

DISTRICT OF COLUMBIA  
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 ALCOHOLIC BEVERAGE CONTROL BOARD  
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 MEETING

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 IN THE MATTER OF: :  
 :  
 Lidl US Operations, LLC, :  
 t/a Lidl :  
 2224 Town Center Drive SE : Protest  
 Retailer A - ANC 7B : Hearing  
 License #119890 :  
 Case # 22-PRO-00004 :  
 :  
 (Application for a :  
 New License) :  
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Wednesday  
 April 6, 2022

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

PRESENT:

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

ALSO PRESENT:

SARAH FASHBAUGH, DC ABRA Staff  
 STEPHEN O'BRIEN, Applicant Counsel  
 MANALLE MAHMOUD, Applicant Counsel  
 DANIEL GOODMAN, Witness  
 ASHLEY ROBINSON, Witness  
 TIFFANY BROWN, ANC 7B02  
 INVESTIGATOR CHRISTOPHER CONDON

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

2 1:39 p.m.

3 CHAIRPERSON ANDERSON: So there are  
4 only two cases left on our calendar for this  
5 afternoon. So the first case I'm now calling, is  
6 a protest hearing, Case No. 22-PRO-00004, Lidl,  
7 License No. 119890. This is an application for a  
8 new license.

9 Ms. Fashbaugh, can you please elevate  
10 the rights of the licensee, its witnesses, the  
11 Board's witness, and the protestant and his -  
12 her witnesses for this case, please.

13 MS. FASHBAUGH: Please stand by,  
14 Stephen O'Brien, your rights have been elevated.  
15 Manalle Mahmoud, your rights have been elevated.  
16 Christopher Condon, your rights have been  
17 elevated. Daniel Goodman, your rights have been  
18 elevated. Tiffany Brown, your rights have been  
19 elevated. Ashley Robinson, your rights have been  
20 elevated.

21 That is all, Mr. Chair.

22 CHAIRPERSON ANDERSON: Thank you, Ms.  
23 Fashbaugh.

24 Good afternoon, everyone. I would  
25 like the parties to introduce themselves for the

1 record. Let's start with the representative of  
2 the licensee.

3 MR. O'BRIEN: Good afternoon. Stephen  
4 O'Brien for the licensee. I'm accompanied by my  
5 colleague, Manalle Mahmoud.

6 Do you want spellings, Mr. Chair?

7 CHAIRPERSON ANDERSON: Yes, I need all  
8 parties to spell and state their name for the  
9 record, please.

10 MR. O'BRIEN: Okay, my first name is  
11 spelled S-T-E-P-H-E-N. Last name is O apostrophe  
12 capital B-R-I-E-N.

13 MS. MAHMOUD: Good afternoon. First  
14 name, Manalle, A-N-A-L-L-E. Last name is  
15 Mahmoud, M-A-H-M-O-U-D.

16 CHAIRPERSON ANDERSON: Good afternoon.  
17 Mr. O'Brien, if this matter goes to a hearing,  
18 and you wish to call in witnesses, supporting  
19 witnesses, that you have are on line, please.

20 MR. O'BRIEN: Yes, we have two  
21 witnesses whose rights have been elevated. One  
22 is Richard -- I'm sorry, I'm sorry, Daniel  
23 Goodman and the second is Ashley Robinson.

24 CHAIRPERSON ANDERSON: Could we have  
25 Mr. Goodman, can you please spell and state your

1 name for the record and your relationship,  
2 please.

3 MR. GOODMAN: Yes. Daniel Goodman  
4 here spelling first name, D-A-N-I-E-L. Last name  
5 Goodman, G-O-O-D-M-A-N. And I am Director of  
6 Real Estate with Lidl US with the applicant.

7 CHAIRPERSON ANDERSON: Thank you.

8 MR. GOODMAN: Thank you.

9 CHAIRPERSON ANDERSON: Ms. Robinson,  
10 can you please spell and state your name for the  
11 record, please?

12 MS. ROBINSON: My name is Ashley  
13 Robinson. It's A-S-H-L-E-Y R-O-B-I-N-S-O-N. I am  
14 the District Manager for upcoming Skyland store.

15 CHAIRPERSON ANDERSON: Thank you.  
16 ANC?

17 MS. BROWN: Thank you. Tiffany L.  
18 Brown, Commissioner for 7B02. Also, I am the  
19 chair of 7B. My name is spelled T-I-F-F-A-N-Y,  
20 middle initial L, last name B-R-O-W-N.

