboring residents?

6 MR. PERU: I think in this -- in this
7 -- in this case, I think it might add a little
8 bit of a difference that you'd have to enter --
9 physically enter a building and through checks
10 and through an elevator to go up to get to it. I
11 think that may have been something that might've
12 affected their protest.

13 MEMBER GRANT: Okay. No further
14 questions at the moment. Thank you.

15 CHAIRPERSON ANDERSON: Mr. McGowan, do
16 you have any questions for the investigator? Ms.
17 Kinner?

18 MS. KINNER: I do, yes. Thank you,
19 Chairman.

20 CHAIRPERSON ANDERSON: Go ahead,
21 ma'am.

22 MS. KINNER: Mr. Peru, thank you for
23 being -- excuse me, Investigator Peru, thank you
24 for being with us today. You said you'd been in
25 the supervisory enforcement division,

1 specifically with cannabis for the past four and
2 a half or four years. Is that right?

3 MR. PERU: I've been -- I've been --
4 yes, I've been dealing with cannabis since
5 October of 2020.

6 MS. KINNER: Excellent. And as an
7 investigator, you have to be familiar with the
8 current medical cannabis laws and regulations and
9 how to enforce those medical cannabis laws and
10 regulations, correct?

11 MR. PERU: Correct.

12 MS. KINNER: And you testified that
13 you prepared the protest report in this matter
14 which is dated March 27, 2024, correct?

15 MR. PERU: Yes.

16 MS. KINNER: And in that report, you
17 state that you conducted two consecutive wheel
18 measurements of the distance between BASIS and
19 the applicant's location at 717 D Street,
20 Northwest. Is that right?

21 MR. PERU: Yes.

22 MS. KINNER: Can you explain what a
23 wheel measurement is?

24 MR. PERU: It's a -- it's a measuring
25 wheel that you -- that has a round circle wheel

1 on the front with a long pole. And as you push
2 the wheel, it has a counter and it counts -- it
3 counts as you go. I also use a digital measuring
4 tool just for backup to see in comparison. And
5 both times measurements were the same.

6 MS. KINNER: And you stated that that
7 measurement both times was 220 feet, correct?

8 MR. PERU: Correct, from -- from door
9 to door, yes.

10 MS. KINNER: From door -- and when you
11 say door to door, you did mention that there was
12 a front call box on the D Street side of the
13 building. Is that right?

14 MR. PERU: Yes, yes.

15 MS. KINNER: And you assumed that was
16 the front entrance then to the 717 D Street
17 facility?

18 MR. PERU: No, I didn't assume that.
19 I assumed that other door in the picture was
20 because the placards were on that door and that
21 call box door did not have immediate access to
22 that space from what I could tell. So I measured
23 -- I -- I measured using that -- that -- that
24 door -- other door.

25 MS. KINNER: So sir, just to be clear,

1 the door on D Street is where you measured from?

2 MR. PERU: Yes, yes, yes, yes, yes,
3 correct, correct, yes.

4 MS. KINNER: And that is the front
5 door of the facility. That is the address.
6 There is another door on the side of the
7 facility. Did you notice that door as well?

8 MR. PERU: On 8th Street?

9 MS. KINNER: Yes.

10 MR. PERU: Yes, I did not measure from
11 that door, no.

12 MS. KINNER: But you would agree door
13 did not appear to be the front entrance to the
14 portion of 717 D -- the first floor of 717 D
15 Street that my client intends to operate?

16 MR. PERU: Correct. The front door in
17 my opinion was where I measured from on 7th -- on
18 D Street, on D Street.

19 MS. KINNER: Thank you. And then the
20 front door thing is not, in fact, located
21 directly across from 410 8th Street where BASIS
22 is located. Is that correct?

23 MR. PERU: If the front door was to be
24 on D Street, correct.

25 MS. KINNER: Yes, thank you. And

1 Investigator Peru, I just want to go over the
2 zoning a little bit. You testified previously
3 that both BASIS and 717 D Street, Northwest are
4 located in a D6R zone. Is that right?

5 MR. PERU: Correct, according to D.C.
6 zoning maps.

7 MS. KINNER: And you mentioned that
8 the purpose of the D6R zone in your reports you
9 mention that, quote, it's to permit high density
10 commercial development in the downtown core and
11 promote residential development, unquote. Is
12 that correct?

13 MR. PERU: Yes, ma'am.

14 MS. KINNER: And you would agree that
15 BASIS being that it's in a D6R zone is, in fact,
16 located in a commercial use zone, correct?

17 MR. PERU: According to the maps, yes,
18 ma'am.

19 MS. KINNER: And in your report, you
20 also stated that there are no other medical
21 cannabis licensees within 400 feet of 717 D
22 Street. Is that right?

23 MR. PERU: Yes, ma'am.

24 MS. KINNER: And do you know if there
25 are any unlicensed operators within any amount of

1 feet of 717 D Street?

2 MR. PERU: There are unlicensed
3 operators in the Chinatown area. I don't know if
4 it's exactly 400 feet from that location.

5 MS. KINNER: Okay. But you would make
6 the distinction then between an unlicensed
7 operator who did not apply in that November to
8 January application period and an unlicensed
9 operator who did apply during that application
10 period. Is that right?

11 MR. PERU: Correct.

12 MS. KINNER: And in your report, you
13 state that you monitored 717 D Street, Northwest
14 on three separate occasions. Is that right?

15 MR. PERU: Correct.

16 MS. KINNER: And thank God one of them
17 was for 12 hours. I was really glad to hear that
18 was a typo. And during those three occasions,
19 you did not observe any violations of peace,
20 order, quiet, or residential parking in vehicular
21 pedestrian safety. Is that right?

22 MR. PERU: Correct.

23 MS. KINNER: Okay. And you agree that
24 the applicant is not currently operating at that
25 location, correct?

1 MR. PERU: Correct.

2 MS. KINNER: And in your report, I
3 believe you stated the hours of sales to the
4 public. So when it's open to patients will be
5 from 11:00 a.m. to 8:00 p.m. daily. Is that
6 right?

7 MR. PERU: I believe so, yes. That's
8 the hours that I obtained from the placarding and
9 the application, yes.

10 MS. KINNER: Thank you. And you
11 mentioned that one of the occasions that you had
12 the opportunity to observe 717 D Street. You did
13 observe children playing on the 8th Street
14 sidewalk in front of BASIS during pickup time.
15 Is that right?

16 MR. PERU: Correct.

17 MS. KINNER: And you mentioned -- I
18 think you said -- what time of day do you recall?

19 MR. PERU: Yeah, the last one was on
20 March 25th at 4:30 when I was doing measurements
21 that day.

22 MS. KINNER: Okay. And so this was
23 maybe during the pickup time. Is that what you
24 assumed based on --

25 MR. PERU: That does look like my

1 observations. It look about to be about, yeah,
2 kids waiting for rides.

3 MS. KINNER: Waiting for rides. Okay.
4 And you mentioned that the kids looked like they
5 were playing tag?

6 MR. PERU: Yes, they were, yeah,
7 chasing each other on a sidewalk. And then --
8 and then they got in trouble by a teacher.

9 MS. KINNER: So there was an adult
10 present while the children were on the sidewalk
11 in front of the school on the 8th Street side?

12 MR. PERU: No, the adult came out of
13 the building to yell at them.

14 MS. KINNER: Okay. But the adult was
15 clearly observing them?

16 MR. PERU: Yes, from inside, yes.

17 MS. KINNER: You assume yes. And when
18 you had the opportunity to observe the area, did
19 you notice any playgrounds or any sports fields,
20 any sort of recreational centers where children
21 may congregate for long periods of time?

22 MR. PERU: I did not.

23 MS. KINNER: And the children, about
24 how long were they playing in front of BASIS
25 would you estimate?

1 MR. PERU: I mean, during the time it
2 took me to do my two measurements, there was
3 activity outside and, you know, students coming
4 and going. The two kids who were playing until
5 they got yelled at by the teacher, they stopped
6 running around.

7 MS. KINNER: Would you say roughly 15
8 minutes, a half an hour, 20 minutes?

9 MR. PERU: Yeah, I mean, from the time
10 I was there, probably 20 -- 20, 30 minutes or so.

11 MS. KINNER: And the applicant -- I
12 know you mentioned that you did not have the
13 opportunity to view the applicant's application
14 which we would be happy to provide if that may be
15 any assistance. But do you know if the applicant
16 applied for a safe use consumption lounge
17 endorsement?

18 MR. PERU: I did not see that as part
19 of the placarding.

20 MS. KINNER: And so if an applicant
21 did not apply for a safe use consumption lounge
22 endorsement -- or can there be any cannabis
23 consumption on the premises?

24 MR. PERU: No, not until they obtain
25 an endorsement.

1 MS. KINNER: And to your knowledge, is
2 cannabis consumption allowed outside of the
3 premises?

4 MR. PERU: Cannabis consumption is not
5 allowed in public space.

6 MS. KINNER: Thank you. And do you
7 know if the medical cannabis regulations permit
8 the applicant to sell tobacco, e-cigarettes,
9 tobacco vaporizers, or alcohol products?

10 MR. PERU: It does not. All medical
11 -- all medical cannabis sold has to be purchased
12 from a medical cultivation or manufacturer and
13 has to be approved products from the ABCA Board.

14 MS. KINNER: Thank you. And so
15 they're not permitted to sell tobacco just to be
16 clear or tobacco --

17 (Simultaneous speaking.)

18 MR. PERU: Correct. Tobacco -- no
19 alcohol, no tobacco, correct.

20 MS. KINNER: Thank you. And you
21 mentioned that you'd been doing some inspections,
22 some pre-licensing inspections for those retailer
23 applicants that have kind of moved on to the next
24 stage. Can you tell us about some of the things
25 you looked for in those pre-inspections?

1 MR. PERU: Well, mostly honestly it's
2 been -- it's been statute requirements for the
3 building space, access control, safe rooms,
4 lobbies, things that a retailer is required to
5 have per -- per the statute.

6 MS. KINNER: And so if a retailer gets
7 to the stage where you're doing a pre-license
8 inspection and they don't have those things,
9 those security features and some of the other
10 things you mentioned, could they be approved for
11 a license? Could they obtain a license?

12 MR. PERU: A license will not be
13 issued until final approval by the Board and
14 final inspection by myself.

15 MS. KINNER: Thank you. And I only
16 have a few more questions. I believe you
17 mentioned that -- pardon, one moment. I believe
18 you mentioned that there are safes in -- when you
19 perform these pre-inspections, there have to be
20 safes on the premises. Is that correct?

21 MR. PERU: There has to be a safe for
22 cash and there has to be a safe room where
23 medical cannabis can be secured when the facility
24 is closed.

25 MS. KINNER: Thank you. And that cash

1 safe and the cannabis safe, those are different
2 safes. Is that right?

3 MR. PERU: Correct, yes.

4 MS. KINNER: And those safes have to
5 meet specific DEA safe specifications?

6 MR. PERU: I wouldn't go as far as
7 saying DEA, using that language. But there are -
8 - there are statute requirements to what that
9 looks like.

10 MS. KINNER: Sure. And do you know if
11 either or both of those safes have to be
12 connected in any way to the overall alarm system
13 in the facility? Is that a requirement?

14 MR. PERU: There's a requirement to
15 have alarms, professionally monitored alarm
16 system, and cameras with no blind spots covering
17 the interior and exterior of the entrances.

18 MS. KINNER: Excellent. And let's
19 see. And once -- when you're doing a pre-
20 inspection, so once the applicant is licensed,
21 will they be able to display medical cannabis,
22 medical cannabis products or paraphernalia in the
23 windows of the store?

24 MR. PERU: The current law does not
25 prohibit the use of the word cannabis or any kind

1 of exterior signs. You can use the word
2 dispensary in the current law. Now if that
3 changes or not, obviously that will be a
4 different story.

5 MS. KINNER: Sure. But can they
6 display -- can you see medical cannabis --

7 MR. PERU: No, you cannot.

8 MS. KINNER: And is that part of the
9 law?

10 MR. PERU: Correct.

11 (Simultaneous speaking.)

12 MR. PERU: Correct. Medical cannabis
13 cannot be displayed in exterior windows or doors.
14 Yes, correct.

15 MS. KINNER: Thank you. And you did
16 mention something about signage. Is there
17 sandwich board signage or flashing medical
18 cannabis leaves? Do you know if that kind of
19 signage is permitted under the current law?

20 MR. PERU: Under the current law, it
21 is not written about allowing any kind of neon
22 signs.

23 MS. KINNER: But certainly an
24 applicant could agree to not have neon signs,
25 correct?

1 MR. PERU: Of course, yes, correct.

2 MS. KINNER: To not have neon signs,
3 right.

4 MR. PERU: Yes, yes.

5 MS. KINNER: And do you know if
6 sandwich boards are permitted, if that sort of
7 advertising is permitted?

8 MR. PERU: You're asking me a tricky
9 question because this has come up with sandwich
10 boards. Sandwich boards are put in public space.
11 So you'd have to get a permit to put anything in
12 public space. So that has to be, you know, a
13 discussed item to be approved for to get that
14 done.

15 MS. KINNER: And then in terms of
16 advertising aside from the sandwich boards
17 because that's not something the applicant would
18 be doing. Any advertising that -- and I would
19 say since there's not going to be advertising on
20 the front of the store. So it would be any other
21 advertising. Is it true that the law prohibits
22 that advertising from being attractive to
23 individuals under the age of 21?

24 MR. PERU: To children specifically,
25 yes, yes.

1 MS. KINNER: Specifically to children,
2 right.

3 MR. PERU: Yes.

4 MS. KINNER: And so you did mention
5 that you won't be able to see cannabis from the
6 street. Is that correct? Any sort of cannabis
7 from the street?

8 MR. PERU: Correct.

9 MS. KINNER: So that's from 8th Street
10 and from 7th Street, correct?

11 MR. PERU: Correct.

12 MS. KINNER: Okay. So a person
13 walking by, whether that person be a student, a
14 tourist, a parent, or a resident of a nearby
15 building, they would not be able to see medical
16 cannabis patients, medical cannabis products,
17 medical cannabis paraphernalia, or any other sort
18 of medical cannabis-related things from the
19 exterior. Is that correct?

20 MR. PERU: They should not be, yes.

21 MS. KINNER: Thank you. That's all
22 the questions I have, Investigator. I appreciate
23 your time.

24 CHAIRPERSON ANDERSON: All right.
25 Thank you. Is it Mr. Shankle or Mr. Lee is going

1 to ask questions of Mr. Peru? Go ahead, Mr. Lee.

2 MR. LEE: Thank you, Mr. Anderson.
3 Inspector Peru, thank you for participating in
4 this hearing. I have -- you may have this. And
5 I'm sorry if I missed it. But why did you leave
6 out Templeton Academy and KinderCare from your
7 report again?

8 MR. PERU: It was not on -- it was not
9 on the GIS map that's attached to the exhibit as
10 a -- as a school that was under those guidelines
11 or the daycare academy. I did -- I did do a
12 google search after I saw you list that. But I
13 appeared to be a high school. And it appeared
14 that -- I don't know if it moved. I'm not sure
15 why it's not on the geographical systems map to
16 be honest with you.

17 MR. LEE: Did the high school have a
18 name or was it Templeton High School? What high
19 school are you referring to?

20 MR. PERU: Yeah, the name you
21 mentioned, Templeton, I believe.

22 MR. LEE: Okay. And then in your
23 report, you had mentioned that the days and times
24 you visited, 3:00 p.m. to 3:30 p.m. on a
25 Wednesday and then 10:00 p.m. to 10:15 p.m. on a

1 Friday and then 4:30 p.m. to 5:00 p.m. on a
2 Monday. Are you aware of what time the school
3 lets out for lunch during the day?

4 MR. PERU: No, I'm not.

5 MR. LEE: Okay. They let out -- I
6 believe it's, like, 11:32.

7 MS. KINNER: Objection.

8 (Simultaneous speaking.)

9 CHAIRPERSON ANDERSON: Sustained. Mr.
10 Lee, you need to ask questions. So you cannot
11 put statements in the record. So if you want to
12 state that, you need to form that in a question
13 if you want to ask Mr. Peru, sir.

14 MR. LEE: Okay, okay. Understood.
15 Are you aware that the school lets out for lunch
16 between 11:00 a.m. and lunchtime -- are you aware
17 that lunchtime lasts from 11:00 a.m. to about
18 2:00 p.m.?

19 MR. PERU: I was not aware.

20 MR. LEE: And had you known, would you
21 have gone back to visit during those hours?

22 MR. PERU: Potentially, yes.

23 MR. LEE: Okay. And then are you also
24 aware that the school lets out for pickup
25 starting at 3:40 p.m.? And has you known, would

1 you have gone back to observe the activity
2 outside during the pickup? You said you had left
3 at 3:30 p.m.

4 MR. PERU: Yes, I believe I was there
5 one time during those hours.

6 MR. LEE: Right. So are you aware
7 that pickup usually lasts for, like, half an hour
8 to an hour starting at 3:40 p.m. and for an hour
9 afterwards?

10 MR. PERU: I was not aware of those
11 times.

12 MR. LEE: Okay. And were you aware
13 that -- during pickup hours, are you aware that
14 many parents are double parked outside the school
15 and that there is absolutely no available parking
16 for anyone and that the area is severely
17 congested during that hour?

18 MR. PERU: I can testify that when I
19 was there during my visits doing measurements, I
20 did see a few vehicles on 8th Street in front of
21 the school double parked, yes.

22 MR. LEE: Double parked. Is that
23 right, sir?

24 MR. PERU: Yes, I saw some doubled
25 parked on 8th, yes.

1 MR. LEE: Okay. Thank you. And I
2 want to ask you, I believe one of the sharing
3 participants asked questions about the specifics
4 of the building. Did you count the -- in your
5 report, you had mentioned that there were -- that
6 the building has some large windows. Did you
7 count the number of windows?

8 MR. PERU: I didn't count. But I
9 think my pictures -- that's why I took my
10 pictures for recollection. But I mean, you can
11 see the pictures -- you know, if you count -- if
12 you count the images in a picture, the picture
13 alone has two, four, six windows, I believe, on
14 the 8th Street side, right? And it looks like
15 that goes --

16 (Simultaneous speaking.)

17 MR. PERU: -- all the way back. Yeah,
18 on the 8th Street side I'm referring to.

19 MR. LEE: Okay, yes, yes. I do --
20 yes, there are -- yes, there are windows. I
21 believe there are nine windows altogether. When
22 you were there, did measure the size of these
23 windows? You mentioned that they were large.

24 MS. KINNER: Objection.

25 MR. LEE: But did you measure them?

1 MS. KINNER: He said he didn't count
2 the windows.

3 CHAIRPERSON ANDERSON: I think the
4 question was that did he measure the windows.
5 That's different. So I'm going to overrule the
6 objection because it's not count. He's asking if
7 he measured the windows, ma'am.

8 MR. PERU: No, sir. Measuring windows
9 is not part of my investigation, no.

10 MR. LEE: Right, right, right. Were
11 you aware that -- were you aware that some of the
12 windows are eight feet high and range between
13 three to six feet in width? Were you aware of
14 that?

15 MS. KINNER: Again, objection. Mr.
16 Lee seems to be testifying. We don't have any
17 way to corroborate these window measurements.

18 CHAIRPERSON ANDERSON: I mean, he's
19 asking a question. He's asking if he's -- I'm
20 going to overrule the objection. He's asking,
21 was he aware? And so the witness should be able
22 to answer yes or no.

23 MR. PERU: I am not aware of the
24 actual measurements, but I'm aware they're a
25 large window, sir.

1 MR. LEE: Right. Thank you, Inspector
2 Peru. And were you -- did you inspect the
3 windows yourself, like, in terms of whether they
4 were single pane, double pane, triple pane? Is
5 that part of your investigation to assess the --

6 (Simultaneous speaking.)

7 MR. LEE: -- of the building?

8 MR. PERU: No, sir. That is not.
9 When it comes to windows, it is not.

10 MR. LEE: Okay. And given your -- I
11 guess, given your experience as an investigator,
12 can you comment the physical vulnerability of
13 this building relative to some of the other
14 buildings you visited? I'm thinking number of
15 windows, the size of the windows. Can you
16 comment on how vulnerable this building might be
17 in the event someone might want to rob the
18 facility in that unfortunate incident?

19 MS. KINNER: I would object to this
20 line of questioning, Chairman. I don't know that
21 Investigator Peru is qualified as an expert who
22 can discuss the security vulnerabilities of a
23 particular location based on the number of
24 windows.

25 CHAIRPERSON ANDERSON: Before -- or

1 are you done, ma'am?

2 MS. KINNER: Yes.

3 CHAIRPERSON ANDERSON: Mr. Lee, can
4 you respond to the query by the attorney or
5 comments?

6 MR. LEE: Inspector Peru works for
7 ABCA. And I don't know his professional
8 background. I guess I'm just asking this as a
9 layperson. I'm not a trained -- this is my first
10 hearing, Meredith. And I appreciate your
11 patience and that of the ABCA Board and that of
12 Inspector Peru in answering my very basic but at
13 the same time maybe simple questions.

14 I'm just trying to understand. So
15 again, my question is given your experience as an
16 investigator, as an inspector, what do you think
17 -- how does this building rate in terms of
18 vulnerability? It being on the ground floor, it
19 being -- given the number of windows, and given
20 the size of windows, can you let me know from
21 your viewpoint, like, how vulnerable is this
22 building to someone wishing to come and steal?

23 CHAIRPERSON ANDERSON: All right. I'm
24 going to -- all right. I'm going to sustain the
25 objection. Mr. Lee, I need you to ask questions

1 of Mr. Peru more so of his report, what's in his
2 report, because, I mean, you're asking him
3 questions that's not within the context of his
4 report. And that's not something -- at least the
5 question you're asking as stated by counsel, he
6 has not been declared an expert to testify in
7 this area. All right. So I'm going to sustain
8 the objection and let's move on, sir.

9 MR. LEE: Okay. That's fine. That's
10 fine. I do have some other questions. Let me
11 just quickly review. Could you give me ten
12 seconds, sir?

13 CHAIRPERSON ANDERSON: Sure, sir.

14 MR. LEE: Okay. Thank you. Inspector
15 Peru, I know that you are aware of the
16 legislation governing ABCA and the development
17 and enforcement of ABCA regulations. Are
18 regulations for ABCA alcohol license and medical
19 marijuana dispensaries different? Could you give
20 me an example of -- example or two? And more
21 importantly, why do you believe there is a 300-
22 foot restriction zone around schools and
23 recreation centers?

24 MS. KINNER: Objection. Chairman,
25 he's asking, first of all, outside the scope of

1 the report. The Board's line of questioning, my
2 line of questioning. And then he's asking for
3 Inspector Peru's -- excuse me, Investigator
4 Peru's opinion about the law which I don't think
5 is an appropriate question here.

6 CHAIRPERSON ANDERSON: Mr. Lee?

7 MR. LEE: I'm trying to understand.
8 So I just appreciate your patience and your
9 guidance. I've asked a question and it's based
10 upon my understanding of the process. And
11 hopefully I could -- we can get some answers from
12 Mr. Peru.

13 CHAIRPERSON ANDERSON: I'm going to
14 sustain the objection. This is also -- this is
15 the Board's first hearing also on a medical
16 cannabis case. This is our first protest hearing
17 also.

18 However, the law is the law, sir. Mr.
19 Peru cannot give you any opinion on why the
20 counsel determine that this was the state of the
21 law. So I'm going to sustain the objection.
22 That's not a question that Mr. Peru can respond
23 to, sir.

24 MR. LEE: Right, right. Okay. But in
25 your history as an investigator, have you found

1 instances of disruptions to peace and order and
2 quiet at licensed dispensaries so far?

3 MR. PERU: At licensed medical
4 dispensaries, no.

5 MR. LEE: At unlicensed dispensaries,
6 sir?

7 MR. PERU: There have been incidents
8 reported to the police of unlicensed dispensaries
9 in the District, yes.

10 MR. LEE: Right. And then given that
11 you had observed adults -- or given that you had
12 observed the goings on after school in terms of
13 the kids playing outside, do you think that the
14 school might need to have adult supervision on
15 the sidewalks during pickup and drop-off hours?

16 MS. KINNER: Again, objection. It
17 doesn't seem to be within Mr. Peru's area of
18 expertise.

19 (Simultaneous speaking.)

20 CHAIRPERSON ANDERSON: Mr. Lee?

21 MR. LEE: Mm-hmm.

22 CHAIRPERSON ANDERSON: Do you have a
23 response, sir, to her comments -- the counsel's
24 comments -- the counsel's objection?

25 MR. LEE: No, no. I don't. I don't.

1 Okay.

2 CHAIRPERSON ANDERSON: I'm going to
3 sustain the objection. Let's move on.

4 MR. LEE: Well, I think that ends --
5 that's the end of my questions, Mr. Peru. Thank
6 you for your time.

7 CHAIRPERSON ANDERSON: Thank you.
8 Thank you, sir. Mr. Peru, just let me ask a
9 question. For a medical license dispensary, who
10 is that open to?

11 MR. PERU: It is only open to
12 registered patients with ABCA.

13 CHAIRPERSON ANDERSON: And is there an
14 age -- are you aware -- for a licensed
15 dispensary, are there any age limitation who can
16 go into a dispensary?

17 MR. PERU: Eighteen if you have a
18 medical card from a doctor, 21 and over self
19 certification or medical registration.

20 CHAIRPERSON ANDERSON: Any questions
21 by any of the Board members? I'll give each side
22 one question because I want to end this. So Ms.
23 Kinner, do you have any questions to ask Mr. Peru
24 based on the questions that the Board asked?

25 MS. KINNER: No, no, Chairman. I

1 don't.

2 CHAIRPERSON ANDERSON: Mr. Lee, any
3 questions of the witness based on the questions
4 that were asked by the Board? Based on the
5 questions that the Board asked, sir. Yeah, I can
6 hear you.

7 MR. LEE: Based on -- well, one of the
8 questions that I --

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: It has to be
11 based on a question that I asked, sir. You had
12 an opportunity. So I'd ask other questions. I'm
13 just giving you an opportunity if you want to
14 follow up based on the questions that I asked.

15 MR. LEE: Well, how about could I ask
16 a question based upon what the other Board
17 members had asked?

18 CHAIRPERSON ANDERSON: No other Board
19 member asked a question, sir. I'm the only one
20 who asked questions.

21 (Simultaneous speaking.)

22 MR. LEE: I mean, previously, I think
23 some of them had asked a question to Mr. Peru.

24 CHAIRPERSON ANDERSON: You lost that
25 opportunity, sir. You lost that opportunity. So

1 if you have no questions based on the questions
2 that I asked, that's the end of your inquiry,
3 sir. Okay?

4 MR. LEE: Is it just based on the
5 questions that you asked or the other Board
6 members?

7 CHAIRPERSON ANDERSON: During this
8 round, sir, if -- no other Board members asked
9 any questions. So because no other Board members
10 asked questions, it can only be based on the
11 questions that I asked. Okay?

12 MR. LEE: Okay. Thank you. I'm
13 sorry. I just didn't understand.

14 CHAIRPERSON ANDERSON: Okay. Mr.
15 Peru, just before dismissing you, just I want the
16 public to -- why are you testifying, Mr. Peru,
17 from a car?

18 MR. PERU: Because today I'm actually
19 in Chinatown conducting a joint task force
20 inspection of unlicensed businesses.

21 CHAIRPERSON ANDERSON: I want the
22 public to know why you are -- why is it that
23 you're actually testifying from a car. I don't
24 want the public to not -- for them to know the
25 importance of this hearing. And so in a sense

1 that you're in a car rather than the office.

2 That's just for the public to --
3 because I see that there are over 50 participants
4 watching this hearing. So I want the public to
5 know why is it that you're in the position that
6 you are. All right. Thank you very much, Mr.
7 Peru, for your testimony today. You are free to
8 go. Thank you.

9 MR. PERU: Thank you, sir. Appreciate
10 it.

11 CHAIRPERSON ANDERSON: Thanks. All
12 right. The licensee applicant, do you have a
13 witness you wish to call?

14 MS. KINNER: No, Chairman. We are
15 going to rely on the law.

16 CHAIRPERSON ANDERSON: Well, you know
17 that the burden is on you to prove to us that --
18 to prove to the Board that we should grant -- you
19 have the burden to -- the burden is on you to
20 prove why the establishment is appropriate for
21 the area. So you have to put something in the
22 record. So if you're going to make arguments
23 later, fine. But I need to know what is it that
24 you're going to --

25 MS. KINNER: Quite frankly, we didn't

1 have any witnesses that we thought could speak
2 specifically to the appropriateness. But we do
3 have that has been submitted with our PIF clips
4 from Dr. Moosally and Ken McDuffie that are
5 explaining the 300 foot exception and the purpose
6 of the 300 foot exception I don't know if the
7 Board would allows us to introduce that in our
8 case in chief.

9 CHAIRPERSON ANDERSON: If you have
10 documents, you have to move the documents in
11 evidence So the documents are not in evidence.
12 So if you have disclosed documents, in order for
13 the Board to review these documents and rely on
14 the documents, then you need to move them into
15 evidence. So therefore, we can review them. So
16 there are no documents in evidence outside of our
17 case report currently.

18 MS. KINNER: Sure. I mean, I would
19 ask -- I would move Applicant's Exhibits 1 and 2
20 into evidence.

21 (Whereupon, the above-referred to
22 documents were marked as Applicant Exhibit Nos. 1
23 and 2 for identification.)

24 CHAIRPERSON ANDERSON: What's Exhibit
25 1, please?

1 MS. KINNER: Exhibit 1, pardon me, is
2 -- Exhibit 1 is a video clip from Director
3 Moosally's testimony at a March 6th public
4 hearing before the D.C. Council.

5 CHAIRPERSON ANDERSON: And Mr.
6 Shankle, any objection?

7 Without objection.

8 (Whereupon, the above-referred to
9 document was received into evidence as Applicant
10 Exhibit No. 1.)

11 CHAIRPERSON ANDERSON: What's Exhibit
12 2?

13 MS. KINNER: And would I be able to
14 share my screen, Chairman?

15 CHAIRPERSON ANDERSON: We can give you
16 that. Mr. Orellana, can you please allow Ms.
17 Kinner to share her screen?

18 MR. ORELLANA: Access has been
19 granted.

20 CHAIRPERSON ANDERSON: Go ahead,
21 ma'am. You can share your screen.

22 MS. KINNER: Okay. Am I --

23 (Video played.)

24 MS. KINNER: Oh, sorry. Can everybody
25 see my screen?

1 CHAIRPERSON ANDERSON: No, ma'am. I
2 can only see you. You're not sharing your
3 screen.

4 MS. KINNER: Let me figure it out.
5 Apologies. Let me just --

6 MR. ORELLANA: There should be a share
7 button at the bottom.

8 MS. KINNER: Share button? Oh, thank
9 you. Yes, I was looking at the wrong share
10 button.

11 MR. ORELLANA: And ma'am, select the
12 content that you want to share or a screen.

13 (Video played.)

14 MS. KINNER: Is this -- sorry. I'm so
15 sorry. Can everybody see now?

16 CHAIRPERSON ANDERSON: No.

17 MS. KINNER: All right. Just give me
18 on moment.

19 CHAIRPERSON ANDERSON: Fine.

20 MS. KINNER: I'm going to have my
21 colleagues see if they can provide me some
22 assistance with this. Apologies.

23 CHAIRPERSON ANDERSON: That's fine.

24 MS. KINNER: The Board's brief
25 indulgence.

1 (Pause.)

2 MS. KINNER: I am having an issue
3 sharing my screen, it looks like. Would the
4 Board perhaps grant a brief recess so I can be
5 able to --

6 CHAIRPERSON ANDERSON: All right.
7 Well, let me go take a break. And one of the
8 things I'll say to you, in order for the Board to
9 make a determination, the burden is on the
10 applicant to prove to the Board why is it that
11 this location is appropriate for this type of
12 license. I mean, witnesses are critical to the
13 Board.

14 I can't tell you how to present your
15 case. But at a minimum maybe the owner should
16 testify. Someone should testify so the Board
17 will have some information. I understand as
18 attorneys, I assume you're going to make closing
19 arguments and you're going to try to point to us
20 what the law -- the state of the law.

21 But I would hope that there is just
22 some testimony that the Board will have to make a
23 determination whether or not this is a license
24 that can be granted in this area. All right. So
25 I'm going to -- it's 3:11. I'm going to take a -

1 - we'll come back on the record at --

2 (Whereupon, the above-entitled matter
3 went off the record at 3:11 p.m. and resumed at
4 3:25 p.m.)

5 CHAIRPERSON ANDERSON: All right, Ms.
6 Kinner. As we were saying, so you're trying to
7 share your screen. So what is it that you're
8 sharing, ma'am? Hello? Ms. Kinner, are you
9 there?

10 MS. KINNER: Sorry. I couldn't figure
11 out how to unmute myself. Apologies, Chairman.
12 We were going to call the owner. I don't know if
13 you'd like us to do that prior to introducing the
14 two exhibits.

15 CHAIRPERSON ANDERSON: It's your case,
16 ma'am. You present it the way -- whichever way
17 you believe is appropriate.

18 MS. KINNER: Okay, great. Then you
19 know what? We might as we begin with the screen
20 sharing. So I will go ahead and begin that.

21 (Video played.)

22 MS. KINNER: Okay. And once again,
23 this is from a -- this is director of ABCA, Fred
24 Moosally, testifying at a March 6th, 2024 hearing
25 before the D.C. Council.

1 (Video played.)

2 MS. KINNER: And I would move that the
3 exhibit be entered.

4 CHAIRPERSON ANDERSON: We already
5 moved that exhibit. That was Exhibit 1. We'd
6 already moved that into evidence without
7 objection.

8 MS. KINNER: Certainly. And then I
9 would like to introduce -- give me one moment,
10 why can't I move this -- Exhibit No. 2 which is a
11 clip from the same hearing before the D.C.
12 Council. This is Chairman -- I'm sorry, At Large
13 McDuffie testifying again about the 300 foot --

14 CHAIRPERSON ANDERSON: Are you -- I
15 mean, I don't think -- I've stated what the law
16 is. And I believe that I stated at the beginning
17 of the hearing what the law -- what the state of
18 the law is. So I don't think you need to put
19 evidence on what the state of the law is. That's
20 the law.

21 So whatever decision the Board will,
22 the Board will make a decision based on the
23 testimony that was presented and whether or not
24 this is an establishment that's appropriate for
25 the area in question. It's irrelevant -- it

1 should be -- because of the state of the law, it
2 should be irrelevant whether or not it's 100
3 feet, 50 feet, or one foot from the school
4 because the law states that it can be there. So
5 I don't believe that the Board -- the Board
6 cannot substitute its judgment on that issue, on
7 the distance itself.

8 The Board can only make a decision
9 whether or not this is -- whether or not it's
10 appropriate for this particular establishment to
11 be in this particular area. But whether or not
12 the distance is not an issue that this Board
13 should take in consideration just as the distance
14 itself. We can make a determination on whether
15 or not this establishment is appropriate for the
16 area. But I don't believe that we need testimony
17 on the distance because the law states that an
18 establishment such as this can be within this
19 area -- within this distance. Okay? All right.

20 MS. KINNER: Thank you, Chairman.
21 Then we would call the owner, Tommy
22 Mounghounsavath, to the --

23 CHAIRPERSON ANDERSON: All right. So
24 yes -- I'm sorry. Who is speaking?

25 MR. SHANKLE: Commissioner Shankle.

1 CHAIRPERSON ANDERSON: Yes, Mr.
2 Shankle.

3 MR. SHANKLE: The applicant has no
4 witnesses on their PIP --

5 CHAIRPERSON ANDERSON: Yes, sir.
6 (Simultaneous speaking.)

7 MR. SHANKLE: And I'm --

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. SHANKLE: -- objecting to the
10 calling of a witness.

11 CHAIRPERSON ANDERSON: All right. So
12 Ms. Kinner, the objection was raised. Can you
13 tell us why the Board should allow this witness
14 to testify?

15 MS. KINNER: Yes, in light of the
16 appropriateness considerations and the fact that
17 Mr. Mounghounsavath is a party, being the owner
18 of the applicant entity, we would argue that it
19 is appropriate to have him testify. And if the
20 Board requires a motion, we would make that
21 motion to add him to our witness list now.

22 CHAIRPERSON ANDERSON: All right. Mr.
23 Shankle, I'm going to overrule the objection.
24 And the only reason I'm going to overrule your
25 objection at the pre-hearing status conference in

1 talking about the importance of the PIP. This is
2 part of the ruling that I made.

3 It says that likewise witnesses other
4 than a party may be subject to exclusion if not
5 identified on the PIP. So therefore, the owner
6 is a party. So although the owner was not
7 identified on the PIP as a witness, it was issued
8 and been anticipated that the owner would have
9 testified.

10 And as I stated going back to the
11 instruction that I provided -- going back to the
12 instruction that was provided to the parties at
13 the protest hearing status, it was clear that it
14 was stated that witnesses other than a party may
15 be subject to exclusion if not identified. If
16 they decide to call another witness, you can
17 raise an objection. But I'm going to overrule
18 the objection for the own because he is a party
19 to this matter. Okay? All right. Where is he?
20 I don't see him on the screen. So can --

21 MS. KINNER: I believe he is here now,
22 Chairman.

23 CHAIRPERSON ANDERSON: Can he turn his
24 camera on, please?

25 MS. KINNER: I don't know if his

1 access has been elevated.

2 CHAIRPERSON ANDERSON: All right.
3 Well, Mr. Orellana, is there anything you can do
4 to help this witness?

5 MR. ORELLANA: Yeah, he's been
6 elevated. He's unmuted. I'm not sure if he's
7 hearing us.

8 MS. KINNER: Can you contact him to
9 find out --

10 (Simultaneous speaking.)

11 MS. KINNER: Yes, give me one moment.
12 My colleague is doing that right now. Apologies.
13 Chairman's indulgence.

14 MR. ORELLANA: There's another Tommy
15 that I just elevated.

16 MS. KINNER: Oh, yeah. Tommy M.
17 maybe. We'll see which one.

18 CHAIRPERSON ANDERSON: Can you turn
19 your camera on, please? I hear a voice. Do you
20 have a camera you can turn on?

21 MR. MOUNGKHOUNSAVATH: How you doing?
22 I am trying to locate the button now.

23 CHAIRPERSON ANDERSON: All right.

24 MR. MOUNGKHOUNSAVATH: One second.

25 MR. ORELLANA: Start video is the

1 button to click on.

2 MR. MOUNGKHOUNSAVATH: Say that again.

3 CHAIRPERSON ANDERSON: Start video,
4 you see that button, sir?

5 MR. MOUNGKHOUNSAVATH: No, I do not
6 see the button.

7 MR. ORELLANA: You may have joined on
8 a web browser.

9 MR. MOUNGKHOUNSAVATH: Okay. Let me
10 --

11 MR. ORELLANA: If that's the case, you
12 need to allow it. Potentially join with another
13 web browser and allow video and audio.

14 MR. MOUNGKHOUNSAVATH: Oh, hold on one
15 second.

16 MS. KINNER: Appreciate the Board's
17 indulgence.

18 CHAIRPERSON ANDERSON: We're working
19 with technology. So it's four years now that
20 we've been doing this. And I believe that we
21 continue to do virtual because I think it
22 benefits the public. The public can participate
23 in our hearing in a sense of viewing to see
24 what's going on here.

25 MR. MOUNGKHOUNSAVATH: Oh, here it is.

1 CHAIRPERSON ANDERSON: Okay, good.
2 All right, sir. I'm not going to try to
3 pronounce your last name. What I'm going to ask
4 you to do, I'm going to ask you to raise your
5 right hand, please.

6 MR. MOUNGKHOUNSAVATH: It's okay.

7 CHAIRPERSON ANDERSON: Can you raise
8 your right hand, please? Do you swear or affirm
9 to tell the truth and nothing but the truth?

10 MR. MOUNGKHOUNSAVATH: Yes.

11 CHAIRPERSON ANDERSON: I see that
12 you're in a car, sir. Are you driving?

13 MR. MOUNGKHOUNSAVATH: No, I am
14 parked.

15 CHAIRPERSON ANDERSON: All right.
16 Thank you. All right, ma'am. I'm not sure who's
17 going to do direct examination. But can we
18 please start off by having him spelling and
19 stating his name for the record, please?

20 MS. KINNER: Tommy, can you spell and
21 state your name for the record?

22 MR. MOUNGKHOUNSAVATH: Sure. It's T-
23 O-M-M-Y M-O-U-N-G-K-H-O-U-N-S-A-V-A-T-H, Tommy
24 Mounghounsavath.

25 MS. KINNER: Thank you. And I just

1 have a few questions, Tommy. So you are the
2 owner of UND Necessities -- the listed owner of
3 UND Necessities trading as DC Smoke. Is that
4 right?

5 MR. MOUNGKHOUNSAVATH: Yes, correct.

6 MS. KINNER: And can you tell us a
7 little bit about why you chose the application --
8 or excuse me, selected the location at 717 D
9 Street, Northwest?

10 MR. MOUNGKHOUNSAVATH: One of the main
11 reasons was it was downtown. Of course, I'm
12 close to the stadium, a lot of the touristy
13 areas, things of that nature. So it was a pretty
14 viable location for our business. That's why we
15 chose it.

16 MS. KINNER: Thank you. And do you
17 know are there any Metro stops or bus stops? Is
18 public transportation --

19 (Simultaneous speaking.)

20 MR. MOUNGKHOUNSAVATH: Yes, it's close
21 to the Gallery place location, the Metro station.
22 So we would be close to a Metro station that
23 would assist the medical patients that we'll be
24 serving.

25 MS. KINNER: Do you know if it's also

1 close to the Navy Archives Metro?

2 MR. MOUNGKHOUNSAVATH: Yes, correct.

3 MS. KINNER: And do you know -- you
4 mentioned that it's downtown. Are there a lot of
5 restaurants in the downtown area?

6 MR. MOUNGKHOUNSAVATH: Yes, correct.
7 There's a -- I don't know exactly how many. But
8 there's quite a few of them in the Chinatown D
9 Street Penn Quarter area.

10 MS. KINNER: And in your personal
11 experience, have you have been at one of these
12 establishments? Or do you know --

13 MR. MOUNGKHOUNSAVATH: Yes.

14 MS. KINNER: -- if they serve alcohol?
15 Okay.

16 MR. MOUNGKHOUNSAVATH: Yes, yes.

17 MS. KINNER: Chairman, I would like to
18 introduce a list that was obtained, Applicant
19 Exhibit 11.

20 (Whereupon, the above-referred to
21 document was marked as Applicant Exhibit No. 11
22 for identification.)

23 MS. KINNER: This is a list of alcohol
24 licensees within 1,000 feet of BASIS. So if I
25 could share my --

1 CHAIRPERSON ANDERSON: What's the
2 nature of your objection, Mr. Shankle?

3 MR. SHANKLE: This hearing is about
4 medical cannabis and not about alcohol licensed
5 establishments. This is about medical cannabis.
6 And we already have heard from Inspector Peru
7 that there are different roles for alcohol than
8 there is for medical cannabis.

9 CHAIRPERSON ANDERSON: Ms. Kinner, why
10 is this relevant?

11 MS. KINNER: Chairman, this is
12 relevant because based on the evidence that the
13 protestant has produced, much of the concern is
14 that children may be forced to walk by this
15 location and therefore will become influenced and
16 begin consuming medical cannabis and will
17 otherwise be harmed by walking past somewhere
18 that they're not allowed to go into or not
19 allowed to purchase something from. And in this
20 instance, children likely because there's several
21 alcohol licensed establishments in the area or
22 walking past margarita bars, Hill Country
23 Barbeque, and other locations that serve alcohol.
24 Yet that doesn't seem to be a concern,
25 apparently, despite alcohol only being allowed

1 for people over 21.

2 CHAIRPERSON ANDERSON: I'm going to
3 sustain the objection. This is a hearing on
4 cannabis, not alcohol. And so it's irrelevant
5 that here are 1,000 alcohol establishment within
6 the vicinity. So let's -- I'm going to sustain
7 the objection and not allow that document in the
8 record. Anything else?

9 MS. KINNER: Yes, and Mr.
10 Mounghounsavath, apologies if I mispronounced
11 that, as part of your application, you had to
12 submit a security plan. Is that right?

13 MR. MOUNGHOUNSAVATH: That's correct.

14 MS. KINNER: And that security plan
15 contained both a floor plan and multiple security
16 overlays. Is that right?

17 MR. MOUNGHOUNSAVATH: Yes, that's
18 correct.

19 MS. KINNER: I believe, Chairman, that
20 applicant's application is actually an exhibit
21 that's being introduced or proposed to be
22 introduced by the protestant. I would ask that I
23 would be allowed to introduce a few pages from
24 that application at this time.

25 CHAIRPERSON ANDERSON: Well, you

1 can't. It's not in evidence. I mean, you can
2 testify -- I'm sorry, you can ask the witness --
3 I'm sorry, you can ask the witness about a
4 document.

5 But it's not in evidence currently.
6 So you will not be able to move it into evidence.
7 But if there's a document out there, you can have
8 the witness testify about the document. But
9 because it's not in evidence, since it's not your
10 document, you cannot move it into evidence.

11 MS. KINNER: Tommy? Can I call you
12 Tommy?

13 MR. MOUNGKHOUNSAVATH: Yes, that's
14 fine.

15 MS. KINNER: Tommy, do you know how
16 large the 717 D Street location is square
17 footage-wise?

18 MR. MOUNGKHOUNSAVATH: Approximately
19 2,100 square feet.

20 MS. KINNER: 2,100 square feet? And
21 is that 2,100 square feet, can you explain is
22 that the whole entire first floor? How is that -
23 -

24 MR. MOUNGKHOUNSAVATH: That's the
25 entire first floor of the retail space in the

1 retail -- I mean, the residential building which
2 is above -- above the --

3 MS. KINNER: Is that a residential
4 building or is it offices?

5 MR. MOUNGKHOUNSAVATH: I believe it's
6 offices over -- over -- over us. But ours is
7 also another office -- office/retail location.

8 MS. KINNER: And did you look at any
9 of the spaces in the office building above your
10 location on the ground floor?

11 MR. MOUNGKHOUNSAVATH: No, it wasn't
12 available to us. The landlord was specifically -
13 - the space was primarily for the -- for the
14 first floor.

15 MS. KINNER: And do you know what was
16 previously in the location?

17 MR. MOUNGKHOUNSAVATH: I believe it
18 was a Zipcar headquarters.

19 MS. KINNER: Okay. And do you know
20 about -- do you have any idea how long it's been
21 vacant, how long Zipcar moved away?

22 MR. MOUNGKHOUNSAVATH: Based off of
23 our conversations with our lawyer, approximately
24 two years.

25 MS. KINNER: Okay. So to your

1 knowledge, the building, that location on the
2 first floor that you're intending to operate out
3 of has been vacant for two years?

4 MR. MOUNGKHOUNSAVATH: Yes.

5 MS. KINNER: And do you know is there
6 any security equipment currently in the space?

7 MR. MOUNGKHOUNSAVATH: There are some
8 security locks exiting the building and entering
9 the building.

10 MS. KINNER: Are there any -- oh,
11 sorry. Go ahead.

12 MR. MOUNGKHOUNSAVATH: There's --
13 there's no cameras up as of right now. We
14 planned on putting our cameras up once we got
15 past this stage of the application process hoping
16 that we get past this part. But once we do get
17 past this part of the application process and
18 approval -- pending approval, we would be putting
19 up the security cameras and then other security
20 measures for our location.

21 MS. KINNER: But as far as you know,
22 right now there are no active security cameras at
23 that location. There's nobody monitoring
24 security cameras at that location?

25 MR. MOUNGKHOUNSAVATH: No, currently,

1 no.

2 MS. KINNER: So other than obviously
3 you must have an ability to enter as the leasee.
4 But are there any other active access devices at
5 the facility?

6 MR. MOUNGKHOUNSAVATH: No, just key
7 access currently right now.

8 MS. KINNER: And so your plan, if you
9 were granted a license at that facility, would be
10 to outfit it with security equipment in
11 compliance with --

12 MR. MOUNGKHOUNSAVATH: Yes.

13 MS. KINNER: -- ABCA regulations,
14 correct?

15 MR. MOUNGKHOUNSAVATH: Correct, yeah.

16 MS. KINNER: And in addition to
17 complying with the ABCA regulations regarding
18 security features of the facility, you are also
19 cognizant that people who can enter the facility
20 are extremely limited. Is that right?