21 CHAIRPERSON ANDERSON: Thank you, Ms.  
22 Brown.

23 CHAIRPERSON ANDERSON: Do you have any  
24 witnesses you intend to call this afternoon, Ms.  
25 Brown?

1 MS. BROWN: No, sir.

2 CHAIRPERSON ANDERSON: Okay. The  
3 Board's witness, can we have the Board's  
4 representative, please -- the Board's witness  
5 spell and state his name for the record, please.

6 MR. CONDON: Sure. My name is  
7 Christopher Condon, C-O-N-D-O-N is the last name.  
8 My first name is Christopher, C-H-R-I-S-T-O-P-H-  
9 E-R. And I'm an investigator for the Alcoholic  
10 Beverage Regulation Administration.

11 CHAIRPERSON ANDERSON: Good afternoon,  
12 everyone, good everyone.

13 All right, this is a focus hearing  
14 that we're having this afternoon and so prior to  
15 starting the hearing, are there any preliminary  
16 matters? We'll start with the applicant.

17 MR. O'BRIEN: Yes, Mr. Chair. I want  
18 to make a motion to dismiss the protest pursuant  
19 to 23 DCMR 1722.10. That's 1722.10.  
20 Notwithstanding adequate notice and without good  
21 cause, the protestant failed to file a protest  
22 information form or exhibit forms. For that  
23 reason and as provided in Section 1722.10, the  
24 protest is subject to dismissal.

25 CHAIRPERSON ANDERSON: Ms. Brown, any

1 response?

2 MS. BROWN: I'm not sure what the  
3 applicant's attorney expected me to bring. I  
4 don't have any witnesses and I don't have any  
5 exhibits.

6 CHAIRPERSON ANDERSON: His motion is  
7 that we should dismiss because you did not file a  
8 --

9 MS. BROWN: I object to that. I  
10 object to dismissing.

11 CHAIRPERSON ANDERSON: He has asked  
12 that we dismiss your protest because you did not  
13 file a PIF. The response of that, why didn't you  
14 file a PIF seven days prior to the hearing as was  
15 required by -- as was requested by -- as I  
16 informed all parties, both parties at the pre-  
17 hearing conference.

18 MS. BROWN: Right. And I was under  
19 the impression that you had to file if you were  
20 going to present any exhibits or witnesses,  
21 correct?

22 And I believe I asked ABRA if I needed  
23 to list myself as a witness because I was coming  
24 as the protestant and I was told no as I was  
25 already down for appearing at the hearing.

1 CHAIRPERSON ANDERSON: Mr. O'Brien?

2 MR. O'BRIEN: May we know who at ABRA  
3 told Ms. Brown this?

4 MS. BROWN: Sure. Give me a moment.  
5 Martha Jenkins.

6 CHAIRPERSON ANDERSON: So Ms. Brown,  
7 you're saying that - Ms. Brown is saying that  
8 Ms. Jenkins informed you that because you were  
9 calling any witnesses that you did not have to do  
10 a PIF?

11 MS. BROWN: That's exactly what I'm  
12 saying.

13 CHAIRPERSON ANDERSON: Any other  
14 comments you wish to make, Mr. O'Brien?

15 MR. O'BRIEN: Yes, what I understand  
16 Commissioner Brown to be saying is  
17 notwithstanding she intends to testify herself.  
18 Do I understand Ms. Brown correctly?

19 CHAIRPERSON ANDERSON: I think I heard  
20 that.

21 MR. O'BRIEN: Okay, well, I would  
22 suggest that the Board consult with Ms. Jenkins  
23 about this. I mean we diligently in every case  
24 adhere to the Board's requirements regarding the  
25 filing of a PIF and exhibit forms.

1                   And at the status hearing in this  
2 case, the chair, as always, advised the parties  
3 of it and then letters come out to the parties  
4 and we are aware of no exception that a party  
5 need not list -- need not submit a Protest  
6 Information Form if they intend to testify  
7 themselves.

8                   I think probably we'll need to consult  
9 with Ms. Jenkins about this.

10                   CHAIRPERSON ANDERSON: One of the  
11 reasons why we have the PIF, I think some 1722.7  
12 states that the PIF -- the PIF and exhibit form  
13 and attachments shall be served on all parties  
14 and the Board also to general counsel prior to  
15 the hearing.