21 MR. MOUNGKHOUNSAVATH: Yes, that is
22 correct.

23 MS. KINNER: It's a medical cannabis
24 facility, correct?

25 MR. MOUNGKHOUNSAVATH: Yes, correct.

1 MS. KINNER: Okay. I have no further
2 questions. Thank you, Tommy.

3 MR. MOUNGKHOUNSAVATH: Thank you.

4 CHAIRPERSON ANDERSON: Mr. Shankle or
5 Mr. Lee, who's going to ask the questions? Go
6 ahead, sir.

7 MR. SHANKLE: I'm going to ask
8 questions --

9 CHAIRPERSON ANDERSON: Go ahead, Mr.
10 Shankle.

11 MR. SHANKLE: -- Mr. Chairman. Tommy,
12 I also apologize with your last name.

13 MR. MOUNGKHOUNSAVATH: That's okay.

14 MR. SHANKLE: I didn't get it when you
15 said it. So forgive me. You own other
16 establishments in the District?

17 MR. MOUNGKHOUNSAVATH: Yes, correct.

18 MR. SHANKLE: And where is that
19 establishment?

20 MR. MOUNGKHOUNSAVATH: It's on --
21 currently on H Street right now.

22 MR. SHANKLE: On H Street. And this
23 is an unlicensed establishment at the time -- at
24 this time, right?

25 MR. MOUNGKHOUNSAVATH: Yes, that is

1 correct.

2 MR. SHANKLE: And you are moving into
3 a licensed status with it. This is what your
4 desire is?

5 MR. MOUNGKHOUNSAVATH: Yes.

6 MR. SHANKLE: Got it. Has your
7 current establishment been a victim of any crimes
8 or had police called to that location?

9 MR. MOUNGKHOUNSAVATH: No, we've been
10 operating for -- since 2018. Never have had any
11 issues with security measures or any break-ins.
12 We've been very quiet as far as H Street is
13 concerned as far as being in operations. We
14 haven't had any issues since opening in 2018.

15 MR. SHANKLE: Thank you. And you
16 mentioned that you chose this location for a
17 variety of reasons, including its proximity to
18 Metro, et cetera. Were you aware of the school
19 in this location, the schools around this
20 location when you chose it?

21 MR. MOUNGKHOUNSAVATH: Yes. So we --
22 we went through a couple different avenues as far
23 as checkpoints to check with ABCA to make sure
24 that it was okay. We also checked with our
25 lawyers, our counsel to make sure that they

1 verified to make sure that the location would be
2 viable and okay for ABCA for us to be approved
3 for there because that was primarily one of our
4 main subjects that came up for that particular
5 location. Because we were aware and we made our
6 -- we did our due diligence as far as doing the
7 checks to make sure that we were going to be okay
8 at that location. Unfortunately, it is under the
9 distance. But obviously with the law, we -- we
10 followed all the protocols that was needed to
11 make sure that location was proper for the
12 application.

13 MR. SHANKLE: Got it. When you think
14 about this school being located here, have you
15 been -- and after hearing the concerns of the
16 community, have you implemented any security
17 protocols or addressed or changed your security
18 protocols to protect children?

19 MR. MOUNGKHOUNSAVATH: We are -- we
20 are definitely going to make some adjustments to
21 security measures that we already have stated on
22 our application that we would have cameras on the
23 outside. We will have our security team do a
24 survey to the area to make sure that there's no
25 loitering or anything along those lines of

1 anything anybody hanging out in front of the
2 store or just in front of the retail space.

3 As far as security-wise, that's what
4 we wanted to bring to your attention to work out
5 an agreement with you guys to make sure that we -
6 - like I said, we're going -- we're trying to be
7 a part of the community and make sure that we're
8 doing our part as far as making sure that the
9 kids are safe along with the -- along with what
10 we're doing as far as the medical side of things.
11 Obviously, we have a lot of regulations that we
12 have to follow. And we're willing to comply at
13 every level to make sure that the children --
14 just the neighborhood in general is okay with us
15 being there.

16 MR. SHANKLE: Okay. So you haven't
17 implemented or started planning any --

18 MS. KINNER: Objection.

19 MR. SHANKLE: -- additional security
20 --

21 CHAIRPERSON ANDERSON: Ma'am, he
22 hasn't asked a question. I don't know what your
23 objecting to. Let him ask a question. Once he's
24 done asking the question, then you can object.

25 (Simultaneous speaking.)

1 CHAIRPERSON ANDERSON: Go ahead, Mr.
2 Shankle.

3 MR. SHANKLE: Sorry. Thank you,
4 Chairman. So you haven't done any additional
5 preparation to implement any kind of different
6 security based on the response that you're
7 currently hearing from the community?

8 MR. MOUNGKHOUNSAVATH: As of right now
9 -- as of right now, a lot of the security
10 measures that we would need to either add or
11 implement would need to be once we got beyond
12 this period of the application. Making any
13 changes based off of hearsay or potential
14 speculations is -- would be kind of unnecessary
15 for now -- for us right now because we wouldn't
16 have the proper data to be able to do those or
17 make those particular changes.

18 As far as the security measures are
19 concerned, we're willing to make anything -- make
20 all the changes needed to make sure that the kids
21 -- the children that were in the area or in the
22 school area or just around the -- around the
23 building or in the facility itself will be
24 protected at all times. But obviously, we
25 definitely need to make sure that we gather some

1 data before we make any other adjustments that
2 would be needed to make sure that is taken care
3 of.

4 MR. SHANKLE: And a question, do you
5 have school-aged children?

6 MR. MOUNGKHOUNSAVATH: Yes, I have 15
7 year old in high school right now.

8 MR. SHANKLE: Got it. And if you were
9 to establish a similar business across from her
10 school, how would that be? Do you think that
11 would just be okay? Do you think it would be
12 appropriate?

13 MS. KINNER: I would object to this
14 question as outside the scope of the direct
15 examination. And of course, Mr. Tommy is welcome
16 to answer the question if he would like to. But
17 I don't believe that's in the scope.

18 CHAIRPERSON ANDERSON: I don't think
19 it's relevant, but he can answer the question if
20 he -- so I'm going to overrule the objection. He
21 can answer the question if he can.

22 MR. MOUNGKHOUNSAVATH: I mean, based
23 off our data and what we do as far as planning
24 out and making our decisions on locations and
25 where we would want to open up our locations and

1 as far as license medical, like I said, it's a
2 lot of things that you have to go -- we have to
3 go through as far as regulations are concerned
4 where, you know, for kids are going to be
5 protected. That is one of the main things that,
6 you know, I take into account because, like I
7 said, I have a 15-year-old son. Obviously at
8 this point in time, they are very -- they can be
9 influenced in a lot of different ways.

10 But obviously, like I said, with
11 myself, I educate my son as far as what the
12 business is concerned and what we do as far as my
13 entrepreneurial businesses that I'm involved in.
14 Obviously, this is one of the more different of
15 the businesses. But at the same turn, I have
16 conversations with my son to educate him about
17 what's going on.

18 You know, and he understands what --
19 what -- what type of businesses I operate. And
20 like I said, it's just dependent on certain
21 locations and things of that nature. There's a
22 lot of data that goes into it before we make a
23 decision on choosing a specific location.

24 Obviously, being in front of a school
25 obviously, it can ruffle some feathers. But

1 obviously for us, we're looking at it as a --
2 we're not -- we're not a -- we're not open to the
3 public. We're open for -- primarily for medical
4 patients that -- that are -- that are registered
5 with ABCA.

6 So we're not just taking anybody out
7 of the -- off the streets, anybody that just
8 walks in. So they have to have specific IDs,
9 certifications in order for them to enter our
10 location. So to answer your question, yes, I do
11 take into account if I were to put another
12 location closer to a school.

13 Obviously, we do our checks, balances.
14 But if it's approved by ABCA, then we move
15 forward. If not, then we try to figure out
16 something else.

17 MR. SHANKLE: So first of all, I'm
18 sorry. I misgendered your child.

19 MR. MOUNGKHOUNSAVATH: No, no. You're
20 fine. I didn't specify, so it's okay.

21 MR. SHANKLE: I thought I heard
22 daughter before. But I apologize for that. So
23 taking that just by your answer and your lack of
24 an answer there that it would be no, you would
25 not locate it across from the school of your

1 child?

2 MR. MOUNGKHOUNSAVATH: That -- that --
3 that's dependent on the data that I acquire for
4 the business or for -- for -- for the business
5 itself. It could be in front of a school. It
6 could be in front of a church. It could be --
7 depending on where it is.

8 Hopefully, it's not. But being that
9 it's D.C., D.C. has very limited real estate. So
10 we're working with what's available to us at this
11 point in time. Unfortunately, we fell into that
12 zoning area where it puts a medical dispensary
13 close to a school.

14 Like I said, we made our -- we did our
15 due diligence as far as doing our checks to make
16 sure it was okay. If it wasn't okay, ABCA
17 would've told us no and we would've moved on.
18 But clearly, obviously, we're here now where
19 we're trying to work out something to make sure
20 that we can get -- get something resolved for
21 your ANC and with us.

22 MR. SHANKLE: So you mentioned data.
23 What data did you collect or you utilized to make
24 a decision that it was safe to go in this
25 location and it was appropriate to go in this

1 location across from BASIS, around the corner
2 from Templeton, down the block from a child
3 daycare?

4 MR. MOUNGKHOUNSAVATH: Most of our
5 data was primarily for population demographic.
6 And that was primarily it. We weren't -- we
7 weren't targeting this particular location
8 because there was a school. It was primarily for
9 the location of where the proximity of Metro,
10 proximity of the stadiums, other restaurants in
11 the Penn Quarter's area. We didn't choose -- we
12 didn't choose this location because of the
13 school. We chose it because of the -- because of
14 the population, the demographic that we were --
15 that was -- the potential that was there.

16 MR. SHANKLE: So it sounded like the
17 data that you utilized in this, if I'm
18 understanding you correctly, is that you were
19 looking for a building close to Metro?

20 MS. KINNER: Objection. I think
21 that's a mischaracterization of what the witness
22 just stated.

23 CHAIRPERSON ANDERSON: I'm going to
24 overrule the objection. He can answer the
25 question if he can. If he can't answer it, let's

1 move on.

2 MR. MOUNGKHOUNSAVATH: As far as the
3 -- can you ask the question again, sir?

4 MR. SHANKLE: Sure. I was saying,
5 like, the -- it sounds from your testimony that
6 the only data that you really were looking at
7 here for the selection of this -- of 717 D Street
8 was the proximity to a public transportation.
9 That was the primary driver?

10 MR. MOUNGKHOUNSAVATH: I wouldn't say
11 that was the primary driver. But that was a good
12 majority of the data that we got based off of
13 other locations that's close in that area and
14 what the potential could be for the demographic
15 of that -- that -- that area. That was just one
16 of the locations that was available at the time
17 based off of our real estate search.

18 MR. SHANKLE: So the real estate
19 search? Okay. And I'm sorry. I'm just looking
20 over my questions here. I think that's all of
21 the questions I have for this witness.

22 CHAIRPERSON ANDERSON: All right.
23 Thank you, Mr. Shankle. Any questions by any
24 Board members? Go ahead, Mr. Short.

25 MEMBER SHORT: Good afternoon, Mr.

1 Tommy M. You currently now have a business
2 operating on H Street, Northeast. Is that
3 correct?

4 MR. MOUNGKHOUNSAVATH: Yes, that's
5 correct.

6 MEMBER SHORT: What is that address?

7 MR. MOUNGKHOUNSAVATH: That is 508 H
8 Street, Northeast.

9 MEMBER SHORT: And how long have you
10 been there?

11 MR. MOUNGKHOUNSAVATH: Since 2018. We
12 changed a couple -- a couple ownerships because
13 of our partners leaving. So well, as far as
14 ownership-wise as far as the business is
15 concerned, we've been there since 2018.

16 MEMBER SHORT: You've been in
17 ownership or business partnership the whole time?

18 MR. MOUNGKHOUNSAVATH: Yes.

19 MEMBER SHORT: Okay. So you have a
20 basic business license I would take it?

21 MR. MOUNGKHOUNSAVATH: Yes, that's
22 correct.

23 MEMBER SHORT: How long have you had
24 it?

25 MR. MOUNGKHOUNSAVATH: Under UND

1 Necessities, it's been since October -- I'm
2 sorry, September of 2022.

3 MEMBER SHORT: So between 2018 and
4 2022 you didn't have a basic business license?

5 MR. MOUNGKHOUNSAVATH: No, I did. It
6 was -- it was under a different -- a different
7 ownership. But I just parted ways from the old
8 ownership.

9 MEMBER SHORT: All right. Now so you
10 have a current certificate of occupancy for that
11 address?

12 MR. MOUNGKHOUNSAVATH: Yes, that is
13 correct.

14 MEMBER SHORT: What is the character
15 of that CofO? What are you licensed to do there?
16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: Hold on. What
18 address are you asking? Are you asking for the
19 current -- the proposed or the H Street?

20 MEMBER SHORT: The question I asked,
21 if you don't mind, Mr. Chair, was his address at
22 508 H Street. I'm asking about there.

23 CHAIRPERSON ANDERSON: I was just
24 making sure I knew which address you're asking.
25 Go ahead.

1 MEMBER SHORT: Thank you, Mr. Chair.
2 So Mr. Tommy M., I was asking your current
3 certificate of -- yes, certificate of occupancy,
4 your current CofO. Are you the principal owner?

5 MR. MOUNGKHOUNSAVATH: Yes, that is
6 correct.

7 MEMBER SHORT: And what does the CofO
8 say? What are you allowed to do at that
9 certificate of occupancy at 508 H Street.

10 MR. MOUNGKHOUNSAVATH: We're a retail
11 store.

12 MEMBER SHORT: Retail?

13 MR. MOUNGKHOUNSAVATH: Yes.

14 MEMBER SHORT: Okay. How many years
15 have you been selling cannabis?

16 MR. MOUNGKHOUNSAVATH: With the
17 current CO, since --

18 MEMBER SHORT: Yeah, with your current
19 CofO.

20 MR. MOUNGKHOUNSAVATH: The current
21 CofO, we've only been operating since October --
22 I'm sorry, July of 2023.

23 MEMBER SHORT: July of 2023?

24 MR. MOUNGKHOUNSAVATH: Yes.

25 MEMBER SHORT: And were you aware that

1 you were illegally selling cannabis at that time?

2 MR. MOUNGKHOUNSAVATH: We weren't
3 selling it. We were gifting it, sir.

4 MEMBER SHORT: You were in the
5 marijuana -- you were in the cannabis business?

6 MR. MOUNGKHOUNSAVATH: That's correct.

7 MEMBER SHORT: Okay. All right. Now
8 what is your total business experience? You said
9 you started in 2018. Give us as Board members --
10 (Simultaneous speaking.)

11 MEMBER SHORT: -- a snapshot of your
12 business experience.

13 MR. MOUNGKHOUNSAVATH: Okay. So I
14 have a business degree from Bowie State
15 University. I have a -- I've been in business --
16 I've owned a consultant company since 2005. I
17 have a -- also have a nonprofit dealing with
18 financial literacy.

19 That has been operating since 2021.
20 Started right after the pandemic or during the
21 pandemic. I've also owned a bar. So in total,
22 I've had -- I've been in business or operated
23 businesses since 2005.

24 I've had a marketing company when I
25 was in college. So if you want to count that,

1 that will be about five years since 2020 -- I
2 mean, 2001, so all the way up till now. So I
3 would say about 23 years in business.

4 MEMBER SHORT: Of those 23 years, how
5 many in the District of Columbia?

6 MR. MOUNGKHOUNSAVATH: Six.

7 MEMBER SHORT: Six years out of the --
8 since 2005?

9 MR. MOUNGKHOUNSAVATH: Yes, that is
10 correct.

11 MEMBER SHORT: So you've had to go
12 through what we call clean hands with the tax
13 downtown. So do you have any problem with that?

14 MR. MOUNGKHOUNSAVATH: No.

15 MEMBER SHORT: I should've figured
16 that because you wouldn't be here before us if
17 you did.

18 MR. MOUNGKHOUNSAVATH: Absolutely no.

19 MEMBER SHORT: I just had to ask. So
20 what do you think that your business would do not
21 only for the locality that you are getting the
22 license but for the District of Columbia? What
23 is your -- what would be -- you have a consulting
24 business so you know a little bit about -- you've
25 been in business for a while. And I love

1 entrepreneurs by the way. And I'll just say
2 this, congratulations to you being around that
3 long.

4 MR. MOUNGKHOUNSAVATH: Oh, thank you.
5 A lot of losses and learning lessons throughout
6 the way. But --

7 MEMBER SHORT: I can imagine, yeah.
8 But at any rate, let me ask you this. What does
9 your nonprofit do for the District of Columbia?

10 MR. MOUNGKHOUNSAVATH: So I'm actually
11 working on a curriculum for financial literacy.
12 Obviously, DCPS just introduced a financial
13 literacy course or they're looking for somebody
14 to -- someone to, I guess, bring that into the
15 fold for the school district. I'm actually
16 finishing up the curriculum hopefully within the
17 next month or so to present it to DCPS to enter
18 it into the school curriculum. I have a
19 financial background. I was a banker and --

20 MEMBER SHORT: You're coming in
21 garbled up.

22 (Simultaneous speaking.)

23 MR. MOUNGKHOUNSAVATH: -- financial
24 advisor.

25 MEMBER SHORT: You're kind of breaking

1 up. Is something going on?

2 MR. MOUNGKHOUNSAVATH: Oh, so
3 financial background. So I was in -- no, I'm
4 stationary.

5 MEMBER SHORT: I understand. I
6 understand. But go ahead.

7 MR. MOUNGKHOUNSAVATH: But yes, I am
8 -- I have a financial background. I was a
9 financial advisor for three and a half years.
10 That's -- that's when I left to open up these --
11 these retail stores.

12 MEMBER SHORT: All right. And my last
13 question.

14 MR. MOUNGKHOUNSAVATH: Yes, sir.

15 MEMBER SHORT: If this Board were to
16 permit a license for you, how would you move into
17 717 D Street, Northwest, that immediate
18 community?

19 MR. MOUNGKHOUNSAVATH: Well, obviously
20 --

21 MEMBER SHORT: And make sure that they
22 know that you are there to be a good
23 businessperson and be a credit to the community?

24 MR. MOUNGKHOUNSAVATH: Well, like I
25 said, as far as the business itself is concerned,

1 obviously to bring more tax dollars to the city.
2 Then on top of that, along with the financial
3 literacy and my nonprofit, I would -- if I had
4 the opportunity to, I would love to bring that to
5 some of the schools if that something that was
6 needed, even if it was an after school program or
7 something along those lines, especially for me
8 because working in the banking industry, I saw a
9 lot of things where financial literacy was a --
10 that was a dismissed portion of our education
11 that a lot of to this day need. I've seen a lot
12 of kids that walk out of high school to this day
13 and still don't know how to --

14 (Simultaneous speaking.)

15 MEMBER SHORT: Mr. Tommy, you answers
16 have been excellent. Now my very, very last
17 question would be would you make this ANC
18 Commission where you intend to move and have a
19 business, how would you make them comfortable
20 with all the things you just said to me that you
21 will be a contributor to the community? If you
22 had a chance to tell them right now, how would
23 you make them feel comfortable with you coming in
24 as a new businessman in their community?

25 MR. MOUNGKHOUNSAVATH: I'm here to

1 work with you guys. I am not here to ruffle any
2 feathers with you guys as far as what is going on
3 with the Penn Quarter area. I am literally here
4 to act in many different ways as possible,
5 whether it be on the financial literacy side,
6 doing something as far as teaching kids about
7 entrepreneurialship.

8 Obviously, like I said, I have other
9 things outside of just the marijuana industry
10 that I can attribute to -- to the -- to that
11 particular Penn Quarter area. That's -- I mean,
12 honestly, that's it. I mean, I want to bring --

13 (Simultaneous speaking.)

14 MEMBER SHORT: Okay. Thank you. For
15 the sake of time because our chairman wants us to
16 get out of here about 6:00 o'clock, for the sake
17 of time, thank you very much for your answers.
18 You sound like you're quite compelling to me.
19 But Mr. Chairman, that's all I have of this
20 witness. Thank you very much.

21 CHAIRPERSON ANDERSON: Thank you, Mr.
22 Short. Any other questions by any Board members?

23 MEMBER GRANT: I was actually going to
24 ask the very last question that Mr. Short asked
25 about the ANC and the relationship between you as

1 the applicant and the ANC prior to now. So maybe
2 I'll ask that question. Have you all been in
3 contact prior to this hearing?

4 MR. MOUNGKHOUNSAVATH: Outside of the
5 preliminary hearings, no. It has been primarily
6 my counsel. Obviously, if we were to get
7 approved, I'm going to be more hands on as far as
8 being in front of the ANC and being a part of the
9 actual community itself. That's my plan.

10 I don't want to be one of those
11 business owners that is just there. We open up
12 and then I'm never seen, never spoke of, or
13 anything along those lines. I see that, you
14 know, with -- with -- just being on H Street
15 alone, although we haven't had any issues.

16 But I've had conversations with some
17 of the ANC members and council members. And they
18 were -- they've never had any issues with us. So
19 at the end -- we want to keep it that way.
20 Wherever we go, wherever we plan to -- or
21 wherever I plan to open up any businesses, I plan
22 on making sure that I'm a significant part of the
23 community or the neighborhood to make sure that
24 they can come to us at any point in time. If
25 there are any concerns, anything that may be --

1 if they need us to, you know, make some type of
2 adjustments for -- just for -- you know, whatever
3 it may be. We're willing to work with them.

4 MEMBER GRANT: Thank you for that.

5 MR. MOUNGKHOUNSAVATH: Yes, you're
6 welcome.

7 MEMBER GRANT: Mr. Chair, I think I'm
8 done with the questions.

9 CHAIRPERSON ANDERSON: Thank you, Mr.
10 Grant. I have a few questions for you, sir. So
11 you alluded to a security plan. So can you tell
12 us a little bit, elaborate more on the security
13 plan that you said that was provided?

14 MR. MOUNGKHOUNSAVATH: So our security
15 plan basically has obviously the floor plan where
16 our security guard would actually be stationed in
17 the actual store location. With -- with -- so I
18 kind of just go through a run through. As -- as
19 a client that comes into our -- our space, the
20 security guard would -- would have to check their
21 IDs to make sure that they either have their
22 certification ID or be over -- have their -- have
23 their ABCA ID to be serviced at our location.

24 If they are, then obviously they'll be
25 sitting in the waiting room to wait. And then

1 once they are buzzed in or once they're ready,
2 the tenders or the associates are ready. They'll
3 be buzzed in to the back end of the -- to the
4 retail space.

5 As far as exterior-wise, we will have
6 cameras pretty much in every -- the exit, the
7 exterior, there's going to be three cameras,
8 possibly four. We're potentially going to be
9 adding a couple other ones because based off of
10 our conversation with ANC during the preliminary
11 hearing that they would like for us to have
12 another camera to give more visual which is not
13 an issue for us. We haven't put them up yet.

14 So if there's something that we can
15 add to, you know, make them feel more
16 comfortable, we're willing to do it. Our
17 security guards will do timely surveying of the
18 outside of the actual business itself to make
19 sure there's no loitering, no -- no lingering or
20 hanging around the shop after they've even -- if
21 a client has either finished with their -- their
22 purchase of their medication or things of that
23 nature. No -- no consumption outside of the
24 premises.

25 So security will be making sure that

1 the clients are not consuming outside of this
2 location or anywhere within the -- in the
3 vicinity of the dispensary itself. We --
4 depending on certain days of the week, we will
5 have two security guards on -- on -- on the
6 premises. So we can have one outside and also
7 have one inside to make sure that, you know, we
8 have no issues on the inside. That's just a
9 short of what -- as far as our security.

10 Obviously, we'll have the required safes for our
11 products and then also our safes for our money.

12 CHAIRPERSON ANDERSON: So can you
13 please explain to the Board your business model
14 for this business?

15 MR. MOUNGKHOUNSAVATH: So our business
16 model, it kind of mimics like an Apple store.
17 Our -- our -- if you go to any of our locations,
18 whether it be Georgetown, H Street, U Street, all
19 of our locations are very similar. They have
20 their own style or quirks about it because of the
21 -- because of the neighborhood or the areas. But
22 we all -- our -- our -- our model is basically
23 the same.

24 We have it set up where you come in.
25 Once you're verified that you're of age, you go

1 to -- you go to an iPad. Now our associates are
2 also assisting clients due to iPad to select
3 their -- their medication or products that will -
4 - that primarily is for -- you know, for -- for
5 purchase along with -- primarily just keeping it
6 -- keeping the business very -- very clean.

7 It does not look like your normal
8 unlicensed store if you can say. Like, a lot of
9 them have flashing lights and crazy open signs or
10 just -- you know, just things that are appealing
11 to the kids. We don't -- our -- our stores do
12 not have that at all.

13 To answer your question about the
14 mirror or the glass or any of the exterior, we
15 are frosting those windows so that way you cannot
16 see inside of the location outside of the waiting
17 room. Once you enter, that's probably going to
18 be the only -- only way you can see from the
19 inside. You'll see a security guard and a window
20 and a door for them to enter. Everything else is
21 pretty much going to be covered. You won't be
22 able to see inside from the outside.

23 CHAIRPERSON ANDERSON: I don't have
24 any other questions. Mr. Shankle, do you have
25 any questions of the witness based on the

1 questions that were asked by the Board?

2 MR. SHANKLE: I do, Mr. Chairman.

3 (Simultaneous speaking.)

4 CHAIRPERSON ANDERSON: I'm sorry. I'm
5 sorry. I'm sorry. I'm sorry. It's not Mr.
6 Shankle, Mr. -- I need to be consistent because
7 who was the person who had asked questions
8 earlier? Was that you? Oh, yeah. I apologize.
9 Go ahead, Mr. Shankle. Go ahead, Mr. Shankle. I
10 apologize.

11 MR. SHANKLE: Sure. No problem. I
12 wanted to -- I believe it was Commissioner Grant
13 on the Board who mentioned your engagement with
14 the ANC. Did you attend the community meeting
15 that the ANC provided?

16 MR. MOUNGKHOUNSAVATH: No, I did not.
17 I'm sorry.

18 MR. SHANKLE: But your --

19 MR. MOUNGKHOUNSAVATH: I was out of
20 town.

21 MR. SHANKLE: But your counsel did?

22 MR. MOUNGKHOUNSAVATH: My counsel did,
23 yes.

24 MR. SHANKLE: Did you attend any of
25 the settlement meetings that we had with ABCA?

1 MR. MOUNGKHOUNSAVATH: Yes.

2 MR. SHANKLE: You did? Okay.

3 MR. MOUNGKHOUNSAVATH: Yes.

4 MR. SHANKLE: Perfect. And in
5 discussions with your attorney, Commissioner Lee
6 proposed several potential --

7 CHAIRPERSON ANDERSON: Mr. Shankle --
8 (Simultaneous speaking.)

9 CHAIRPERSON ANDERSON: -- you can't go
10 there. We can't discuss settlement discussions.

11 MR. SHANKLE: Oh, got you, got you.

12 CHAIRPERSON ANDERSON: Okay. So no
13 discussions about what occurred at mediation. We
14 can't have those questions, sir.

15 MR. SHANKLE: Thank you, sir. Sorry
16 about that. Chairman Anderson mentioned the
17 security plan. Do you currently have any lines
18 outside of your establishment?

19 MR. MOUNGKHOUNSAVATH: Lines as far
20 as?

21 MR. SHANKLE: People lines?

22 MR. MOUNGKHOUNSAVATH: Oh, no, no, no,
23 no. Absolutely not. We -- we -- we -- as for
24 us, we've seen other locations that obviously I'm
25 going to speak of that have locations that have,

1 like, lines just running down the street. We are
2 making our waiting room area large enough where
3 there will be no waiting outside.

4 As soon as you come to the door,
5 you'll be -- IDs will be checked. And you can
6 have a seat inside before you are to go into the
7 retail space. We do not want anything bringing
8 any attention to us without -- for any -- for any
9 particular reason.

10 We want -- we want to keep the
11 business very clean. We want to make sure that
12 everything is as -- as fluent as possible. You
13 guys won't even notice that we're even there.

14 I mean, based off of our locations --
15 our current locations, a lot of times, people say
16 to us when they come in, oh, I didn't even know
17 you guys were even here, until they looked --
18 looked us up. But like I said, we do not -- most
19 of our -- most of our locations typically have a
20 large enough waiting area that you would never
21 have to see a -- see a line outside of us. Even
22 when we had H Street festival, there was no lines
23 outside. We literally brought people inside
24 right away, got them out of the -- out of the
25 crowd and then helped them out. And then they

1 went about their business after they came in and
2 did what they needed to do.

3 MR. SHANKLE: Got it. And so
4 Commissioner Short asked about your locations.
5 And I asked about your locations as well. And
6 you mentioned H Street. But I heard you mention
7 Georgetown to the chair.

8 MR. MOUNGKHOUNSAVATH: Yes, that's
9 also -- that's just our partner group. So I am --
10 -- I'm a part of -- I'm a part of a couple
11 different stores. But I am specifically the
12 principal owner of UND Necessities and DC Smoke.
13 Everybody else as a part of our group has other
14 stores. I speak of them because we have -- we --
15 we operate under the same model. That way, we --
16 for the most part, we operate under different
17 names. But we all have the same business model
18 as far as how we operate how the stores look, how
19 we assist our clients, all the same way.

20 MR. SHANKLE: Got it. And I have one
21 more question. Regarding the security, you
22 mentioned when someone comes into your
23 establishment or they come in the lobby, there's
24 an ID check --

25 MR. MOUNGKHOUNSAVATH: Yes.

1 MR. SHANKLE: -- that happens. Is
2 that, like, their driver's license, their medical
3 cannabis card. Tell me what that --

4 (Simultaneous speaking.)

5 MR. MOUNGKHOUNSAVATH: Well, currently
6 right now being that we're one of the unlicensed
7 stores, we just check to make sure that they're
8 over 21. There's no -- like, we verify the ID to
9 make sure it's not a fake ID or anything along
10 those lines. But as far as the dispensary side
11 of things, if just like Mr. Peru stated we --
12 we're doing two measures.

13 We have to make sure that they are --
14 they have the ID from ABCA and they have to have
15 an actual either driver's license or just state
16 ID to make sure they're either 21. If they are
17 18, they have to -- they have to have the ID --
18 the certification from ABCA before they can
19 enter. Because like I said, we have our blockage
20 areas to make sure that we -- you know, make sure
21 that everybody is checked, verified that they are
22 -- they're eligible to shop with us.

23 And then once they have been approved
24 to go in, obviously, then they can go in. But
25 they can't just walk in off the streets and just

1 have an ID and then they can get served. That's
2 not the case. They have to go through a
3 particular process before that -- for that -- for
4 that to be able to happen.

5 MR. SHANKLE: Got it. Got it. And
6 have you identified many fake IDs?

7 MR. MOUNGKHOUNSAVATH: No. We haven't
8 -- we haven't had any issues with fake IDs. For
9 the most part, it's been very fluent over the
10 years that we've been in operation, at least with
11 myself. No -- no issues with any fake IDs of any
12 sort. Since we've been open, I haven't had any
13 issues.

14 MR. SHANKLE: Okay. Thank you very
15 much. Thank you, Mr. Chair. I'm finished with
16 my questions.

17 CHAIRPERSON ANDERSON: Thank you, Mr.
18 Shankle. Ms. Kinner, any recross -- redirect?
19 And you're on mute, ma'am.

20 MS. KINNER: Tommy, to your knowledge,
21 has your counsel been talks with the ANC about a
22 settlement agreement?

23 MR. MOUNGKHOUNSAVATH: Yes.

24 MS. KINNER: And do you know about how
25 long those talks have been going on?

1 MR. SHANKLE: Objection, Mr. Chairman.
2 We were not allowed to talk about settlement
3 agreements.

4 CHAIRPERSON ANDERSON: Right now,
5 she's asking about timing. She's not asking
6 about the details. You were asking about the
7 details.

8 So if you start asking about the
9 details, then I'm going to stop her. But right
10 now, she's just -- it's just the timing. So I'm
11 going to overrule your objection so she can ask
12 this question. But if she talking about details,
13 sir, I will stop her.

14 MS. KINNER: I can assure you,
15 Chairman, I will not get into the details.

16 CHAIRPERSON ANDERSON: Okay.

17 MS. KINNER: It is a merely a timing
18 question. Do you know about how long we've been
19 in discussions with the ANC?

20 MR. MOUNGKHOUNSAVATH: I don't know
21 exactly how long. But I know based off of when
22 we got placarded, I would say probably we were in
23 contact or at least my counsel was in contact
24 with ANC or ANC was -- vice versa was in contact
25 within I would say three weeks. So I would say

1 maybe mid-December till now.

2 MS. KINNER: Thank you. And do you
3 know if we had -- has counsel -- have Johnny or
4 myself told you that we've submitted drafts of
5 settlement agreements to the ANC?

6 MR. MOUNGKHOUNSAVATH: Yes.

7 MS. KINNER: And have we asked if you
8 agree with any of their proposed terms? I'm not
9 going to discuss the terms. I'm just asking if
10 you agreed to any of the proposed terms.

11 MR. MOUNGKHOUNSAVATH: Yes.

12 MS. KINNER: Okay. Thank you. I have
13 no further questions.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you. All right. Do you have another
16 witness? Sir, thank you for your testimony. Do
17 you have another witness you wish to call?

18 MS. KINNER: No, Chairman. That is
19 the extent of our witnesses.

20 CHAIRPERSON ANDERSON: Thank you. All
21 right. Mr. Shankle, how many witnesses do you
22 have, sir?

23 MR. SHANKLE: I have four witnesses.

24 CHAIRPERSON ANDERSON: I think we can
25 finish this hearing today. All right, sir.

1 Who's your first witness?

2 MR. SHANKLE: I would like to first
3 call Alexander Cobalt, the head of the school for
4 BASIS DC.

5 CHAIRPERSON ANDERSON: Alexander --
6 what's the last name. I forget, sir.

7 MR. SHANKLE: Cobalt.

8 CHAIRPERSON ANDERSON: Hobalt. Mr.
9 Orellana, can you please elevate Mr. Hobalt. Mr.
10 Cobalt, I apologize.

11 MR. ORELLANA: Alexander Cobalt, your
12 access has been elevated.

13 MS. KINNER: I object to the calling
14 of this witness as they neither have standing nor
15 have based on the evidence produced by the
16 protestant have they actually ever observed any
17 activities --

18 (Simultaneous speaking.)

19 CHAIRPERSON ANDERSON: Hold on, ma'am.
20 Is this witness on the -- has this witness been
21 disclosed?

22 MS. KINNER: This witness has been
23 disclosed, yes.

24 CHAIRPERSON ANDERSON: All right.
25 Then those are cross examination, ma'am -- those

1 are cross examination questions that you are
2 raising. If the witness has been disclosed
3 timely, then we will have the witness testify and
4 you can cross examine the witness to the best of
5 your ability. So Mr. Cobalt? Mr. Cobalt? Can
6 you raise your --

7 MR. COBALT: Can you hear me?

8 CHAIRPERSON ANDERSON: -- right hand,
9 please, sir? Yes, sir. I can hear you. Can you
10 raise your right hand? Do you swear or affirm to
11 tell the truth and nothing but the truth?

12 MR. COBALT: Yes, sir.

13 CHAIRPERSON ANDERSON: Your witness.

14 MR. SHANKLE: Mr. Cobalt, thank you so
15 much for joining us today. Can you please
16 provide me with an overview of your role,
17 history, and responsibilities as head of the D.C.
18 BASIS school?

19 MR. COBALT: Yes, sir. Thank you,
20 Board members, for the opportunity to --

21 CHAIRPERSON ANDERSON: Can you -- hold
22 on. I'm sorry. Can you have him spell and state
23 his name for the record? We have a court
24 reporter just to make sure that's properly --

25 MR. COBALT: Yes, sir. My name is

1 Alexander Cobalt, A-L-E-X-A-N-D-E-R C-O-B-A-L-T.

2 CHAIRPERSON ANDERSON: Go ahead, sir.

3 MR. COBALT: I am the head of school
4 at BASIS DC Public Charter School. We serve 700
5 students from across every ZIP coded ward in the
6 city here in Galley Place Chinatown. This school
7 has been open since 2012, and we serve students
8 ages 10 until 18 plus in a 5th grade through 12th
9 grade academically rigorous model. We are the
10 number one highest performing public charter
11 school -- open enrollment school in the city. My
12 primary responsibilities are around education,
13 public safety, community engagement, curriculum
14 development, and most importantly safe operation
15 of the school building.

16 MR. SHANKLE: Thank you. When you
17 heard about this dispensary potentially opening
18 across the street, what were your initial
19 thoughts and how did you respond?

20 MR. COBALT: My initial thoughts were
21 that my family community, the community of
22 students and families that we serve, would have
23 concerns around the public safety implications of
24 a cannabis dispensary operating licensed or
25 unlicensed so close to the school building. My

1 immediate actions, I had a conversation with
2 counsel for the applicant. I had a conversation
3 with ANC Member Lee. And I shared information
4 about the -- I'm sorry, placard, the signage, the
5 posted signage about the applications with my
6 parent community as I had received already by the
7 time I personally saw the placard. I had already
8 received over ten concerning messages from
9 parents about their fears regarding public safety
10 of the dispensary opening near the school.

11 MR. SHANKLE: And what are some of the
12 potential impacts that this dispensary will have
13 on the school and its operations?

14 MR. COBALT: I think I can only speak
15 to the --

16 MS. KINNER: Objection. Objection,
17 Chairman.

18 (Simultaneous speaking.)

19 CHAIRPERSON ANDERSON: What's your
20 objection, ma'am?

21 MS. KINNER: The question calls for a
22 speculative answer. He's speaking to potential
23 issues. Because the applicant is not operating,
24 the potential issues are just that. They're
25 potential. They haven't occurred yet. But this

1 is Mr. Cobalt's opinion about potential things
2 that could occur. I don't believe that's
3 relevant.

4 CHAIRPERSON ANDERSON: Mr. Shankle,
5 this is calling for speculation. And so we don't
6 allow speculation at these hearings, so --

7 MR. SHANKLE: But Mr. Cobalt just said
8 he was the head of the school and responsible for
9 safety --

10 CHAIRPERSON ANDERSON: Right.

11 MR. SHANKLE: -- at the school. And
12 schools have to have plans to address safety
13 measures. So certainly there are potential
14 safety measures that have to be considered.

15 MS. KINNER: So I would say that Mr.
16 Cobalt could specify about what safety measures
17 BASIS put in place once the licensee is there.
18 But he can't speak about potential safety issues
19 the licensee could cause. That's not within the
20 purview of what he's able to testify to.

21 CHAIRPERSON ANDERSON: So I'm going to
22 sustain the object. He's asking the witness to
23 speculate. But you can -- as counsel stated, you
24 can reframe your question based on she gave you -
25 - she told you how to ask a question, sir.

1 MR. SHANKLE: Thank you. So what
2 safety measures are you putting into place as a
3 result of this dispensary coming across the
4 street?

5 MR. COBALT: I think the dispensary
6 moving in across the street will have a direct
7 cost to the safe operation of the school.

8 MS. KINNER: Objection.

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: Mr. Cobalt,
11 that's not the question that's been asked, sir.
12 So you're answering the first question that I
13 sustained. So you need to answer the second
14 question, sir.

15 MR. COBALT: My apologies. I
16 shouldn't have framed it. The school is planning
17 on additional staffing and education implications
18 for the addition of the dispensary and the
19 neighborhood should the applicant's application
20 be granted that have real financial impact
21 directly towards student supervision before and
22 after school, outdoors during lunch, and
23 education around safe drug usage, cannabis drug
24 usage, and zoning laws -- or not zoning laws but
25 usage laws. Those are all real costs that the

1 school will have to incur as a result of the
2 applicant opening.

3 MR. SHANKLE: Any incidents or
4 concerns reported within the school related to
5 cannabis use or exposure?

6 MR. COBALT: We get concerns raised
7 all the time from parents in the downtown region
8 of --

9 (Simultaneous speaking.)

10 MS. KINNER: Chairman, I would object
11 to this --

12 CHAIRPERSON ANDERSON: Ma'am --

13 MS. KINNER: -- line of question.

14 CHAIRPERSON ANDERSON: Ma'am, ma'am,
15 ma'am. The witness is answering the question.
16 You're objecting to the answer, not the question.
17 You need to object to the question, not once the
18 witness start answering. So I'm going to
19 overrule the question and let the witness -- you
20 have to object to the question, not when the
21 witness start answering, ma'am. Go ahead, sir.

22 MR. COBALT: We do already receive
23 concerns from our parent-student community and
24 engage with local law enforcement around cannabis
25 usage in and around the school already on an

1 ongoing basis. It is primarily not through
2 concerns of our students. It is concerns of
3 public utilization that is seen and experienced
4 on the street in and around the downtown region
5 already.

6 MR. SHANKLE: What measure does the
7 school have in place to -- sorry, to educate
8 students about risks and legal implications of
9 cannabis use?

10 MR. COBALT: The school already has
11 health programming in multiple grade levels that
12 is research based curriculum that includes
13 components around healthy and safe drug usage
14 that is most primarily in the high school age
15 demographic, though it does spread across
16 multiple grade levels. The school has received
17 many concerns from parents about increasing that
18 program as a result of the dispensary's
19 application -- just the application but certainly
20 also if the dispensary were to be granted the
21 license due to the fact that students traveling
22 to and from school would see and witness signage
23 advertisement and clientele going into the
24 operation. And so families have expressed a
25 serious concern about the school or families

1 needing to increase education relating to
2 cannabis usage for students as young as 10.

3 MR. SHANKLE: Did you end with
4 cannabis usage? I'm sorry. I had a blip that
5 happened.

6 MR. COBALT: My apologies. Cannabis
7 usage, increasing education around cannabis usage
8 for students as young as 10 years old which is
9 the youngest students we serve.

10 MR. SHANKLE: Got it. Would -- sorry.
11 Can you discuss any communications that you have
12 had as a head of the school and any local law
13 enforcement or ABCA regarding the placement of
14 this dispensary?

15 MR. COBALT: We had one -- I had one
16 email with ABCA seeking clarification on the
17 zoning regulations when I first heard about this
18 dispensary because I was shocked they had been
19 even able to file the application. That was my
20 only communication with ABCA about the opening of
21 a dispensary. I have regular communication with
22 local law enforcement around safety incidents
23 that occur in the downtown region near the
24 school. One of the conversations has already
25 included about increases to violent crime, both

1 with the ANC and directly with law enforcement,
2 increases of violent crime in the downtown region
3 causing the school to need to go on shutdown or
4 holes to protect the safety of students entering
5 and exiting the building.

6 MR. SHANKLE: So maintaining a safe
7 school environment is something that is a
8 priority for the school, the students, and the
9 parents?

10 MR. COBALT: Absolutely. The vast
11 majority of communication I have received from
12 families has nothing to do with cannabis itself.
13 It's primary about safety concerns relating to
14 the establishment of the facility in the downtown
15 region so close to the school. So public safety
16 is the primary concern.

17 MR. SHANKLE: And thank you for that.
18 And you said you've been -- how long have you
19 been involved in BASIS as the head and as an
20 educator?

21 MR. COBALT: Eleven years this school
22 has been depending on how you measure it, open
23 for 12, 12 and a half years.

24 MR. SHANKLE: And you've been as the
25 head of the school for 11 years?

1 MR. COBALT: No, I was also a teacher
2 and dean of students and director of special
3 education amongst other roles.

4 MR. SHANKLE: And have you had any
5 other dispensaries that have impacted your
6 school?

7 MR. COBALT: No, there has never been
8 an instance of a dispensary or any other facility
9 opening this close to the school.

10 MR. SHANKLE: And what are your major
11 concerns regarding this dispensary and its
12 location?

13 MR. COBALT: The major concerns the
14 parent population have been raised with me are
15 about education around drug utilization, both
16 medical and recreational, as students engage with
17 client coming into and out of this facility, the
18 public safety concerns. One parent emailed me
19 just today pointing out that there was a stabbing
20 at a medical marijuana facility just a couple
21 days ago and the implications that type of action
22 would have on the students in the school and the
23 safe operation of the school. In addition to
24 that, there are some concerns that parents have
25 raised with me regarding the foot traffic that

1 happens.

2 Our students, over 60 percent of them
3 take public transit. The vast majority of them
4 walk from the Archives Metro which is right by
5 the corner of D and 8th to the school which is on
6 8th street. So those students would all be
7 required to walk past the new establishment on
8 their way to and from school and to and from
9 lunch. And there have been many parents who have
10 raised concern about that walk, both from a
11 public safety concern and from a medical
12 marijuana education concern.

13 MR. SHANKLE: And is there --
14 realizing that this establishment is not in this
15 location yet, right? It's not there. But you
16 have to plan within the school on how to address
17 some of the impacts of this dispensary being
18 where it's located. What are you doing right now
19 to address that issue?

20 MS. KINNER: Objection. I believe
21 he's already answered a version of this question
22 in regards to the safety measures that the school
23 is taking. He mentioned several of them they may
24 take.

25 CHAIRPERSON ANDERSON: Mr. Shankle,

1 you have asked a question. I'm not quite sure
2 what other response that we need to hear. So I'm
3 going to sustain the objection.

4 MR. SHANKLE: Okay. And I guess I
5 wanted to kind of learn a little bit more about
6 the student population. What time does school
7 start? Tell me about lunch, recess activities,
8 items like that.

9 MR. COBALT: The school day begins at
10 7:30 with the vast majority of students arriving
11 between 8:00 and 8:20 a.m. Lunchtime is open
12 campus dismissal. That is to say that the
13 students aged 8th grade and above are all allowed
14 to walk about the downtown region with parent
15 consent during their lunchtime which happens from
16 11:00 a.m. until 1:00 -- 11:10 a.m. until 1:50
17 p.m.

18 Our students dismiss from 3:40 p.m. to
19 right around 4:30 but as late as 6:30 for
20 students who attend club, extracurricular, so on
21 and so forth. Because the building is located in
22 the downtown region, there is no direct
23 playground space. We don't own a gym. We don't
24 own a playground. We don't own a facility.

25 Our students walk to the archives to

1 the Navy Memorial itself. They walk to the
2 National Mall. They engage and share business
3 with the local downtown community. And all of
4 the concerns that I've heard and express relate
5 to the ability of our students to do that with
6 the new operation of the dispensary in the
7 region.

8 The students also frequently go off
9 campus for class activities. We engage fairly
10 robustly with all of the downtown, not only
11 businesses but all of the Smithsonian, the Navy
12 Memorial Amphitheater itself, the Archives
13 building, and the Sculpture Garden. There's a
14 lot of traffic between BASIS D.C. going south
15 towards the National Mall down 8th Street past
16 the dispensary location.

17 MR. SHANKLE: That's kind of that
18 walkway in front of the establishment is the
19 primary access point that students utilize to get
20 to Metro. Is that correct?

21 MR. COBALT: Correct. To Metro for
22 engaging in class time, for engaging in public
23 resources within the city.

24 MR. SHANKLE: Got it. Got it. Okay.
25 I don't have any other questions for this

1 witness.

2 CHAIRPERSON ANDERSON: Was that you,
3 Mr. McGowan? Or is it Ms. Kinner?

4 MS. KINNER: Myself, Chair. I just
5 have one question --

6 CHAIRPERSON ANDERSON: Go ahead.

7 MS. KINNER: -- for the witness, if I
8 may. Mr. Cobalt, have you ever observed any
9 activities at 717 D Street caused by the
10 applicant's operations which would impact the
11 peace, order, safety, and quiet of the
12 neighborhood?

13 MR. COBALT: May I ask for
14 clarification on the question?

15 (Simultaneous speaking.)

16 CHAIRPERSON ANDERSON: What
17 clarification do you need, sir?

18 (Simultaneous speaking.)

19 CHAIRPERSON ANDERSON: I'm sorry. Go
20 ahead.

21 MR. COBALT: I'm confused. The
22 question is asking if I've seen any incidents
23 that would have me concerned based on an
24 operation that hasn't started yet.