16                   And I believe -- and 1722.5 states  
17 that the Board may rule at the hearing on witness  
18 on -- any witness or exhibits not disclosed on  
19 the PIF or the exhibit form. If the Board finds  
20 that the opposing party has been prejudiced by  
21 the failure to disclose or if there has been a  
22 failure to disclose.

23                   Now Mr. O'Brien, you stated that and  
24 I think that Ms. Brown has stated that she is the  
25 only witness that will be testifying here today,



1 so can you tell us how is it that you have been  
2 -- that is if the Board wants to rule that Ms.  
3 Brown can testify, how is it that the -- how has  
4 your client been prejudiced if Ms. Brown -- there  
5 are no documents, Ms. Brown is the person who is  
6 testifying, how -- because the -- 1722.5 states  
7 the Board may exclude at the hearing any  
8 witnesses or exhibits not disclosed in the PIF or  
9 the exhibit form if the Board finds that the  
10 opposing party has been prejudiced by the failure  
11 to disclose or if there has been a knowing  
12 failure to disclose?

13 MR. O'BRIEN: We are prejudiced by  
14 having had to punch in the dark in preparation  
15 for this hearing because we had no PIF from the  
16 ANC to rely upon.

17 CHAIRPERSON ANDERSON: And you say you  
18 didn't think that the applicant -- I'm sorry,  
19 that the protestant itself would testify or that  
20 the protestant would not -- another witness. I  
21 mean I guess from what I'm hearing is the  
22 protestant has shown up here today to say that  
23 there's another member or there's another member  
24 of the public to testify, I guess in my view that  
25 I could say that -- the argument could be shown

1 that the person would be prejudiced.

2 But at the same time prior to making  
3 a ruling on that, under Title 23, Chapter 16,  
4 1612.25, 1612.25, 1612.25 states that the  
5 applicant shall call its witnesses to give  
6 testimony and present evidence regarding the  
7 appropriateness of the establishment as set forth  
8 in Section 400. So the regulation states that  
9 the applicant has to prove to the Board that it  
10 -- that the applicant itself has to prove to the  
11 Board that the granting of the license is  
12 actually appropriate for the area, but it's not a  
13 matter of right that the Board shouldn't grant  
14 the license, grant the license.

15 I do not believe, in my view, I do not  
16 believe that the applicant has been -- has shown  
17 that it would be prejudiced to have this one  
18 witness testify because the witness who is  
19 testifying is a party and I believe that the  
20 protestant -- I'm sorry, that the applicant is on  
21 notice that if you have a protest hearing that  
22 the parties would be testifying.

23 And so I am -- what I would suggest to  
24 the Board is that the Board denies this motion  
25 because I don't see how the applicant can prove

1 that it has been prejudiced because the  
2 protestant, who is a party to this litigation is  
3 going to testify today and also because the  
4 regulations require that the applicant prove to  
5 the Board that the application, the granting of  
6 this license, is appropriate for the area. So  
7 that's --

8 Yes, Mr. O'Brien?

9 MR. O'BRIEN: I have two observations.  
10 Ms. Brown is not the protestant.

11 CHAIRPERSON ANDERSON: I'm sorry?

12 MR. O'BRIEN: Ms. Brown is not the  
13 protestant.

14 CHAIRPERSON ANDERSON: It's my  
15 understanding that Ms. Brown is the -- as chair  
16 of the ANC, it's my understanding, at least the  
17 information that was presented to the Board was  
18 the ANC protested this license.

19 The letter from the ANC states and --  
20 the letter from the ANC stated that -- I got this  
21 information in preparing for this case and  
22 reviewing the case report that was done by the  
23 Board agent, outside -- the Board's investigator  
24 who is a witness today, that the letter, at  
25 least, the letter that was provided to the Agency

1 stated that Ms. Brown is the spokesperson for the  
2 ANC.

3 MR. O'BRIEN: That is correct, but  
4 sir, that doesn't make Ms. Brown a party. The  
5 ANC is a party.

6 CHAIRPERSON ANDERSON: The ANC is a  
7 party and the letter states that Ms. Brown is a  
8 spokesperson for the ANC. At least that's what  
9 the letter that was stated -- that's in the case  
10 report that was provided by Mr. Condon. If I'm  
11 incorrect, I'm trying to --

12 MR. O'BRIEN: I'm not saying you're  
13 incorrect about that. I'm simply saying that Ms.  
14 Brown, the individual, is not a party. And with  
15 the ANC now purports to call Ms. Brown as a  
16 witness without having her listed on the Protest  
17 Information Form.

18 The second observation I would make is  
19 that if the protest is dismissed, then the case  
20 is uncontested and is deemed appropriate and  
21 thus, we need not go forth with a protest  
22 hearing.

23 The Board does not conduct a hearing  
24 and it rescinds the application. And I don't  
25 have the statutory reference, but without a

1 pending protest, an application is deemed  
2 appropriate.

3 CHAIRPERSON ANDERSON: So Mr. O'Brien,  
4 but you're asking -- you're asking the Board to  
5 -- I know that we can -- you can always provide  
6 procedural -- we can always make procedural  
7 arguments. But procedural arguments, it's my  
8 understanding that the ANC was at the roll call  
9 and the ANC was granted standing.

10 The ANC was also and it's my  
11 understanding that Ms. Brown was representative  
12 of the ANC at the roll call. I believe that if I  
13 remember correctly, that Ms. Brown, on behalf of  
14 the ANC, was at the status hearing and so  
15 therefore there was no issue with standing,  
16 providing standing to the ANC. But I believe  
17 that you're now stating that we should dismiss  
18 the ANC or Ms. Brown because Ms. Brown did not  
19 provide a PIF.

20 But based on what my reading here is  
21 that we do have a protest hearing today and at  
22 least my reading of the statute says that  
23 irrespective whether or not the ANC has --  
24 whether or not it is being contested by -- by the  
25 ANC, there's no reason for us not to have a

1 protest hearing today.

2           And the statute, the regulations at  
3 1612 says that the Board could then take  
4 evidence, if any, and then the applicant would  
5 present evidence. 1612.45 says applicant shall  
6 call its witnesses to give testimony and present  
7 evidence regarding the appropriateness of the  
8 establishment as set forth and so after the  
9 applicant has presented its case, then the  
10 protestant would present its case.

11           So I mean I think that a motion would  
12 probably be more appropriate after the protestant  
13 -- I'm sorry, after the Board and the applicant  
14 presents its case because the protestant doesn't  
15 have to do anything at this juncture. The  
16 protestant is here. The Agency presents its  
17 case. The applicant presents its case and even  
18 if the protestant had submitted documents related  
19 -- the protestant could state, after the case is  
20 presented, I'm not going to present any evidence,  
21 so therefore I want the Board to make a  
22 determination on the application on what the  
23 testimony evidence that was made by the Board and  
24 by the applicant. And the protestant could say  
25 at the end of all of that that I'm not going to

1 call any documents and witnesses and so I don't  
2 see how -- I don't see the difference there, sir.

3 MR. O'BRIEN: Well, the difference  
4 could be if the motion to dismiss were to be  
5 granted, there no longer is a protestant. There  
6 no longer is a protest in which case there would  
7 nothing to go forward on.

8 But if I understand the chair's  
9 inclination it seems to deny the motion to  
10 dismiss, deny this motion to dismiss and if  
11 that's the case, if this motion to dismiss is  
12 denied, then yes, we will proceed to hearing.

13 CHAIRPERSON ANDERSON: Are there any  
14 questions on this issue by the Board members?

15 MEMBER SHORT: Mr. Chairman, I don't  
16 have any questions. I'd just like to clarify for  
17 the record that I am a member of the community of  
18 7B. I've lived there for over 33 years and that  
19 will have no bearing on my decision making when  
20 it comes to this particular case. Thank you.

21 CHAIRPERSON ANDERSON: Thank you for  
22 that, Mr. Short. And I had also disclosed to the  
23 parties at the show cause status hearing that I  
24 also lived in this community. I was at one point  
25 -- I was on the ANC. I left the ANC four years

1 ago and I did share -- I did work on the ANC as  
2 an ANC member with Ms. Brown. So I did disclose  
3 all of that information at the show cause status  
4 hearing, I'm sorry, the protest hearing status  
5 hearing to the parties. And I believe that my  
6 living in this community and also being familiar  
7 with Ms. Brown both professionally,  
8 unfortunately, because she's a neighbor, that  
9 does not impact whatever decision that I would  
10 make regarding this matter. So that I had  
11 disclosed at the show cause -- I'm sorry, the  
12 protest hearing status. I did disclose that.