25 CHAIRPERSON ANDERSON: That's the

1 question that's she's asking you, sir. So if you
2 can answer the question, answer the question.

3 MR. COBALT: I cannot answer the
4 question. The business has not opened in that
5 location, so I have no information as to the
6 safety and security defaults or incidents that
7 may occur. And that is my primary concern.

8 MS. KINNER: Thank you. So one
9 follow-up. So all of these concerns that you and
10 your community, your school community have are
11 speculative, correct?

12 MR. COBALT: I don't believe in
13 characterizing the concerns of hundreds of
14 families as speculative. Their concerns are
15 their own and I cannot speak for them.

16 MS. KINNER: Sure. But your concerns,
17 your particular -- you can speak for your
18 concerns. Your concerns are speculative, right,
19 because the applicant doesn't operate there?

20 MR. COBALT: I believe that my
21 experience in operating a school allows me to
22 make predictions about public safety relations in
23 the neighborhood. So I do not believe they're
24 purely speculative. But sure, I do not know how
25 this operator will operate in that jurisdiction

1 yet.

2 MS. KINNER: Thank you. I have no
3 more questions.

4 CHAIRPERSON ANDERSON: Thank you. Any
5 questions by any Board members? Go ahead, Mr.
6 Short.

7 MEMBER SHORT: Good afternoon, Mr.
8 Alexander Cobalt.

9 MR. COBALT: Good afternoon, Mr.
10 Short.

11 MEMBER SHORT: Great. I am a little
12 prejudiced. I hold teachers very dear to my
13 heart. Since my 4th grade, years and years and
14 years ago, I've had a chance to travel around the
15 world because one of my teachers was social
16 studies. So thank you, teachers. Now if I could
17 say this to you, do you have any idea how many
18 dispensaries that this agency has licensed since
19 the new law came into place?

20 MR. COBALT: My understanding is zero.

21 MEMBER SHORT: Okay. See, can I
22 please ask that you go to our website. There are
23 public record of how many that have been
24 licensed, where they operate, and whatever. And
25 maybe it would help you as an educator to drive

1 by some of the legal ones that are highly
2 regulated by this Board and by ABCA.

3 I think that would be a great
4 enhancement for you and especially for the
5 students and the parents of those students who
6 come to your school. I think that would take --
7 that would -- there are some that are not that
8 far away from you. As the applicant stated,
9 there are some on U Street. There are some on
10 different areas in town.

11 But at any rate, just drive by and see
12 if you see any sign again because we don't allow
13 that to get a license. They're just not allowed.
14 So I'm just trying to give you a little education
15 as you educate other people.

16 So if you do that, I would certainly
17 appreciate that. And I would certainly say this.
18 We will hold their feet to the fire if they break
19 any ABCA -- should. We're not saying it's going
20 to be or not going to be permitted.

21 But the bottom line is we highly
22 regulate and I wouldn't be on this Board with my
23 five grandchildren and three great grandchildren
24 stating that these kinds of places shouldn't have
25 a chance to make it legal because the illegal

1 places are now being caught up with and dealt
2 with. And so from the testimony of the
3 applicant, if he's doing the kind of community
4 work that he claims he's doing, he might be a
5 resource for this school.

6 Because we know the illegal market
7 would grab our children and choke them to death.
8 And it's out here, so, the more (audio
9 interference). And the more education they have
10 about it, the better off they are. But now my
11 question to would be this. Should you find out
12 that this is not the horror story you though it
13 would be, would you be willing to kind of work
14 with them?

15 And again, they might send some
16 educators to your school. The kids would
17 probably get a good education from a legal
18 business person than they would from anything you
19 can get over the internet or anybody calling you
20 with these kinds of stories. So my last question
21 to you would be, would you consider giving it a
22 chance and would you consider going to our
23 website and investigating some of the legal
24 dispensaries that are operating in our city and
25 have been for a while now?

1 MR. COBALT: Absolutely, I'm more than
2 happy to go to the website. I am aware that
3 there is non-medical licensed facilities in
4 existence already. And I have driven past
5 several of them, including I think potentially
6 the current applicant's one on H Street which is
7 on my way home to my house and have used that
8 data to inform some of the policies that the
9 school will need to enact to ensure public
10 safety.

11 I am more than happy to -- should this
12 applicant be granted their license, I'm more than
13 happy to work with them with regards to the types
14 of security measures that would make the
15 community comfortable. I will say that in my
16 call with Mr. McGowan -- and I apologize,
17 counsel, if I'm mispronouncing your name -- one
18 of the things that I shared as a top concern way
19 back when I first heard about this was about the
20 applicant's ability to meaningfully ensure the
21 safety outside of their facility, not just with
22 cameras but with actual security staffing. So if
23 the applicant were to be granted the license, I
24 would love to hear about their actual security
25 staffing outside of their facilities as well.

1 MEMBER SHORT: Thank you so very much
2 for that. You sound like a great educator. It
3 sounds like I'm thinking about getting my
4 grandchildren over at the school. But --

5 (Simultaneous speaking.)

6 MEMBER SHORT: Okay. Please let me
7 state this. When you go to our website and get
8 educated on what our legal places are doing, why
9 they're doing it, and how the people in the
10 communities where they are, are not complaining
11 about them. Everybody is complaining about the
12 illegal ones that popped up on it.

13 And you can rest assured this agency
14 and this Board is trying to deal with them as
15 best we can. Thank you for your support. Thank
16 you for educating our children. Thanks for being
17 a great person. That's all I have, Mr. Chair.

18 CHAIRPERSON ANDERSON: Mr. Short, for
19 some reason, you're no longer on camera.

20 MEMBER SHORT: Oh, I'm sorry. I
21 didn't realize it. I guess I got to talking. I
22 got excited. Forgive me.

23 CHAIRPERSON ANDERSON: Okay. All
24 right. Okay.

25 MEMBER SHORT: But at any rate, as I

1 said to the teacher, I am very, very enthused
2 with school teachers. And I'm glad to hear that
3 public record that they have there at the school.
4 Keep up the good work, sir. That's all I have,
5 Mr. Chair. Thank you.

6 CHAIRPERSON ANDERSON: Thanks. Any
7 other -- any questions by the Board members?
8 Yes, Mr. Grant.

9 MEMBER GRANT: Mr. Cobalt, thank you
10 for being with us this afternoon. Just a --

11 (Simultaneous speaking.)

12 MEMBER GRANT: -- a couple of quick
13 questions. Sorry about that. Just a couple of
14 quick questions. With respect to the dismissal
15 of children from school given in the area that
16 you're in, in downtown, can you speak to what
17 your current sort of plan of action is on a day-
18 to-day basis as far as directing kids to the
19 train station or directing kids to the cars that
20 will be picking them up or they choose to walk
21 home? Is there any sort of, like, direction or
22 guidance that you and your staff give the kids on
23 the way out from school?

24 MR. COBALT: There's a combination of
25 direction and education that we provide. We

1 supervise the 500 feet street front in front of
2 our -- directly on the block in front of our
3 property. That is the -- like the lateral is my
4 understanding -- the lateral 500 feet on our side
5 of the block is the extent of our jurisdiction
6 for actually maintaining student discipline in
7 front of the school property. And so yes, that's
8 something we do with both staffing and with
9 education for our students. As part of the
10 concern as well about where the boundaries of our
11 responsibility for ensuring the safe protection
12 of our students versus the applicant's or other
13 business members' or the local law enforcement's
14 responsibility would lie as part of the concern.

15 MEMBER GRANT: Okay. Thank you for
16 that. Two other quick questions just for my
17 clarification. One, BASIS DC is actually a D.C.
18 public charter school, correct?

19 MR. COBALT: Yes, sir.

20 MEMBER GRANT: Okay. And with that
21 being stated, are you all eligible for safe
22 passage from DCPS?

23 MR. COBALT: We are not eligible for
24 safe passage unfortunately.

25 MEMBER GRANT: Okay.

1 MR. COBALT: Safe passage only
2 considers schools in particular zones and
3 boundaries at this time which is another one of
4 the concerns about having to allocate school
5 resources away from education and into safe
6 management going beyond our jurisdictional area.

7 MEMBER GRANT: Okay. No further
8 questions. Thank you, Mr. Cobalt. I'm done, Mr.
9 Chair.

10 CHAIRPERSON ANDERSON: Mr. Cobalt, a
11 couple questions. One of the concerns that you
12 had raised earlier was the signage. Are you
13 aware that the current law does not allow
14 cannabis signage on any of the licensed
15 establishment?

16 MR. COBALT: I don't know the
17 specifics. My understanding is that they can use
18 the word, cannabis or medical cannabis, that they
19 can't use a cannabis leaf or paraphernalia. But
20 I don't think that any of my concerns that I've
21 heard from the families in the BASIS community
22 have been about, okay, it's going to be a big pot
23 leaf.

24 Their concern is really simply about
25 the public safety of the clientele and the fact

1 that a 10-year-old is old enough to read the
2 signage themselves and know, okay, this is a new
3 word to me, cannabis, medical marijuana. What is
4 that? What does it mean? And how do parents
5 triage that conversation and are now forced to
6 triage that conversation for a age a student that
7 they may not have otherwise had that conversation
8 yet?

9 CHAIRPERSON ANDERSON: Now so how --
10 if the regulation doesn't allow cannabis
11 advertisement or cannabis in the name of the
12 building, how do you believe that your students
13 would know that the establishment at the corner
14 is not a regular business? The owner testified
15 that you cannot see the products in the building.
16 So how is it that you believe that your students
17 will know that this is a retailer because that's
18 the word that we -- we don't use dispensary.
19 This is a retailer for a medical -- medicine.
20 How do you think that your students will
21 recognize that?

22 MR. COBALT: Well, to the member of
23 this council, Mr. Short's comments, we have
24 fabulous teachers in this city and our kids are
25 some of the brightest in the world. And I know

1 for certain that they are already well aware
2 having just read the placard itself about the
3 business is, what it entails, and the societal
4 implications. We had -- at the ANC meeting, we
5 had several students present a survey they had
6 already conducted of over 300 of our students
7 about whether the students themselves believed it
8 was safe and appropriate for a medical cannabis
9 retailer to hope in close proximity to a school.
10 So the students are well aware because they are
11 very bright. I don't think the advertisement
12 alone is sufficient to dissuade the parents of
13 that concern.

14 CHAIRPERSON ANDERSON: All right, sir.
15 All right. Let me see. All right. Ms. Kinner,
16 any questions of the witness based on the
17 questions that were asked by the Board?

18 You're on mute, ma'am.

19 (Audio interference.)

20 MS. KINNER: -- about a term that you
21 used. You mentioned the safety of the clientele
22 of the applicant. Can you please explain to me
23 what you mean by the safety of the clientele?

24 MR. COBALT: I'm going to think about
25 what that context was. I think I was talking

1 strictly about engagement with the clientele
2 between the students and their travel to and from
3 past the retailer. Is that what you're referring
4 to?

5 MS. KINNER: Yes, I guess -- I'm
6 trying to understand why you assume that an
7 interaction with a medical cannabis patient would
8 be negative. How would the student know that
9 they're interacting with a medical cannabis
10 patient?

11 MR. COBALT: I mean, to counsel -- to,
12 I'm sorry, Board or counsel's point before about
13 driving past facilities that are currently
14 regulated, they often have lines out the doors
15 with a queue of clientele that are clearly there
16 for that business. Again, I don't think our
17 students would fail to understand the implication
18 of a line waiting to get into the store and that
19 those are your clientele.

20 I'm not in any way assuming that those
21 clientele are unsafe, that they don't deserve
22 adequate medical care, that they shouldn't be
23 receiving the care that they need. I think we're
24 strictly speaking about from my perspective the
25 fear of a very high, cash heavy, and high product

1 value business operating right next to the school
2 and the implications that could have, something
3 which I'm sure you guys would agree you can't
4 control whether or not there's a robbery that
5 occurs at your establishment.

6 MS. KINNER: Yes. So just to be
7 clear, when you refer to clientele, you're
8 referring to medical cannabis patients, correct?

9 MR. COBALT: Yes, I don't believe that
10 unlicensed --

11 (Simultaneous speaking.)

12 MS. KINNER: Thank you. That was the
13 question that I asked. That was the question
14 that I asked. One last question, I do believe
15 you likely -- did you hear -- I guess I should
16 ask. Did you hear the owner testify earlier, Mr.
17 Tommy?

18 MR. COBALT: Yes, I heard the --

19 MS. KINNER: Yes, thank you.

20 MR. COBALT: -- majority of the
21 owner's testimony.

22 MS. KINNER: Thank you. And you heard
23 him say, right, that -- you heard him say that
24 there were no lines in front of his current
25 establishment and that he wouldn't permit lines

1 in front of this 717 D Street. Did you hear him
2 say that?

3 MR. COBALT: I did not. I must have
4 missed it. My apologies.

5 MS. KINNER: Thank you, I have no
6 further questions.

7 CHAIRPERSON ANDERSON: Mr. Shankle,
8 any redirect?

9 MR. SHANKLE: I just have one redirect
10 question. And this was related to the question
11 around use outside of the school. Earlier today,
12 you were heard the owner indicate that use was --
13 they weren't allowed to use outside of the
14 establishment. Were you on during the ABCA
15 investigator --

16 MR. COBALT: Yes.

17 MR. SHANKLE: -- testimony? The ABCA
18 investigator also commented that it's illegal to
19 use marijuana in public. From your experience
20 working downtown, do people use marijuana on the
21 street?

22 MR. COBALT: Yes, yes.

23 MR. SHANKLE: In public?

24 MR. COBALT: Yes, I have instances
25 working with local law enforcement directly

1 because of that action.

2 MR. SHANKLE: Got it. I have no
3 further questions.

4 CHAIRPERSON ANDERSON: All right.
5 Thank you, Mr. Cobalt. Thank you very much for
6 your testimony today. You are free to go.

7 MR. COBALT: Thank you.

8 CHAIRPERSON ANDERSON: You're welcome.
9 Mr. Shankle, you have three more witnesses, sir.
10 I'm trying to power through this today.

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: All right. So
13 who's your next witness? And we'll take a break
14 after your next witness.

15 MR. SHANKLE: I'm going to call David
16 Stevenson, please.

17 CHAIRPERSON ANDERSON: Mr. Orellana,
18 can you please elevate David Stevenson? Mr.
19 Stevenson, can you turn your camera on? Mr.
20 Stevenson, can you raise your right hand, please?
21 You need to unmute your phone, sir. Do you swear
22 or affirm to tell the truth and nothing but the
23 truth? Your witness, sir.

24 MR. SHANKLE: Thank you, Mr.
25 Stevenson, for being here with me -- here with us

1 today. Could you tell me a little bit about your
2 background and who you're here on behalf of
3 today?

4 MR. STEVENSON: Sure. I worked in
5 schools for four years at the start of my career
6 as a technology director at a school in New York
7 City and at schools elsewhere. And then I've
8 been an executive in the educational technology
9 and publishing industry since 2000 in various
10 roles in service to both public district,
11 charter, and private schools. I'm here -- I have
12 two children who attend BASIS DC, a 15-year-old
13 and a 12-year old in 10th grade and 7th grade
14 respectively. And I'm also here on behalf of a
15 large number of BASIS families, dozens and
16 dozens, who have emailed their concerns and
17 frustrations with the appropriateness of this
18 location. And so to the extent I'm allowed to, I
19 can share both my own perspective on my own
20 children and then the other families that attend
21 the school.

22 MS. KINNER: Chairman, if I may, I do
23 have some concerns that we will venture into
24 speculation territory again with this line of
25 questioning that I believe Mr. Shankle is about

1 to embark on. I know hearsay is permitted in
2 this forum. But I do believe that Mr. Stevenson
3 will only speak the potential problems that could
4 occur as opposed to any problems that he's
5 actually witnessed occur.

6 MR. STEVENSON: And ma'am -- or sir,
7 I'm not a lawyer. We don't actually have a
8 lawyer on our side.

9 CHAIRPERSON ANDERSON: I'm sorry.
10 Who's speaking?

11 MR. STEVENSON: This is David --

12 CHAIRPERSON ANDERSON: Mr. Stevenson,
13 you can speak, sir. You're a witness. Mr.
14 Shankle has to respond to that, sir.

15 MR. SHANKLE: Thank you. About this
16 being speculative, we recognize that this is --
17 this establishment is not at this location yet.
18 But this is about appropriateness at the
19 location. We have to establish appropriateness
20 in what is appropriate to be next to a school and
21 what is not appropriate to be next to a school.
22 And Mr. Stevenson's daily routine with his
23 children involve walking to this location.

24 CHAIRPERSON ANDERSON: All right. He
25 can testify about his personal experience. And

1 he said it represents some other parents. I'm
2 going to give you some leeway, sir. But because
3 this is not a court of law, it's an
4 administrative hearing, so we don't necessarily
5 follow the rules of evidence strictly as we do in
6 court.

7 So I'm going to give some leeway. But
8 I just want to make sure that this hearing -- one
9 thing that I've stated, the law states that such
10 an establishment can be within the guidelines.
11 So based on the state of the law, this
12 establishment can be this close to your school,
13 sir. So I think I don't necessarily care about
14 the distance. I think you could talk about
15 whether or not you believe it's this type of
16 establishment is appropriate for the area.

17 But we need to say away from the
18 distance because that's the state of the law.
19 The law states that it can be there. The purpose
20 of this hearing is for us to make a determination
21 if this is an appropriate establishment for the
22 locality. Okay? So you can answer the question,
23 but I just want to -- I know that -- with those
24 caveats. Okay?

25 MR. STEVENSON: Okay. I don't think

1 I had a question, sir.

2 CHAIRPERSON ANDERSON: All right. So
3 all right. What's your question, Mr. Shankle? I
4 thought there was a question. That's why we had
5 an objection.

6 MR. SHANKLE: We did not get an
7 objection to a question. There was an objection
8 to Mr. Stevenson's discussion that he represented
9 parents.

10 (Simultaneous speaking.)

11 CHAIRPERSON ANDERSON: I'm going to
12 allow him -- right. I'm going to -- he can -- I
13 mean, he can talk about his experience and he
14 says he represents some parents. He can talk
15 about his conversation with those parents. And
16 of course, we can have cross examination about
17 that. Maybe he'll only represent one parent.
18 How many parents are we talking about? So those
19 are cross examination questions.

20 MS. KINNER: And that's not my
21 concern. My concern was the possible speculation
22 that would be engaged in.

23 CHAIRPERSON ANDERSON: And I've
24 advised the witness that this is -- I mean, we
25 need to talk about facts, not -- you can't

1 speculate about what you think is going to
2 happen. We're trying to power through this
3 hearing today. So let's go ahead.

4 MR. SHANKLE: Mr. Chairman, I'm sorry.
5 I have a clarifying question.

6 CHAIRPERSON ANDERSON: Yes, Mr.
7 Shankle.

8 MR. SHANKLE: And I don't know if you
9 can -- if this is appropriate to ask this
10 question. But if there is -- as part of the
11 protest process, isn't there the option to
12 protest the location of a business based on the
13 assumptions that it would have on the impact of
14 the community? Because a new establishment that
15 is coming into a community and is going to change
16 the community in some perceived negative way, the
17 ANC and the community has to have an opportunity
18 to voice this opinion. And isn't it the job of
19 the ABCA Board to determine the appropriateness
20 of the establishment based on that?

21 CHAIRPERSON ANDERSON: And I mean,
22 that's what we're going to make our
23 determination. But part of the problem when you
24 have a protest of a new license because the
25 applicant is not there, the license is not there,

1 so we can't comment about what is actually
2 happening. I mean, yes, we believe these are
3 some of the concerns we're going to have. I
4 mean, I don't necessarily want pure speculation.

5 I think we'll have some. That's why
6 I'm giving you some leeway to testify. But I
7 don't want us to -- try to be a little bit more
8 factual and not to move away more so from
9 speculating what you think is going to happen
10 because we don't know what's going to have
11 because the establishment is not there.

12 MR. SHANKLE: Right, right. Thank
13 you, sir. I appreciate the clarity. So Mr.
14 Stevenson, you mentioned that you have two
15 children that attend BASIS.

16 MR. STEVENSON: That's correct. A
17 high school sophomore and a 7th grader.

18 MR. SHANKLE: And a 7th grader. And
19 tell me about their daily routine as it relates
20 to the applicant's site.

21 MR. STEVENSON: Thank you. They both
22 commute to school generally by bike, occasionally
23 by bus across E Street. But then during the day,
24 my daughter who's in high school, at least once a
25 day and maybe sometimes more transits to the Navy

1 Memorial and back as they have open lunch. And
2 so large groups of high schoolers walk right down
3 that corner that you saw present at the corner of
4 the building and to Navy Memorial to enjoy lunch,
5 to throw a Frisbee, hang out, and then come back
6 to the school.

7 And then at the end of the day, both
8 of my children are athletes. And they -- BASIS,
9 it's one of the great things about going to
10 school in the city. They do track and field and
11 cross country. And they train in the Mall. And
12 so again, they walk right past that corner,
13 sometimes with their bike in tow, sometimes not
14 on their way to and from their sports practice
15 before their day is over.

16 MR. SHANKLE: Terrific. And as this
17 establishment was -- you learned that this
18 establishment was being proposed at this
19 location, can you tell me what you did as a
20 parent to kind of gather information?

21 MR. STEVENSON: I think, yeah, I can.
22 I think, number one, I looked into the law. I
23 understand the law is the law. I'm not here to
24 dispute it. I've also been in front of city
25 council because I don't think it's a good law.

1 But I looked into the law and
2 surprised to learn about the exception. But I
3 also looked into the question for myself as a
4 parent of what are the risks of proximity to a
5 dispensary for children. And so I found some
6 academic papers.

7 I researched some papers. I looked
8 into them. I'm a witness, but I don't know if I
9 get to introduce evidence. But there is some
10 evidence in the docket available there.

11 And the thing in the studies, right,
12 I believe in science guy, is in Oregon, the
13 children who lived closer than a mile to a
14 dispensary for 11th graders were 45 percent more
15 likely to use both edibles and leaf cannabis.
16 And that was in a context in which -- I think the
17 average is eight miles. So I looked into what
18 are the risks of proximity of a school to a
19 dispensary.

20 I already know the risks of adolescent
21 usage, underage usage. And I know the ABCA Board
22 is well aware of that. And I appreciate your
23 regulation.

24 But I looked at what does it mean to
25 be nearby because proximity matters, right?

1 Nearby matters. Contact matters. You heard
2 about my kids moving around right by the site.
3 You can -- I don't want to speculate, but that's
4 what I found. I found that when you're nearby a
5 school, children statistically are more likely to
6 wind up using underage.

7 MR. SHANKLE: Mr. Chairman, I would
8 like to introduce some evidence as part of this
9 testimony.

10 MS. KINNER: Chairman, I would object.
11 I'll let Mr. Shankle finish asking to introduce
12 the evidence. But --

13 CHAIRPERSON ANDERSON: What is it that
14 he's introducing? I don't know what it is. What
15 is he introducing? What documents -- all right.
16 Let me -- what are the documents that are being -
17 - that I'm being asked to accept?

18 MR. SHANKLE: I am looking at my PIF.
19 And this will be -- I'll be introducing Exhibit
20 No. 2 which is the feedback that was solicited
21 from families about the adversity of the
22 establishment at its location. I would like to
23 enter Exhibit 3, the emails written by
24 individuals to the ANC.

25 (Whereupon, the above-referred to

1 documents were marked as Protestant Exhibit Nos.
2 2 and 3 for identification.)

3 CHAIRPERSON ANDERSON: All right. But
4 who's going to -- all right. Who did --

5 MR. SHANKLE: Do I show you those,
6 sir?

7 CHAIRPERSON ANDERSON: Okay. Did this
8 witness participate in any of these emails? I
9 mean, when we are -- if we're bringing documents
10 in evidence and you have a witness. So
11 therefore, the witness has to identify and take
12 ownership. So is this witness going to take
13 ownership of the documents that you are about to
14 have introduced through him?

15 MR. SHANKLE: Then I will introduce --
16 I'm sorry, sir. I will introduce Document No. 4
17 which is the research on medical marijuana
18 dispensaries in neighborhoods.

19 (Simultaneous speaking.)

20 CHAIRPERSON ANDERSON: But is this his
21 document or is this his document or this is some
22 other document that he has gathered from outside
23 that we can't cross examine the document because
24 this is not his document?

25 MR. SHANKLE: It's not his document.

1 It's a published article in a research journal
2 about the impact of medical marijuana and its
3 relationship to public schools.

4 CHAIRPERSON ANDERSON: But I don't see
5 how this witness can testify about this research
6 document that he didn't offer. And I don't see
7 how the licensee's attorney -- because you can't
8 cross examine the document. So I'm not --

9 MS. KINNER: Your Honor, I would add
10 --

11 CHAIRPERSON ANDERSON: Go ahead,
12 ma'am.

13 MS. KINNER: -- that the research is
14 from Denver, Colorado as well. So it involves
15 recreational and medical cannabis, not just
16 medical cannabis. So I would also -- if that
17 adds any -- assists the Board at all in making
18 your determination.

19 CHAIRPERSON ANDERSON: I'm sorry.
20 What was the last thing you said, ma'am?

21 MS. KINNER: It is not just about
22 medical cannabis. The research -- I believe
23 we're talking about the same research article.
24 I'm a little confused about the numbering of
25 exhibits.

1 CHAIRPERSON ANDERSON: Yeah, I can't
2 -- I don't have --

3 (Simultaneous speaking.)

4 MS. KINNER: -- Denver, Colorado, not
5 Washington, D.C. It's a couple years old. It
6 only speaks to recreational and medical, not just
7 medical. So I don't know that beyond even if Mr.
8 Stevenson was the author of the document, I don't
9 think the document is relevant.

10 CHAIRPERSON ANDERSON: I'm going to --
11 I'm not going to -- I guess it's the document
12 that's identified as Exhibit 22, not 2, right?
13 The research on the effect of a dispensary and
14 neighborhood crime and then marijuana
15 dispensaries and neighborhood crime and disorder
16 in Denver, Colorado, is that the document?

17 MR. STEVENSON: Do I get to talk?

18 CHAIRPERSON ANDERSON: I'm trying to
19 figure out is that the document that we're
20 talking about.

21 MR. STEVENSON: There's a --

22 (Simultaneous speaking.)

23 MR. STEVENSON: -- research on the
24 effect of proximity of schools. It's from
25 Oregon, not from Denver.

1 CHAIRPERSON ANDERSON: I'm trying to
2 figure out what exhibit that we're --

3 (Simultaneous speaking.)

4 MR. STEVENSON: And it's my words.
5 The first page is my words. So you could just
6 ask me about the words I wrote.

7 MS. KINNER: It would still be not
8 relevant. The fact that it's from Oregon and not
9 Denver doesn't make it more relevant.

10 MR. SHANKLE: I would argue that it's
11 statistically --

12 (Simultaneous speaking.)

13 CHAIRPERSON ANDERSON: Who's speaking?
14 I'm sorry. I'm sorry. Who's speaking?

15 MR. SHANKLE: Michael Shankle.

16 CHAIRPERSON ANDERSON: I'm sorry, Mr.
17 Shankle. I'm trying to read it. I want to make
18 sure it was the right person speaking. Go ahead,
19 sir.

20 MR. SHANKLE: Sure. I would argue
21 that a research article that is published by the
22 National Institute of Health and article
23 published in HHS, Health and Human Service,
24 public access through a manual that they --
25 through a study that they funded is evidence.

1 It's statistically-based research.

2 CHAIRPERSON ANDERSON: Yeah, but I
3 don't see how -- but I don't see how this witness
4 can testify about this document. That's part of
5 the problem. I'm not -- this witness has not
6 been presented as an expert in this area.

7 So I think part of the problem, I
8 don't see how this witness can testify about this
9 document. It's not his document. You didn't
10 provide his resume to say that he is an expert so
11 he can testify on this area.

12 So that's part of the problem. So
13 based on what's presented so far, this witness
14 cannot introduce this document and testify on
15 this document because he has not been -- he's a
16 lay witness. And a lay witness can't give
17 opinion.

18 And he cannot testify about a research
19 document that he didn't offer. And we don't have
20 the information in the record that he's even
21 competent and qualified to opine -- well, he
22 can't give an opinion because he's not an expert.
23 So I'm going to sustain the objection. This
24 witness cannot testify -- this witness cannot
25 bring this document into evidence. And he cannot

1 testify about this document.

2 MR. SHANKLE: Do you believe that the
3 -- well, one second, sir. You -- so you
4 testified before D.C. Council regarding this --
5 the legislation that was proposed. And as part
6 of that, you talked about the inappropriateness
7 of a location within 300 feet or close proximity,
8 regardless of the discussion, to a school. Can
9 you talk about what you believe or you have
10 learned about things located close to schools
11 from your experience?

12 MR. STEVENSON: Sure. I'm here as a
13 dad. You're right. I'm not an expert witness.
14 I don't fully understand the rules. And so what
15 I can tell you is when we're nearby -- so when I
16 watch my children move to and from the school and
17 when I watch their friends move to and from the
18 school, to Navy Yard, to the Metro, to Archives,
19 to the Mall, they're in front of that proposed
20 dispensary site all the time, right?

21 And when I wonder about the -- when I
22 think about the appropriateness, when I consider
23 the appropriateness of this location and its
24 potential impact on the clientele of the school
25 that you heard from today, I had to talk to my

1 children about what it means to be a straw buyer,
2 what it means to find someone who will walk into
3 a dispensary -- also happens with liquor stores,
4 right -- who is over 21, who has the self-
5 certification and purchases and carries that and
6 sells it to you. I had to talk to my kids about
7 what it means to see it every day all the time
8 and to be exposed to the usage of cannabis. Yes,
9 it's a medical cannabis retailer and yes, it's
10 legal in the District.

11 But it's one thing for it to be
12 available and it's another thing to see it two,
13 three, four, six, eight times a day. Why does
14 advertising work? Advertising works through
15 repeated exposure, right?

16 And so to me in my conversations with
17 my children and with my conversations with
18 parents across the District, the appropriateness
19 of this location has something to do with safety
20 but a lot to do with the exposure and the risk of
21 procurement of illegal -- of cannabis that then
22 drives adolescent usage. Those are the concerns
23 I had. I can talk more about my conversations
24 with parents if that's where you'd like to go.
25 But I'll answer your questions.

1 MR. SHANKLE: And so those
2 conversations that you've had with your children
3 as you talked about the risk and the
4 appropriateness of the site.?

5 MR. STEVENSON: Yes, we have had
6 dinner table conversations. They -- I think
7 there was a question of are kids even going to
8 know. These kids already know. They know.

9 They're talking about it all the time
10 to each other. My kids are talking to me at the
11 dinner table. They know that this is a medical
12 cannabis retailer. And so we've talked about
13 what it means to have it right across the street.

14 MR. SHANKLE: I don't believe that I
15 have any other questions from this witness.

16 CHAIRPERSON ANDERSON: Ms. Kinner?

17 MS. KINNER: I have no questions,
18 Chairman.

19 CHAIRPERSON ANDERSON: Any questions
20 by the Board? Go ahead, Mr. Short.

21 MEMBER SHORT: And good afternoon
22 still, Mr. Stevenson.

23 MR. STEVENSON: Good afternoon, sir.

24 MEMBER SHORT: Mr. Stevenson, I asked
25 this question of the person who runs the school

1 across the street where your children go. And
2 I'd like to ask the same question of you. Are
3 you aware of the number of dispensaries that are
4 in the District of Columbia that are only allowed
5 to sell medical marijuana?

6 MR. STEVENSON: I'm aware of the
7 number of applications in the unlicensed period
8 of transition?

9 MEMBER SHORT: Okay. Well, I'm not
10 talking about unlicensed because they won't be
11 around that much longer. I'm speaking off the
12 ones that this Board has the legal authority to
13 make sure that they abide by the rules and the
14 laws and allow them to open up and operate as
15 retail medical cannabis operations.

16 MR. STEVENSON: I do not know the
17 number of currently licensed medical -- I believe
18 it's five maybe.

19 MEMBER SHORT: Let me say this to you.
20 I don't want to even go there with you. I think
21 it would be great especially as a parent, same
22 thing I said to the teacher, the instructor that
23 was here before us. Have you ever rode -- you
24 can go to the website -- ABCA website.

25 They will give you the address.

1 They'll give you the location, the hours, and
2 everything in these operations. Please drive by
3 one or two of them, three, four, five, six, or
4 seven of them, and tell me if you see -- and if
5 you do see lines, call this office.

6 Call ABC Board. Call ABCA and report
7 them because I doubt that you're going to find
8 any lines. And you've not going to find anybody
9 out front panhandling or people being straw
10 buyers going in and out to give kids or anyone
11 else.

12 I just want you as a concerned parent
13 because as I've stated, I'm a parent too, five
14 grandchildren, three great grandchildren. And I
15 would just say to you along with testifying like
16 you did before the council, be well educated
17 yourself, especially when you talk to your
18 children or other family members about
19 dispensaries here in the District of Columbia. I
20 think if you drove by one or two or three of
21 them, you would see that everything you thought
22 might not be what is really real.

23 MR. STEVENSON: Sir --

24 MEMBER SHORT: That's the best
25 education any of us parents or anyone else who

1 wants to come in before this council and talk
2 about have firsthand knowledge. Are you aware
3 that in most of the major cities around the
4 world, especially in Europe, they've had these
5 dispensaries for many, many, many years and those
6 civilizations are still there? Their children
7 are still going to school getting an education.
8 Are you aware of that?

9 MR. STEVENSON: Yes, sir. I am.

10 MEMBER SHORT: Are you aware that
11 we've had several United States Presidents before
12 there was any legal cannabis in the United States
13 of America that after they were President
14 admitted that they smoked but didn't inhale?

15 MR. STEVENSON: I'm not aware of any
16 President that asserted that he or she -- I guess
17 we don't have any she -- any President that
18 asserted that he consumed underage. And we're
19 not talking about --

20 (Simultaneous speaking.)

21 MR. STEVENSON: I'm answering your
22 question, sir.

23 MEMBER SHORT: Yes, sir. Go ahead.

24 MR. STEVENSON: We're talking about
25 children. We're talking about children. I'm

1 talking about 15-year-olds, 18-year-olds, 12-
2 year-olds. I don't know if I get to say this.
3 Thirty percent of 12th graders in this country
4 consumed cannabis in the last 12 months, 30
5 percent.

6 So yes, it's true adults legally can
7 do what they're entitled to. I'm worried about
8 kids. I'm worried about proximity.

9 You're right, sir, that I have no
10 traveled on a field trip to see the legal
11 licensed dispensaries. But I know from the
12 research I have done none of them is within 300
13 feet of a school. And certainly none of them is
14 within 87 feet of a school.

15 And I would hazard a guess that none
16 of them is window to window across the street
17 from a school. So sir, I respect and appreciate
18 the job that the ABCA Board does. I think it's a
19 real chore that you have in front of you to get
20 through this unlicensed transition period, and I
21 appreciate it. I live right next to H Street.

22 (Simultaneous speaking.)

23 MR. STEVENSON: -- my kids in the
24 school. Thank you.

25 MEMBER SHORT: My next question to you

1 is do you think sweeping -- like they have been
2 doing in this country for the last 100 or so
3 years, maybe a couple hundred years with
4 cannabis, sweeping it under the rug and acting
5 like it's not there is going to solve any
6 problems with children using it? Because
7 apparently, children of all races, all colors,
8 all economic have been doing it for many, many
9 years. And you probably know someone you were
10 growing up, if you're honest, that there was
11 marijuana around when you were in school. Or was
12 it?

13 MR. STEVENSON: Sir --

14 (Simultaneous speaking.)

15 MEMBER SHORT: Okay. You don't have
16 to answer that. You don't have to answer that.
17 You don't have to answer that.

18 MR. STEVENSON: I'm going to answer
19 it. There was marijuana. There was marijuana in
20 my school. I have close friends and family
21 members who used underage, and it had an adverse
22 effect on their lives. That's part of why I'm
23 here testifying today.

24 MEMBER SHORT: Okay. Now --

25 MR. STEVENSON: No, sir. I'm not

1 done. And you're the regulator, right? And so
2 to say it's available or used underage, I'm here
3 as a parent trying to reduce the risk of underage
4 use by expressing my concerns about the proximity
5 of this dispensary in my children's school and
6 the adverse effect on the clientele of that
7 school.

8 (Simultaneous speaking.)

9 MEMBER SHORT: But now don't you think
10 it's fair for me or anyone else to assume that
11 you need to be educated enough to give your
12 children the proper education of what's going on
13 or what's going to happen across the street from
14 this school and not hearsay and fear but what you
15 actually know?

16 MR. STEVENSON: You're welcome to ask
17 me questions about research I've done or what I
18 know. I mean, I don't make assumptions about
19 what you don't know, sir.

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: Hold on.

22 MEMBER SHORT: My last question, Mr.
23 Chair. Again, will you agree to maybe it would
24 help you and help your children if you roll past
25 -- don't go in. Don't get out of your car. Just

1 drive past and look at the dispensaries that this
2 agency and this Board has given licenses to. If
3 you do that, I would feel a lot better about your
4 testimony today.

5 MR. STEVENSON: I'm happy to do it.
6 I'd be glad to do it.

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

9 CHAIRPERSON ANDERSON: Any other
10 questions by any Board members? Go ahead, Mr.
11 Grant.

12 MEMBER GRANT: Question, good
13 afternoon, Mr. Stevenson. Thank you for being
14 here with us --

15 MR. STEVENSON: Good afternoon.

16 MEMBER GRANT: -- and being patient
17 with us as well. Short of us not granting this
18 license, is there anything that you believe that
19 the applicant could do to reassure you that your
20 children and your children's friends would be
21 safe and guarded from any sort of significant
22 material temptation to indulge in the age range
23 they are in now?

24 MR. STEVENSON: I appreciate the
25 question, sir. From where I'm sitting, if you

1 could persuade me, number one, that all customers
2 are going to immediately enter the building, wait
3 in there, that you're not going to have lines as
4 was previously been attested. And number two,
5 what I don't -- I heard it from the applicant's
6 testimony.

7 But I don't think it's true that he
8 can police the sidewalk in front of his
9 dispensary. I'm not sure that he has the legal
10 authority to do that, right? And so the concerns
11 I'm expressing and that I have discussed with my
12 children are -- and also with dozens and dozens
13 of BASIS parents and other school parents and
14 families around the city is about the sort of
15 repeated exposure and the risk of acquisition.
16 And I think that's -- from where I'm sitting, the
17 appropriateness question has to do to some extent
18 with distance and fronting on the same street.

19 MEMBER GRANT: Mr. Chair, no further
20 questions. Thank you, Mr. Stevenson.

21 MR. STEVENSON: Thank you.

22 CHAIRPERSON ANDERSON: Thank you. Ms.
23 Kinner, any questions of the witness based on the
24 questions that were asked by the Board?

25 MS. KINNER: I have no further

1 questions.

2 CHAIRPERSON ANDERSON: Mr. Shankle,
3 any redirect?

4 MR. SHANKLE: I have. I guess I want
5 to ask -- I want to follow up on Commissioner
6 Grant's question and Mr. Short's question about
7 what did you learn from the research that you
8 conducted?

9 MR. STEVENSON: Adolescent usage of
10 cannabis --

11 MS. KINNER: Objection. Objection.
12 Sorry, my mute was off. We've already been down
13 this road, I believe, about the research. And he
14 is not -- I supposed you could talk about exactly
15 what he learned. But once we get into talking
16 about what the studies showed or any of the
17 research, it's not appropriate.

18 CHAIRPERSON ANDERSON: I thought I
19 heard the question, what has he learned from the
20 research, he, he --

21 (Simultaneous speaking.)

22 CHAIRPERSON ANDERSON: -- the
23 operative word.

24 MS. KINNER: -- be a narrative answer
25 and we'll end up getting a dissertation about the

1 papers that you've already --

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: I think I heard
4 what has he learned. And so Mr. Stevenson,
5 please respond to the question as asked, what has
6 he, meaning you, learned?

7 MR. STEVENSON: I learned that -- I
8 learned that associations like the American
9 Pediatrics Association have grave concerns about
10 adolescent usage of cannabis. I've learned that
11 adolescent usage of cannabis has potentially
12 adverse effects on cognition of life outcomes,
13 right, and that there's -- somewhere -- somewhere
14 in the -- somewhere in the transition to
15 adulthood, that seems to be less the case, right?
16 But we're talking about 12, 15, 17-year-olds.

17 And I learned that the vectors that
18 drive adolescent usage look similar to other --
19 look similar to other areas that you regulate,
20 liquor and tobacco, right, repeat exposure,
21 advertising, et cetera. And so I had that
22 conversation with my kids. I have great kids,
23 and they go to a great school with great
24 families. And I love -- I love all the families
25 in D.C. But you're asking us to do a lot of work

1 with a level of exposure that's unprecedented in
2 this District and as far as I've been able to
3 figure out in the country.

4 CHAIRPERSON ANDERSON: Do you have any
5 other questions, Mr. Shankle?

6 MR. SHANKLE: I do not.

7 CHAIRPERSON ANDERSON: Thank you, Mr.
8 Stevenson. Thank you very much for your
9 testimony. Have a great day. All right. We're
10 going to take a break. And I said I want this
11 hearing to be over by 6:00 o'clock. We're not
12 going to meet that. But Mr. Shankle told me that
13 there are two other witnesses. Is that correct,
14 sir?

15 MR. SHANKLE: I will --

16 CHAIRPERSON ANDERSON: No, sir. If
17 you have two witnesses, you have two witnesses.
18 So I'm not asking you to cut your witnesses, sir.
19 I'm just trying to get clarification.

20 MR. SHANKLE: Yes, there are two
21 witnesses.

22 CHAIRPERSON ANDERSON: All right.
23 That's fine. Just for timing, I see we have two
24 -- that's what I'm saying. So we are going to
25 power through this today and we're going to

1 finish this hearing today.

2 All right. It's -- we'll take an 18
3 minute break. We'll come back on the record at
4 6:00 o'clock. And then we'll power through the
5 last two witnesses, and we'll close this case.
6 Okay?

7 So basically, we'll have the two
8 witnesses. Mr. Shankle, he's just waiting to
9 leave. We'll have the two witnesses, and then we
10 have closing. And then all right, so we're back
11 on the record at 6:00 o'clock. All right. Thank
12 you.

13 (Whereupon, the above-entitled matter
14 went off the record at 5:42 p.m. and resumed at
15 6:00 p.m.)

16 CHAIRPERSON ANDERSON: All right, Mr.
17 Shankle. Do you have another witness, sir?
18 You're on mute, Mr. Shankle.

19 MR. SHANKLE: I'm sorry about that.
20 I would like to call Calvin Foster, the head of
21 school of The Templeton Academy.

22 CHAIRPERSON ANDERSON: Mr. Foster, can
23 you turn your camera on, please?

24 MS. KINNER: Chairman, I would object
25 to this witness as unduly repetitious. We've

1 already heard from one headmaster or school head.
2 And I believe as the GIS map showed, there was no
3 indication that Templeton Academy was in the
4 vicinity. We didn't learn of Templeton Academy
5 until the ANC meeting. I believe Templeton is
6 also in an industrial or commercial zoned area.

7 MR. SHANKLE: Mr. Chairman?

8 CHAIRPERSON ANDERSON: Yes, Mr.
9 Shankle?

10 MR. SHANKLE: I would argue that the
11 fact that the applicant didn't do a thorough
12 search of the establishments around the location
13 just kind of indicates they didn't do their
14 research.

15 MR. SHANKLE: I would --

16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: Hold on. Hold
18 on a minute. You don't need to respond to that.
19 Templeton Academy did not show up on our GIS map
20 as testified by the witness. However, they're on
21 the disclosure. They were disclosed as a
22 witness.

23 And so I'm going to allow him to
24 testify. But again, Ms. Kinner, you have your
25 cross examination questions that you need to --

1 and as I said before, Mr. Shankle, we don't need
2 to have the same testimony that was given by
3 BASIS. And so I don't need -- I need new
4 evidence on your testimony that this witness is
5 going to give.

6 All right. So I'll overrule the
7 objection. Mr. Foster, can you raise your right
8 hand, sir? Do you swear or affirm to tell the
9 truth and nothing but the truth?

10 MR. FOSTER: I do.

11 CHAIRPERSON ANDERSON: Your witness,
12 sir.

13 MR. SHANKLE: Mr. Foster, can you tell
14 us who you are and the group that you represent?
15 Tell us about -- a little bit about Templeton
16 Academy.

17 MR. FOSTER: Yes, I am the head of
18 school at Templeton Academy, a private school.
19 It serves around 80 students in Washington, D.C.
20 We have a sister campus in Nashville, Tennessee.

21 MR. SHANKLE: Great. How long has the
22 school been at that location?

23 MR. FOSTER: The school has been in
24 this particular location since April of 2021.

25 MR. SHANKLE: Got it, terrific. And

1 tell me a little bit about -- you have 80
2 students in your school -- about the curriculum
3 and how it works with experiential learning.

4 MR. FOSTER: Yes, sir. So forgive me.
5 I am recovering from a cold. So there may be
6 times when I go on mute just to cough up a lung
7 real quick. So the pillars of our school are
8 project-based learning, experiential learning,
9 and core advisory.

10 So our goal is to deepen the learning
11 of our students by application of the academic
12 content with real world applications, to use the
13 city as a classroom. And so every week, we can
14 have -- or at any -- on any given day, we can
15 have upwards of 50 students off campus doing
16 different field trips. We call them field work
17 experiences and then social emotional programming
18 which is what we call core advisory. So those
19 are the three major areas that make our school
20 unique.

21 MR. SHANKLE: And how do your students
22 -- how does the Templeton Academy interact with
23 the building where this proposed location is
24 going to be?

25 MR. FOSTER: Yes, sir. So our campus

1 interacts in a couple of ways. Like the other
2 head spoke to, a lot of our students travel to
3 and from school utilizing the Metro as well as
4 for field works, walking and Metro as well. So
5 there is a lot of our students that traverse that
6 pathway where the establishment is applying for.

7 In addition because we have a main
8 campus space at 406 7th Street, we also have
9 ancillary space in the building at 407 Street
10 which is even closer to the establishment.
11 Additionally, our campus -- our building shares
12 an alleyway with this particular establishment.
13 So there are a few different ways that we could
14 potentially be coming in contact with that space.

15 MR. SHANKLE: Got it. And how have
16 you -- how has the Templeton Academy prepare for
17 this potential establishment at this location?

18 MR. FOSTER: Great question. So we
19 have been in contact with local law enforcement
20 to discuss potential ways of -- what's the word
21 I'm looking for -- of revising our safety plan to
22 account for any potential needs for lockdowns
23 given that we share that alleyway after my boss
24 came and had a better understanding of what was
25 potentially happening. One of our concerns was

1 the ability for the establishment to ensure in a
2 crisis ensure their security given the panels --
3 the window panels that are their storefront.

4 And so given that we have such a high
5 population of students that at any given time
6 during the school day from 9:30 to 4:30 which are
7 our hours of operation our concern was ultimately
8 how would we be able to secure our campus and our
9 ancillary space should there be a crisis. And
10 we've had to work with local law enforcement and
11 other entities that do these type of safety
12 assessment risks to come take a look at our space
13 and the surrounding neighborhood to help provide
14 suggestions, ideas, thoughts about how best to
15 secure our campus and our spaces in particular as
16 well as how to engage with a -- I'm sorry. I'm
17 forgetting the name of it. But there's a name
18 for after an emergency or after a crisis how you
19 reconnect families with their students. So we've
20 had to revise our approach to those elements.

21 MR. SHANKLE: Got it. And how long
22 have you been a teacher and the head of this
23 school?

24 MR. FOSTER: I started teaching here
25 at Templeton Academy when we were at another

1 location. That happened January of 2020. And
2 then I became the operations person for our
3 campus. And now I've been doing head of school
4 for two years.

5 MR. SHANKLE: Terrific. And you
6 disclosed to us earlier that you have visited
7 dispensaries around the city. Do you know if
8 they were licensed or unlicensed facilities?

9 MR. FOSTER: I do not know. To be
10 quite transparent, I did not even realize until
11 this situation came up that there was a licensed
12 versus unlicensed. I was operating under the
13 assumption that all of these dispensaries in D.C.
14 were licensed and supposed to be there.

15 So I don't know which of them were
16 not. I had been to a few with different people
17 that I knew and they partook. And so I went with
18 them to kind of see what the experience was like.

19 MR. SHANKLE: Got it. And the
20 location as a teacher and the head of this
21 school, having a dispensary in that proximity, do
22 you feel that it is an appropriate location?

23 MR. FOSTER: I would say that it is
24 not an appropriate location. My reasoning for
25 that is -- I mean, it's twofold. One is the

1 potential security concerns.

2 In particular, given that it is a
3 ground level storefront with such large windows,
4 again, we're concerned about their ability to
5 ensure that they can keep their space secure
6 given someone breaking the window. In addition,
7 I heard the owner discuss there being a security
8 guard. My question as soon as I heard that was
9 ultimately, will that security guard be armed?

10 If that's the case, that brings
11 another security concern for us with there being
12 a known live firearm within such close proximity
13 to our campus as well as the students that may be
14 walking around that area at any given time that
15 that security -- armed security guard may need to
16 use it. But again, don't know as the owner
17 didn't speak to whether or not it'd be armed
18 security or not. Our other concern -- my other
19 concern on the appropriateness of it has to do
20 with the increase in pedestrian and vehicular
21 traffic.

22 That particular block of D Street is
23 a very narrow street that gets very backed up
24 during rush hour. And additionally because our
25 hours of operation are a little bit later in the

1 day than BASIS is, a lot of our students and
2 families have to engage with and actually be a
3 part of some of that traffic that ends up getting
4 backed up on E Street as well as 8th Street. And
5 so, you know, I heard the owner speak to --
6 sorry. My apologies.

7 I heard him speaking to ensuring that
8 there wouldn't be long lines outside of their
9 establishment which is great. However, you can't
10 police -- or I shouldn't say police. You can't
11 ensure that the increased pedestrian traffic
12 won't impact the surrounding blocks as they are
13 attempting to find parking and/or walk over to
14 the establishment. And so that increase in
15 vehicular and pedestrian traffic is also of
16 concern.

17 MS. KINNER: If there was another
18 retail store there, would you have the same
19 concerns as the vehicular --

20 CHAIRPERSON ANDERSON: I'm sorry, Ms.
21 Kinner. You need to mute yourself, ma'am.

22 MS. KINNER: I'm so sorry. My
23 apologies.

24 MR. FOSTER: But I will definitely
25 answer that question for you when it's your turn.

1 I'm sorry. She made me lose my train of thought
2 there. So yeah, so the increase in pedestrian
3 and vehicular traffic around that area is also of
4 concern.

5 MR. SHANKLE: Thank you. I don't have
6 any other questions for the witness.

7 CHAIRPERSON ANDERSON: Ms. Kinner.

8 MS. KINNER: Yes, so I think the
9 witness already heard my question. I did just
10 want to ask the one about would you have the same
11 concerns if this store that was going in or the
12 retail location going into 717 D was not a
13 cannabis store, the same traffic concerns?

14 MR. FOSTER: It's a great question.
15 I would still have the concerns. The degree to
16 which I would have the concerns would shift a
17 little bit. It's my understanding that certain
18 things like liquor stores and dispensaries tend
19 to warrant a higher degree of pedestrian and
20 vehicular traffic than let's say a boutique shop
21 or a Macy's may because of the size of a Macy's.
22 That may give me a similar degree of concern.

23 MS. KINNER: This is just a yes or no
24 question that I have for you now. So if it was a
25 Safeway or a grocery store, would you have that

1 concern?

2 MR. FOSTER: Yes, I would.

3 MS. KINNER: Okay. Thank you. That's
4 it.

5 CHAIRPERSON ANDERSON: Any questions
6 for any Board members? Go ahead, Mr. Short.
7 You're on mute, Mr. Short.

8 MEMBER SHORT: Mr. Foster, how are you
9 this evening?

10 MR. FOSTER: I'm hanging in there,
11 sir. It's been a long day.

12 MEMBER SHORT: I hope you get better.

13 MR. FOSTER: And I'm not feeling well.

14 MEMBER SHORT: Well, I hope you get
15 better. I --

16 MR. FOSTER: Appreciate it.

17 MEMBER SHORT: -- take my hat off
18 again to all educators. And thank you for
19 working with our youth and our children. They
20 can't be molded unless they get the proper
21 education. And with that, I would just like to
22 say to you, are you familiar with any of the
23 legal dispensaries in Washington, D.C.?

24 MR. FOSTER: Like I said, I don't know
25 whether or not they were legal. That is unclear

1 to me.

2 MEMBER SHORT: Would you mind going to
3 our website, ABCA website, and getting a list of
4 all of them and maybe going by one or two of
5 them? And if you see any lines, please give us a
6 call right away because that is not something we
7 tolerate and it's well regulated. This Board has
8 the responsibility of policing -- or not
9 policing, but making sure all of these locations
10 are good neighbors and are abiding by the rules
11 and laws they get license under.

12 (Simultaneous speaking.)

13 MEMBER SHORT: So again, thank you for
14 your time today and please take care of those
15 kids. Most of them will remember you. I can
16 still remember my 4th grade social studies
17 teacher and I'm 77 years old.

18 MR. FOSTER: Yes, sir.

19 (Simultaneous speaking.)

20 MEMBER SHORT: When I touched the
21 Great Wall of China and the pyramids, I thank my
22 parents first and thank Mr. Inez first. I love
23 school teachers. Be blessed.

24 (Simultaneous speaking.)

25 MEMBER SHORT: That's all I have, Mr.

1 Chair. Okay. That's all I have, Mr. Chair.

2 MR. FOSTER: Could I ask Mr. Short a
3 clarification question?

4 CHAIRPERSON ANDERSON: No, sir. You
5 can't ask any questions. He's the only one who
6 can ask you questions, sir.

7 MR. FOSTER: Okay.

8 CHAIRPERSON ANDERSON: Do you have a
9 question, Mr. Grant?

10 MEMBER GRANT: Yes, first, thank you,
11 Mr. Foster, for your patience and hope you feel
12 better as soon as possible.

13 MR. FOSTER: Appreciate it.

14 MEMBER GRANT: Yeah, you're welcome.
15 My question is about any coordination between
16 your school and BASIS. Can you speak to your
17 communication channel with them just in general
18 of things that are happening in the area where
19 you guys are?

20 MR. FOSTER: As it pertains -- so the
21 extent of our communication, once it was brought
22 to my attention that this -- sorry. Once it was
23 brought to my attention that this establishment
24 was applying for a license to operate there, I
25 was put in contact through a parent at BASIS who

1 knows my boss. And we exchanged some email back
2 and forth around how best to address our concerns
3 around this particular establishment.

4 MEMBER GRANT: No further questions,
5 thank you.

6 CHAIRPERSON ANDERSON: Thank you. Ms.
7 Kinner, any questions based on the questions that
8 were asked by the Board? Any redirect, Mr.
9 Shankle?

10 MR. SHANKLE: No, sir.

11 CHAIRPERSON ANDERSON: Mr. Foster,
12 thank you very much for your testimony today.
13 Have a great day. Hope you feel better.

14 MR. FOSTER: Thank you. Appreciate
15 it. You too.

16 CHAIRPERSON ANDERSON: Thank you. Mr.
17 Shankle, do you have another witness?

18 MR. SHANKLE: I have my final witness.
19 I'd like to call Commissioner Lee.

20 CHAIRPERSON ANDERSON: Mr. Lee, can
21 you turn your camera on, please?

22 MR. LEE: Yes, I'm right here. Thank
23 you very much.

24 CHAIRPERSON ANDERSON: Can you raise
25 your right hand, sir? Do you swear or affirm to

1 tell the truth and nothing but the truth?

2 MR. LEE: Yes, sir.

3 CHAIRPERSON ANDERSON: Your witness.

4 MR. SHANKLE: Commissioner Lee, can
5 you tell us how this location that this
6 dispensary -- the area that this location -- the
7 area of this dispensary, how it relates to your
8 service as an ANC Commissioner?

9 CHAIRPERSON ANDERSON: Hold on one
10 minute, please. Mr. Lee, just state your name
11 for the record, please.

12 MR. LEE: Yes, my name is Thomas Lee.
13 I am an ANC Commissioner for Special Member
14 District 2C03. And I was elected -- and I was
15 elected in 2022.

16 CHAIRPERSON ANDERSON: I wanted the
17 court reporter to capture your name, sir. That's
18 all I was asking. But you can answer the
19 question now, sir.

20 MR. SHANKLE: So how does this
21 location where the dispensary is located, how
22 does this relate to you as an ANC Commissioner?

23 MR. LEE: The retailer is applying for
24 a license to operate -- the applicant is applying
25 for a license to operate a cannabis retailer in

1 my special member district.

2 MR. SHANKLE: And you represent the
3 constituents of that district?

4 MR. LEE: Yes, sir.

5 MR. SHANKLE: Got it. Can you talk to
6 me about what the constituents have communicated
7 with you?

8 MR. LEE: They've reached out and
9 expressed concern about the -- about the -- about
10 the application for -- to locate a cannabis
11 retailer at this location. They cited
12 congestion, especially around pickup time when
13 parents are double parked up and down 8th Street.
14 This has been particularly bad as a result of the
15 pandemic or since the pandemic -- I've noticed it
16 before.

17 And I had walked past it during --
18 during pickup times. And there is traffic
19 congestion because it dead ends into the Lincoln
20 Memorial. And so there's not very -- so traffic
21 is difficult.

22 And so there's a T -- it forms into a
23 T at that area. And there's delivery trucks.
24 There are people trying to get past, trying to
25 get to the highway underpass on 9th. And they're

1 just lots -- lots -- lots happening, kids running
2 back and forth and a lot of double parking. And
3 there's not a whole -- there are -- there's very,
4 very little available parking as well on those
5 blocks.

6 MR. SHANKLE: How have parents
7 communicated with you?

8 MR. LEE: They've reached out. They
9 attended our ANC meeting back in January. We
10 have had -- at that ANC meeting, we had more than
11 100 parents attend the meeting online.

12 We had 20 to 30 -- perhaps 25
13 altogether at the Martin Luther King Library.
14 And that was the -- I think that's been our best
15 attended ANC meeting for a very long time.
16 They've also -- they've also emailed the ANC
17 their concerns.

18 And I've collected by now perhaps
19 almost 100 -- between 75 to 100 emails from
20 different individuals in the SMD as well as the
21 parents that have their kids -- who send their
22 kids to the school. I also sent out a feedback
23 form just to better collect and collate data.
24 And the parents have also shared their feedback
25 to me through -- through online means as well,

1 not through email but separate means as well.

2 MR. SHANKLE: Got it. I would like to
3 enter into the record --

4 MS. KINNER: Objection.

5 CHAIRPERSON ANDERSON: What's the
6 nature of your objection, ma'am?

7 MS. KINNER: Well, my primary concern
8 is that the relevancy of these emails as most of
9 them are --

10 CHAIRPERSON ANDERSON: I don't know --
11 Ms. Kinner, just hold on to your objection. I
12 have no idea and neither do you have any idea
13 what document he's trying to enter into evidence,
14 do you? You don't know what document he's
15 entering in evidence.

16 So let's have the document first and
17 then let him tell us what document it is. And if
18 there's an objection, you can raise your
19 objection at that point. But currently, I don't
20 know what the document he's trying to enter into
21 evidence. So what's the document?

22 (Simultaneous speaking.)

23 CHAIRPERSON ANDERSON: Hold on. Mr.
24 Lee, it's -- hold on. Hold on. Hold on. Mr.
25 Lee, you are the witness. Mr. Shankle is the

1 attorney. Mr. Shankle, what is the document
2 you're trying to move in -- you're trying to have
3 -- what document is this?

4 MR. SHANKLE: I would like to move
5 into the record -- it is Item No. 2 on my PIF.

6 CHAIRPERSON ANDERSON: And what is
7 Item No. 2?

8 MR. SHANKLE: Which is the feedback
9 solicitation from families that may be most
10 impacted adversely by -- this was done by
11 Commissioner Lee.

12 CHAIRPERSON ANDERSON: Do you have an
13 objection, Ms. Kinner?

14 MS. KINNER: Yes, I do have an
15 objection. I actually have a few. There are
16 several forms here. I do think that the nature
17 of this particular exhibit is unduly repetitious.
18 And again, we're veering into that speculation
19 territory because none of the forms can point to
20 any fact, right?

21 They're still only pointing to their
22 concerns and their fears. But those concerns and
23 fears are not fact. And so I don't know that
24 this -- certainly if the Board does admit this, I
25 would ask that you specify specifically which

1 page because it's rather lengthy. And we are
2 already veering towards the evening.

3 CHAIRPERSON ANDERSON: This is the
4 last witness, ma'am. We are going to venture
5 through this. So sometimes I try to see if I can
6 find the exhibit. I don't have it. What number
7 is this?

8 MR. SHANKLE: It's Exhibit No. 2,
9 local feedback forms.

10 CHAIRPERSON ANDERSON: All right. Do
11 me a favor. Are you able to share your screen,
12 Mr. Shankle, because I don't have it in the
13 documents I'm looking at, so I can see the
14 document. Are you able to share your screen,
15 sir?

16 MR. SHANKLE: Yes, just give me one
17 second, sir.

18 CHAIRPERSON ANDERSON: Well, Mr.
19 Orellana, can you allow Mr. Shankle to share his
20 screen?

21 MR. ORELLANA: Access has been
22 granted.

23 CHAIRPERSON ANDERSON: Okay.
24 (Simultaneous speaking.)

25 MS. KINNER: -- one further thing.

1 Most of the local feedback are from parents.
2 They are not actually from Commissioner Lee's
3 constituents who would be people that live in
4 Ward 2.

5 CHAIRPERSON ANDERSON: Let me see the
6 document. Let me hear -- he is the ANC
7 Commissioner. BASIS public charter school, it's
8 an entity that's within his commission. That's
9 what he testified to. So he can have documents
10 and opinions from a portion of his constituent.
11 So let me see what we're talking about because I
12 can't find the document and what was uploaded for
13 me.

14 MR. SHANKLE: This was the -- can you
15 see that document?

16 CHAIRPERSON ANDERSON: All right. So
17 okay. I can see local feedback. So what is
18 this? Okay. Can we have the -- so why don't we
19 have the witness testify. Identify what is this
20 document.

21 MR. LEE: Can you hear me? I created
22 -- so there were -- I received a deluge of
23 emails. And so that's a separate exhibit. But
24 this particular exhibit was -- it came from a
25 feedback form that I created and I distributed

1 just to better gather information more quickly
2 and easily.

3 So I've collected a number of them.
4 I believe there must be 50 or so when I stopped
5 collecting them. And I just gathered them
6 together in this one long document for ease of --
7 for your ease of review. This is -- I simply
8 asked -- I gave the relevant -- basic information
9 about what's happening in my SMD. And I asked
10 for people -- yeah, I asked for some feedback and
11 this is the feedback that I received.

12 CHAIRPERSON ANDERSON: Okay. You have
13 an objection, Ms. Kinner?

14 MS. KINNER: Well, I think this is
15 somewhat -- prejudicial really isn't the right
16 term. But he's clearly -- this feedback form was
17 sent to people that he knew already had a
18 problem, right? This isn't -- these are people
19 who already emailed him presumably.

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: All right. All
22 right. The ANC Commissioner, he testified that
23 he was -- no, Mr. Lee. You cannot ask. You're
24 the witness, sir. You can't ask. You can't
25 participate in this. Okay?

1 It's Ms. Kinner and Mr. Shankle. He's
2 an ANC Commissioner. He testified that he
3 submitted -- he solicited input from his
4 constituents. This is what it is.

5 You're objecting, but I'm going to
6 overrule the objection. And if he wants -- he
7 testified if he wants to move this into evidence,
8 I'll allow the document to be moved into
9 evidence. Is that what you're trying to do, Mr.
10 Shankle?

11 MR. SHANKLE: Yes, that's what I'm
12 trying to do, sir.

13 CHAIRPERSON ANDERSON: So moved. This
14 is Exhibit -- I'm sorry. What's the number
15 again, sir, number 2?

16 MR. SHANKLE: It's Exhibit No. 2 on my
17 PIF form.

18 CHAIRPERSON ANDERSON: Okay. So it's
19 No. 2 over the objection of the applicant.

20 (Whereupon, the above-referred to
21 document was received into evidence as Protestant
22 Exhibit No. 2.)

23 CHAIRPERSON ANDERSON: Okay. So I'll
24 move it into evidence. Where are we now?

25 MR. SHANKLE: Did I -- am I still

1 sharing or did I stop sharing, sir?

2 CHAIRPERSON ANDERSON: You stopped
3 sharing, sir.

4 MR. SHANKLE: Okay, good, good, good.
5 I do wish to also move into evidence Exhibit 3.

6 CHAIRPERSON ANDERSON: What's Exhibit
7 3?

8 MR. SHANKLE: Exhibit 3 are the emails
9 that the Advisory Neighborhood Commission
10 received from constituents.

11 MS. KINNER: Objection.

12 CHAIRPERSON ANDERSON: Can you share
13 it and have the witness identify the document,
14 sir, so we'll know what it is?

15 MR. SHANKLE: Yes, sir. I believe I'm
16 sharing.

17 MS. KINNER: And I would -- just for
18 the record, I would like to object to the
19 introduction of this as well.

20 CHAIRPERSON ANDERSON: And what's the
21 nature of your objection, ma'am?

22 MS. KINNER: The nature of my
23 objection is that it is unduly cumulative. The
24 Board has already accepted the local feedback
25 forms. This is unduly repetitious. These emails

1 are from many of the same people reiterating the
2 same concerns they're iterating -- they are
3 stating in their emails. It is cumulative. I
4 don't think it's relevant either. But it's
5 cumulative at the very least.

6 CHAIRPERSON ANDERSON: I'm going to
7 accept the documents from -- he's the ANC
8 Commissioner. And these are emails from his
9 constituents to state their position on why the
10 ANC is protesting the granting of this license.
11 So I'm going to allow -- I'll allow Exhibit 3 to
12 be moved into evidence over the objection of the
13 applicant.

14 (Whereupon, the above-referred to
15 document was received into evidence as Protestant
16 Exhibit No. 3.)

17 MR. SHANKLE: And the final piece of
18 evidence that Mr. Lee spoke of was the video of
19 the testimony at the ANC.

20 CHAIRPERSON ANDERSON: What video?
21 What video did he testify? He didn't testify by
22 video.

23 MR. SHANKLE: Well, it's the meeting
24 record of the recording of the meeting.

25 CHAIRPERSON ANDERSON: Well, I don't

1 think that's relevant. You sent in a protest
2 letter that you stated that you had a public
3 meeting. The ANC voted, so I don't need a video.

4 MR. SHANKLE: Okay.

5 CHAIRPERSON ANDERSON: We're here
6 today because the ANC's protesting. That's why I
7 don't think we need a video to substantiate the
8 fact that the ANC protested this liquor license.
9 I'm sorry, not liquor license, this dispensary
10 license.

11 So, I'm not going to admit that.
12 That's not relevant because we already have your
13 protest letter in the record, as far as a case
14 report.

15 MR. SHANKLE: Got it. Thank you, sir.
16 And Mr. Commissioner, we -- I'm sorry, may I
17 continue with my questioning?

18 CHAIRPERSON ANDERSON: Of course. Go
19 ahead.

20 MR. SHANKLE: Okay, sorry. I didn't
21 know if we were -- I'm sorry, I just took it
22 back.

23 Mr. Lee, can you describe, do you have
24 children that attend this school?

25 MR. LEE: Yes, I've got a daughter

1 that is in grade six, and I have another daughter
2 that was just accepted, through the lottery
3 system, to the school as well.

4 MR. SHANKLE: Got it. And do you or
5 your children utilize this street to access these
6 schools?

7 MR. LEE: Yes. My daughter walks
8 herself to school every morning and walks back
9 from school along D Street, and would pass by the
10 retailer.

11 MR. SHANKLE: And have you heard from
12 other parents whose students do the same?

13 MR. LEE: Yes, I have. Many use
14 different Metros. And yes, some use Archives,
15 some use Gallery Place, some use Judiciary
16 Square. Different Metro stops and many of the
17 children will be passing past this retail space.

18 MR. SHANKLE: And why do you as a
19 parent think that this is an inappropriate
20 location?

21 MR. LEE: Well, I understand that the
22 law does allow the retailer to apply to locate at
23 this space. But for the fact of our zoning, she
24 would not have been allowed to locate at this
25 location.

1 And if the city feels that there
2 should be a buffer at other parts of the city,
3 then I, as the ANC Commissioner, should feel that
4 this school and my constituents and the kids that
5 go to the school should have the same level of
6 protection, even though the law does not agree or
7 the legislation says otherwise.

8 MR. SHANKLE: Got it. Is that why the
9 ANC is protesting on the appropriateness of this
10 location?

11 MR. LEE: There is that, but there is
12 also the fact that the ANC 2C, I started serving
13 my community back in 2022.

14 We are not against, and we are very
15 much in favor of, the new medical marijuana
16 cannabis amendment act that was passed last year.

17 And in fact, the same day that this
18 issue came before our ANC board, Ms. Kinner and
19 Mr. McGowan also came before our ANC and
20 presented another application, which the ANC
21 roundly approved of.

22 The applicant appeared at the ANC
23 meeting, introduced themselves and answered our
24 questions. They found a location that was beyond
25 the 300 feet of a school. It is actually not too

1 far; it's actually just down the street from
2 where I am right now, and we had no problems with
3 that.

4 We are very much in favor of
5 legalizing and making sure that the strength can
6 be done in a safe and regulated manner.

7 The city needs the tax revenues. And
8 at the same time, we disagree -- I disagree
9 adamantly about overcriminalization of the
10 consumption of cannabis. I am not against that.

11 And in fact, Our NCS also approved
12 many other applications. I believe there may be
13 about two others that were recently approved of
14 within the past two, three months, when they came
15 before us at the ANC. My ANC and my constituents
16 just feel that this location is particularly
17 inappropriate.

18 If they were a block further away,
19 around the corner, on an upper floor of this
20 building and were not just in plain sight and
21 would not have this retail frontage on the
22 corner, I don't think that there would be as much
23 protest. I don't think that there would be as
24 much opposition.

25 Speaking about appropriateness, I'm

1 very familiar with the location because I'm a Zip
2 Card member and I often will access the Zip Card
3 that's directly in front of this store, even
4 right now. And I'm very familiar with the
5 building, even when this was an operating office.

6 There are nine windows in this
7 building, and these windows are eight feet high
8 and range in width from three to six feet in
9 width. They're not double-paned or triple-paned.
10 They're just single-paned windows.

11 And my concern is that this is a
12 particularly inappropriate building for this type
13 of trade. And unfortunately, this type of trade
14 cannot access the normal banking system.

15 And I disagree with that. I think
16 they should. But so long as this industry
17 remains a cash-based business, there is going to
18 be a lot of cash being stored at the premises.
19 And it's very simple and easy for a building with
20 this many vulnerabilities to be robbed, I
21 believe.

22 In fact, there was a robbery just last
23 week of a cannabis store and where the clerk was,
24 unfortunately, killed, even after he handed over
25 money and the products that the thieves were

1 asking for.

2 I just don't think that we need this
3 directly in front of a school

4 CHAIRPERSON ANDERSON: Hold on. Ms.
5 Kinner? Yes, ma'am. You're on mute, Ms. Kinner.

6 MS. KINNER: We're veering off a
7 little bit from the actual question that was
8 asked. I'm wondering if the Board can kind of
9 keep Mr. Lee to the question that was posed, for
10 fear of being here.

11 CHAIRPERSON ANDERSON: We're not going
12 to be here. But Mr. Shankle, this is the last
13 witness? Please ask pointed questions. And Mr.
14 Lee, please answer the question directly, sir.
15 We do not need extraneous testimony.

16 I need to hear information that's
17 relevant to whether or not the Board should grant
18 or deny this license. Okay?

19 MR. LEE: All right.

20 CHAIRPERSON ANDERSON: So, all right,
21 let's move on.

22 MR. SHANKLE: Mr. Lee, have you
23 accessed a cannabis store?

24 MR. LEE: I've not been to one. I've
25 walked past dispensaries, and I've not been

1 inside. But I am aware of a few.

2 I've also researched a few of the ones
3 that have been licensed that are on the ABCA
4 website and I did a Google tour, a street view
5 tour of these locations. They look fine.

6 None of the ones that I saw on my tour
7 that are on this list have the same
8 vulnerabilities as this particular building.
9 They're all single-store fronts with perhaps a
10 window and a door.

11 This one has nine windows that are
12 eight feet high, four feet, six feet wide, and
13 there's nine of them, facing D and 8th Street.

14 MR. SHANKLE: Commissioner Lee, you've
15 frequented these stores. We've heard testimony
16 from both the inspector, the owner or the
17 applicant of the business, about how individuals
18 can get access to the store.

19 MR. LEE: Correct.

20 MR. SHANKLE: Have you gotten a
21 medical cannabis license?

22 MR. LEE: Yes. I've spoken to some
23 constituents and they told me that it's very
24 simple and easy to apply for one online.

25 Once you apply for one online, you

1 automatically get a three-day registered card
2 where you can go into any cannabis shop and
3 purchase the items that are inside.

4 You could submit a false ID. But you
5 could submit and you can upload a fake picture or
6 a fake ID, and then bring that fake ID with the
7 email that you get right away to a shop and
8 purchase immediately.

9 And I believe they have some time.
10 You get 30 days before they confirm whether you
11 get the actual item or not. But during this time
12 anyone can go ahead and purchase this.

13 They can apply for one of these
14 registration cards, these temporary permits, with
15 the fake ID and use that fake ID to purchase the
16 items inside. And who knows what they might do
17 with it once they do. Once they have it.

18 They could sell it to kids if they
19 want, even though they shouldn't. But there's no
20 way for us to control for that.

21 CHAIRPERSON ANDERSON: Hold on one
22 minute. You have your hand raised, Ms. Kinner.
23 You're on mute, ma'am.

24 MS. KINNER: Commissioner Lee is now
25 veering into territory where he is discussing the

1 process that somebody else went through and then
2 told him about.

3 He said he has not personally been
4 through this process. And frankly, I don't know
5 that he's qualified to discuss the process if he
6 hasn't been through it.

7 In fact, the Board would probably be
8 more familiar with the process than Mr. Lee or
9 the person who he knows that went through the
10 process and told him about it.

11 CHAIRPERSON ANDERSON: Well, I'm not
12 quite sure how we got down to the process. I
13 think Mr. Lee, I thought, testified that he had
14 never been to a facility. I thought I heard
15 that.

16 So, I thought that he was saying --
17 but you're not -- let me not say that.

18 Mr. Shankle, what I need as testimony
19 that's going to help the Board, the Board is
20 familiar with their process to get a license.

21 And here, of course, within the
22 District of Columbia, if you're 21 years or
23 older, you can go online and self-certify and get
24 a card so you can go to one of the legal
25 dispensaries and purchase.

1 We do have checks within the system to
2 ensure that people who are purchasing or who are
3 identifying, are who they say they are.

4 So, I mean, this portion of the
5 testimony is not relevant. It's not helpful to
6 the Board. So, let's move on to why they said to
7 you that the ANC believes that this particular
8 applicant is not appropriate, so there's no
9 question.

10 Mr. Shankle is going to ask you a
11 question. Therefore, I'm addressing to Mr.
12 Shankle. So, Mr. Shankle needs to ask you
13 questions that will elicit this type of testimony
14 that's helpful to the Board. Okay, let's move
15 on.

16 We've been doing a great job this
17 entire afternoon in staying on point. So, let's
18 continue to stay on point.

19 MR. SHANKLE: Got it. Mr. Lee, did
20 you get a temporary medical marijuana card today
21 in the name of Donald Duck, with a fake birth
22 date?

23 MS. KINNER: Objection.

24 MR. LEE: Yes, yes.

25 (Simultaneous speaking.)

1 MR. LEE: Let me answer this question.
2 I asserted answering the question already.

3 CHAIRPERSON ANDERSON: Hold on, hold
4 on. All right.

5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: All right,
7 okay.

8 MS. KINNER: For the exhibit list.
9 This is not --

10 CHAIRPERSON ANDERSON: All right.
11 Okay, I'm going to sustain the objection. Mr.
12 Shankle, this line of question has nothing to do
13 with this establishment. Okay? It has nothing
14 to do with the fact of whether or not this
15 applicant is appropriate for this location.

16 This applicant, there's a process that
17 ABCA has created for patients to get their cards,
18 which has been approved by the City Council.

19 I don't need to hear testimony on how
20 is it that an individual can get a medical card.
21 What I need is whether or not this potential
22 licensee is appropriate for this area.

23 So, let's move away from whether or
24 not Mr. Lee went online today and got a card
25 under Donald Duck. That's not relevant to this

1 hearing. Let's move on.

2 MR. SHANKLE: Yes. I understand, Mr.
3 Chair. But I do want to say that there has been
4 testimony today, both from the inspector, both
5 from the applicant, from Commissioner Short, that
6 this is a difficult process.

7 And this was able to be done today,
8 which is of concern --

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: I'm sorry, Mr.
11 Shankle. I pride myself that I tell all DC
12 residents that you can go online right now and
13 apply for a card and get one, and go to one of
14 the licensed dispensary and purchase. Okay?

15 So, that's not the focus of this
16 hearing, sir. That has nothing to do whether or
17 not there are holes in our process of getting a
18 card.

19 That's not relevant about whether or
20 not this applicant is appropriate to be in this
21 location. That is not relevant to the Board
22 making a decision today. So, I do not want to
23 hear any other questions about Mr. Lee's attempt
24 to get a card today.

25 And I think part of the problem is

1 that you are both public officials. And public
2 officials should not intentionally -- I'm not
3 saying this is done -- but I would hope that
4 public officials do not go and intentionally lie
5 online to prove a point.

6 I don't know what checks and balances
7 that there are with our system to get a card. I
8 don't know. I can't speak about that because
9 I've never gone online myself to get a card.

10 But this line of questioning is not
11 relevant to why we're here today, sir. So, let's
12 move on from there.

13 MR. SHANKLE: I have no other
14 questions for the witness.

15 CHAIRPERSON ANDERSON: Thank you. Ms.
16 Kinner, do you have any questions for this
17 witness?

18 MS. KINNER: I do. And I will try to
19 be as brief as possible. I would ask Mr. Lee to
20 please limit your questions to yes or no answers,
21 to the extent --

22 CHAIRPERSON ANDERSON: Ms. Kinner, Ms.
23 Kinner, Ms. Kinner? Do not ask Mr. Lee to do
24 that. You as an attorney need to ask him pointed
25 questions. So, therefore, you put him in a box

1 and that's the only answer he can get, ma'am.

2 So, if you ask open-ended questions,
3 you will allow him to answer. You ask pointed
4 questions where he can only answer the questions
5 yes or no, ma'am.

6 MS. KINNER: Yes. It's true isn't it,
7 Commissioner Lee, that the applicant, through
8 counsel, following the January 9th hearing, sent
9 you a draft settlement agreement?

10 MR. LEE: Yes, I received a draft
11 settlement agreement.

12 MS. KINNER: Okay. And isn't it true,
13 Mr. Lee, that prior to the mediation -- and I'm
14 not going to get into the substance of the
15 mediation -- that prior to the mediation you
16 failed to provide the edits or suggestions or
17 comments to that settlement agreement?

18 MR. LEE: We reviewed it --

19 MR. SHANKLE: I object.

20 CHAIRPERSON ANDERSON: We're talking
21 about process, not substance. Process, not
22 substance. Process, process. So, I'm going to
23 allow process. We're not talking about
24 substance. Process.

25 MR. LEE: I brought my edits to the

1 meeting itself.

2 MS. KINNER: To which meeting are you
3 referring to?

4 MR. LEE: The second mediation
5 meeting. I brought my edits and my suggestions
6 to that meeting.

7 MS. KINNER: And we are not going to
8 go into the substance of those. But following
9 that mediation, did the applicant send you
10 another draft settlement agreement that took into
11 account some of your concerns?

12 MR. LEE: Yes, he did. It still did
13 not address the primary concerns.

14 MS. KINNER: And did you provide any
15 edits or comments or suggestions to that second
16 iteration of the settlement agreement that you
17 were provided by the applicant?

18 MR. LEE: We were just too far apart
19 because we -- just too far apart.

20 MS. KINNER: So --

21 CHAIRPERSON ANDERSON: All right. Go
22 ahead, ma'am. I don't need to go down this road
23 a whole lot more.

24 MS. KINNER: Okay.

25 CHAIRPERSON ANDERSON: I mean, we have

1 this hearing today because clearly the parties
2 were unable to settle this matter. So, you've
3 established that there was conversation. But at
4 the end of the day, the parties were unable to
5 agree, so now the Board is faced with the task of
6 making a decision.

7 MR. LEE: Can I finish answering that
8 question, Chairman Anderson? I was about to
9 answer, and then you cut me off.

10 CHAIRPERSON ANDERSON: You can answer,
11 sir. But I just -- I don't need any further
12 questions or answers on this line of questioning.

13 MR. LEE: Yeah, but this is of
14 process.

15 CHAIRPERSON ANDERSON: You can answer,
16 sir.

17 MR. LEE: Thank you, sir. During our
18 discussions, I did ask that the applicant reach
19 out to the school heads and to the local
20 community. And I was told that that would not be
21 helpful and unnecessary.

22 CHAIRPERSON ANDERSON: Okay.

23 MR. LEE: Thank you.

24 MS. KINNER: If I may ask Mr. Lee --
25 thank you for actually providing that answer to a

1 question which I did not ask. But isn't it true,
2 Mr. Lee, that you yourself never actually
3 provided any information to the parents, other
4 than to agree with them about the proximity and
5 the concerns?

6 You did not hold any listening
7 sessions, or invite us to hold any listening
8 sessions with the parents about the safety around
9 medical cannabis, the applicant's security plan,
10 to really dig down and address some of those
11 issues. Isn't that right, Mr. Lee?

12 MR. LEE: So, Meredith, I'm new to
13 this. I'm sure you've done this --

14 MS. KINNER: Mr. Lee, that was a yes
15 or no question.

16 MR. LEE: You know what? Hold on,
17 there's some context. I'm new to this. I did
18 provide information. And I invited you to
19 address and to meet with the parents, or the
20 owner to do so. You did not come forth and say,
21 look, why don't we do this.

22 MS. KINNER: This is not an answer to
23 my question. I am asking, did you personally --
24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: All right, all

1 right. All right --

2 MS. KINNER: -- provide any education
3 around medical cannabis?

4 CHAIRPERSON ANDERSON: All right, all
5 right, all right.

6 (Simultaneous speaking.)

7 CHAIRPERSON ANDERSON: Okay, I'm going
8 -- let's move on from here. This is not relevant
9 to the Board. As was stated before, the parties
10 were unable to settle this matter. That's why
11 we're at the hearing. So, let's just move on.

12 MS. KINNER: Sure. So, I wanted to
13 discuss and mention it earlier, your ANC, ANC 2C,
14 did vote to support an application of a medical
15 cannabis retailer. Isn't that correct?

16 MR. LEE: Yes, that's right.

17 MS. KINNER: Okay. And that medical
18 cannabis retailer, their proposed location, which
19 has actually now been approved for licensure by
20 the Board, is at 406 5th Street. Is that
21 correct?

22 MR. LEE: That's correct.

23 MS. KINNER: Sure. So, would you
24 agree that that's really close to the Superior
25 Court, to the Court of Appeals, and to the

1 building museum? The National Building Museum?
2 That location?

3 MR. LEE: It's across the street from
4 the court, yes.

5 MS. KINNER: Okay. And it's in close
6 proximity to the National Building Museum.
7 Correct?

8 MR. LEE: I've not taken a measurement
9 of the distance --

10 MS. KINNER: I didn't ask for
11 measurement. I said in your opinion, it is in
12 close --

13 MR. LEE: Define close. Define close.

14 MS. KINNER: We don't need to go
15 there. Do you handle if this particular location
16 is on the ground floor?

17 MR. LEE: Yes, it is. But it only has
18 one window, I believe. Not nine.

19 MS. KINNER: Sure. But potentially,
20 there could be tourists -- students, perhaps even
21 your own children -- walk by that location on
22 their way to and from school, to sports, to
23 experiential learning. Isn't that true?

24 MR. LEE: That 5th Street is not
25 heavily trafficked at all.

1 MS. KINNER: Sure, right by the
2 courthouse. I have no further questions.

3 CHAIRPERSON ANDERSON: Any questions
4 by any Board members? All right, you have an
5 opportunity to redirect, Mr. Shankle.

6 MR. SHANKLE: I have no redirection,
7 sir.

8 CHAIRPERSON ANDERSON: All right,
9 thank you. Mr. Lee, thank you very much for your
10 testimony.

11 MR. LEE: Thank you.

12 CHAIRPERSON ANDERSON: All right, do
13 you rest, sir? You have no more witnesses? This
14 is your case?

15 MR. SHANKLE: I have no more
16 witnesses, no.

17 CHAIRPERSON ANDERSON: All right. So,
18 parties will have minutes to do closing. Are the
19 parties ready to do closing, or do they want to
20 take a break to do closing?

21 MR. SHANKLE: I'm prepared to do
22 closing.

23 CHAIRPERSON ANDERSON: All right. So,
24 the parties have five minutes to do a closing.
25 Ms. Kinner, you go first, and Mr. Shankle goes

1 second.

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: And I need the
4 parties to be specific what it is that they're
5 asking the Board to do.

6 MS. KINNER: And I would just my
7 colleague John McGowan will be doing the closing.

8 CHAIRPERSON ANDERSON: Okay. So, Mr.
9 McGowan. So, that's what I'm saying. So, I need
10 the parties to be very specific what it is that's
11 being asked of the Board. Okay? All right, so
12 go ahead, Mr. McGowan.

13 MR. MCGOWAN: Thank you, Mr. Chair.
14 Based on the evidence and testimony presented at
15 this hearing, we believe the applicant has
16 demonstrated that its medical cannabis
17 establishment is appropriate for this location at
18 717 D Street, NW.

19 We're asking the Board to dismiss this
20 protest. Applicant's business is located in a
21 highly commercial area in the Penn Quarter
22 neighborhood, surrounded by several bars,
23 restaurants, and other establishments patronized
24 by adult customers. There are no other licensed
25 medical cannabis establishments in this ANC.

1 Applicant's operations will not have
2 a negative effect on peace, order, and quiet in
3 the neighborhood, because it intends to remain
4 strictly compliant with ABCA regulations once it
5 becomes licensed and operational.

6 Investigator Peru testified that the
7 establishment is not currently operating at 717 D
8 Street, NW, and there's no records of ABCA
9 violations, or complaints in the record.

10 He further testified that based on his
11 experience, if you walk by a licensed
12 establishment while in operation, you wouldn't
13 even notice they were operating.

14 We heard applicant's owner testify
15 that it had submitted a comprehensive security
16 plan to ABCA as part of its application, and will
17 implement that plan, with a focus on public
18 safety for children, prior to becoming
19 operational.

20 He also testified that his counsel
21 made several attempts to work with the ANC to
22 enter into a settlement agreement, but was
23 unsuccessful.

24 And despite this, the owner testified
25 that the applicant's still willing to work with

1 the ANC and other community members to add more
2 security cameras on the exterior, more security
3 personnel coverage, and other security features,
4 as needed.

5 Applicant intends to be an involved
6 community member, continuously working with the
7 ANC 2C, and other community partners, as issues
8 or concerns arise.

9 Further, applicant testified that it
10 will discourage loitering and lines outside of
11 its facility. You heard the owner testify that
12 the location will have security personnel, a
13 waiting room, and all of its patients are going
14 to be served on the retail floor inside of the
15 facility.

16 Further, applicant's operation is not
17 going to create traffic issues. Expects most of
18 its customers, most of its patients, to travel by
19 foot or by public transportation.

20 Investigator Peru testified that
21 parking is available in front of the location.
22 It is located near two major Metro stations.

23 Protestant has presented no evidence
24 that what, if any, traffic issues will
25 specifically be created by applicant's presence.

1 Also, applicant's presence will not
2 affect property values in the neighborhood, and
3 protestant did not present any evidence that the
4 establishment will have a negative impact on real
5 estate property values.

6 On the other hand, the ANC relies on
7 speculative testimony, how dated crime articles
8 from other jurisdictions, when to expect, and
9 hypothetical scenarios, to show that the
10 applicant's future regulated operations at 717 D
11 Street would be inappropriate.

12 We ask that this Board dismiss this
13 protest and allow DC Smoke to continue through
14 the licensing process, and become a licensed
15 medical cannabis retailer as the law intended.
16 Thank you, Mr. Chair.

17 CHAIRPERSON ANDERSON: All right.
18 Thank you, Mr. McGowan. All right, is that you,
19 Mr. Shankle? You're on mute, sir.

20 MR. SHANKLE: Yes. Thank you, thank
21 you. Thank you for bearing with us, Board
22 members, today.

23 The applicant continues to reference
24 this as something other than appropriateness.
25 When we think about a location of a school, a

1 safe area for students to learn, to grow safely,
2 we don't think of having medical marijuana
3 establishments across the street from them. Just
4 like we don't consider having strip clubs across
5 the street from schools.

6 The applicant today basically
7 indicated that he chose this location because it
8 was available.

9 The data that he suggested, that he
10 used, I believe -- well, he did not even indicate
11 that he knew that a school was there until the
12 location was selected, and determined if they
13 should move forward.

14 The applicant hasn't made any
15 recommendations to improve or enhance his
16 security plans, given that he's in such close
17 proximity to these schools.

18 If a 300-foot safety area is warranted
19 in other schools, I ask this Board why isn't it
20 warranted in this school?

21 Because of bad legislation? Because
22 of advocacy from applicants? The downtown
23 corridor has hundreds of vacant properties close
24 to Metro locations, all over downtown, that this
25 applicant could have chosen, and would have most

1 likely been accepted.

2 He chose a location -- the applicant
3 chose a location that was close to these schools;
4 the most densely populated area in 2C with
5 children. He chose to position this across the
6 street.

7 It is inappropriate. We've heard
8 testimony today about equity; and about equity,
9 making sure that we bring marijuana out of the
10 closet.

11 This is about equity of our students.
12 This is about giving equity to ensure safety.
13 Are we willing to say that all of this testimony
14 was speculative, as the applicant is indicating?

15 Or are we willing to look at science
16 and data, and understand that we will have
17 ramifications. There will be mistakes that will
18 happen.

19 And are we willing to experiment with
20 children -- young people -- in their educational
21 environment? In the prime of their lives?

22 The ANC highly opposes this location
23 because of its location to schools and students.

24 That is it. It alone. And I would
25 encourage the Board to reject this, as they have

1 the power to do so, when they determine
2 appropriateness.

3 Appropriateness is what a reasonable
4 person would say about an establishment like
5 this. Is it appropriate for this establishment
6 to be across the street?

7 And I would say it's not. Thank you
8 very much.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you, Mr. Shankle.

11 The record is now closed. Do the
12 parties wish to file proposed findings of fact
13 and conclusions of law, or wish to waive their
14 right to do so?

15 MS. KINNER: Sweet. We would like to
16 file them.

17 CHAIRPERSON ANDERSON: All right. So,
18 since you --

19 (Simultaneous speaking.)

20 CHAIRPERSON ANDERSON: I'm sorry?

21 (Simultaneous speaking.)

22 MR. SHANKLE: -- not sure what that
23 means.

24 CHAIRPERSON ANDERSON: All right, this
25 is what it is. Is that the transcript will be

1 available in three weeks.

2 You will receive the transcript,
3 you'll review them, and you will basically state
4 this is what was proven today, this is what the
5 record shows, and this -- I'm sorry. This was
6 the testimony that was elicited today, and this
7 is the law, and this is how the Board should
8 rule. You're not bringing any new facts in this
9 case.

10 That's not something that normally we
11 do in protest hearings, but it is a decision.
12 I'm sorry, it is an option that folks have in
13 protest hearings.

14 And that's not something that you have
15 to do, but I think the applicant stated -- I'm
16 sorry, ma'am.

17 MS. KINNER: No, I just had a
18 question. Does it prolong the Board's decision -
19 -

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: It does prolong
22 -- yes, ma'am, it prolongs it because if you do
23 that, the transcript will be available in three
24 weeks, and then you'll have 30 days after you
25 receive the transcript to provide an answer; to

1 send it to us.

2 If you waive that, then the Board will
3 make a decision tonight and you'll get a decision
4 in 75 days from today.

5 MS. KINNER: Okay. I think we would
6 then waive the filing. I was not aware of that
7 process.

8 CHAIRPERSON ANDERSON: Okay. All
9 right. All right. Okay.

10 As Chairperson of the Alcoholic
11 Beverage and Cannabis Board for the District of
12 Columbia, in accordance with DC Code Section 2575
13 of the Open Meetings Act, I move that ABC Board
14 hold a closed meeting for the purpose of seeking
15 legal advice from our counsel on case number 24-
16 PRO-00009, DC Smoke, pursuant to DC Official Code
17 Section 2575(b)(4)(A) of the Open Meetings Act,
18 and deliberating upon case number 24-PRO-00009,
19 DC Smoke, for the reasons cited in DC Official
20 Code Section 2575(b)(13) of the Open Meetings
21 Act. Is there a second?

22 MEMBER GRANT: Mr. Grant, I second the
23 motion.

24 CHAIRPERSON ANDERSON: Mr. Grant has
25 seconded the motion. We'll now have a roll call

1 vote. Mr. Short?

2 MEMBER SHORT: Short, I agree.

3 CHAIRPERSON ANDERSON: Mr. Grant?

4 MEMBER GRANT: Mr. Grant, I agree.

5 CHAIRPERSON ANDERSON: And Mr.

6 Anderson, I agree. The matter passes 3-0. As it
7 appears that the motion has passed, I hereby give
8 notice that the ABCA Board will recess this
9 proceeding to hold a closed meeting, pursuant to
10 Section 2575 of the Open Meetings Act.

11 I want to thank both parties for their
12 presentation today. This is the first protest
13 hearing that we have had on a cannabis license,
14 so this is a learning process for all of us. And
15 I want to thank the parties for their cogent
16 presentation today. So, thank you for your
17 presentations.

18 So, the Board will issue a decision,
19 as I stated before, in 75 days, because it's a
20 new license. And give me one other minute so I
21 can close the record for the day.

22 As Chairperson of the Alcoholic
23 Beverage and Cannabis Board for the District of
24 Columbia, in accordance with Title III, Chapter 4
25 of 5, Office of Open Government, I move that ABC

1 Board hold a meeting on April 11th, which is next
2 week Thursday, at 1:30 p.m., for the purpose of
3 discussing and hearing reports concerning ongoing
4 or planned investigations of alleged criminal or
5 civil misconduct or violations of law or
6 regulations, in seeking legal advice from our
7 legal counsel on the Board's investigative
8 agenda, legal agenda, and licensing agenda, for
9 April 11th at 1:30 p.m., as published in the DC
10 Register on April 5th. Is there a second?

11 MEMBER SHORT: Mr. Short, I second.

12 CHAIRPERSON ANDERSON: Mr. Short has
13 seconded the motion. I will now take a roll call
14 vote on the motion before us, now that it has
15 just been properly seconded. Mr. Short?

16 MEMBER SHORT: Short, I second. I
17 mean, I agree.

18 CHAIRPERSON ANDERSON: Mr. Grant.

19 MEMBER GRANT: I agree.

20 CHAIRPERSON ANDERSON: Mr. Anderson,
21 I agree. As it appears that the motion has
22 passed, I hereby give notice that the ABC Board
23 will hold this closed meeting pursuant to the
24 Open Meetings Act. Notice will also be posted on
25 the ABC Board hearing room bulletin board, placed

1 on the electronic calendar and ABCA's website,
2 and published in the DC Register, in as timely as
3 manner as practical.

4 We are adjourned for the day. Again,
5 I want to thank all the parties that participated
6 in this hearing today. I would like to thank the
7 members of the public who signed on to listen to
8 this hearing today.

9 Thank you very much for your
10 presentation, thank you very much for your time.
11 Have a great day. I now direct all Board members
12 to return to Executive Session for further
13 action. Have a good night. Thank you.

14 (Whereupon, the above-entitled matter
15 went off the record at 7:11 p.m.)
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This is to certify that the foregoing transcript

In the matter of: DC Smoke

Before: DC ABCA

Date: 04-03-24

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