13 But are there any questions by anyone  
14 else -- any Board member regarding this issue or  
15 any other representation that anyone else wishes  
16 to make?

17 MR. O'BRIEN: The applicant, both the  
18 chair and Chief Short have disclosed grounds for  
19 one to question, but we choose not to question.  
20 We're perfectly satisfied that both the chair and  
21 Chief Short can be objective and fair to both  
22 parties in this matter.

23 CHAIRPERSON ANDERSON: Thank you for  
24 that representation Mr. O'Brien. As I said  
25 before, it is just as important enough for me,



1 for myself to have disclosure. The first time  
2 this was brought to the Board's attention I did  
3 disclose to both parties my familiarity and  
4 relationship with the area. But as stated, D.C.  
5 is a very small -- although there are over  
6 600,000 people here, D.C. is still very small and  
7 to state that it's unlikely that people -- that  
8 as you move forward that you're not going to know  
9 individuals in some capacity.

10 But as I said before, I do not believe  
11 that the parties would be -- the applicant would  
12 be prejudiced by allowing Ms. Brown to testify  
13 because Ms. Brown was identified as the ANC  
14 representative. And she was identified by the  
15 letter from the ANC to the Board that she would  
16 be the spokesperson for the ANC, so I don't  
17 believe that the applicant would in any way be --  
18 and also the purpose of the PIF is to ensure that  
19 there are no surprises that the parties are on  
20 notice who would be called as witnesses and  
21 testify.

22 And also just as a matter of record,  
23 it's discretionary by the Board if the Board  
24 would grant -- even if Ms. Brown had submitted a  
25 late PIF, it would be discretionary by the Board

1 to make a determination whether or not the other  
2 side would be prejudiced by allowing a late PIF  
3 that was not supplied seven days in advance.

4 So I therefore make a motion to the  
5 Board to deny this -- the motion by the  
6 applicant, by the applicant. Is there a second?

7 MEMBER CROCKETT: Ms. Crockett  
8 seconds.

9 CHAIRPERSON ANDERSON: Ms. Crockett  
10 has seconded the motion.

11 We'll now have a roll call vote on the  
12 motion.

13 Mr. Short.

14 MEMBER SHORT: Mr. Short, I agree.

15 CHAIRPERSON ANDERSON: Mr. Cato.

16 MEMBER CATO: Bobby Cato, I agree.

17 CHAIRPERSON ANDERSON: Ms. Crockett.

18 MEMBER CROCKETT: Rafi Crockett, I  
19 agree.

20 CHAIRPERSON ANDERSON: Ms. Hansen.

21 MEMBER HANSEN: Jeni Hansen, I agree.

22 CHAIRPERSON ANDERSON: Mr. Grandis.

23 MEMBER GRANDIS: Edward Grandis, I  
24 agree.

25 CHAIRPERSON ANDERSON: And Mr.

1 Anderson, I agree.

2 The Board has denied the motion. But  
3 based on the discussion that was heard I -- let  
4 me ask the question to see if there's a way we  
5 can, we can shorten this, whether or not we  
6 actually need to go through an elongated protest  
7 hearing.

8 I need to find out from the parties is  
9 the ANC denying -- is the ANC against granting  
10 this license?

11 Ms. Brown?

12 MS. BROWN: No, the ANC is not against  
13 granting this license.

14 CHAIRPERSON ANDERSON: Fine. Well,  
15 can we both agree that the license will be  
16 granted? Is there consensus? Are the parties in  
17 agreement that the license will be granted by the  
18 Agency -- the Agency will grant the license?

19 MR. O'BRIEN: Applicant's is in  
20 agreement.

21 CHAIRPERSON ANDERSON: So is the ANC  
22 then protesting this license because they're  
23 asking for conditions on the license?

24 MS. BROWN: Yes, we're asking to put  
25 in place a settlement agreement.

1                   CHAIRPERSON ANDERSON: Well, it can be  
2 a settlement agreement, Ms. Brown, but where we  
3 are today, is that if you want to put testimony  
4 on why the Board should grant this license with  
5 conditions, then you would have to provide us the  
6 conditions and the justification for the  
7 conditions and I would ask -- and then the  
8 applicant would put testimony in in evidence on  
9 why the Board should grant this license without  
10 any conditions.

11                   I mean that's how we can -- we can  
12 have this hearing in the sense that we can have a  
13 truncated process where the licensee can put  
14 testimony and evidence on why conditions should  
15 not be granted, why conditions should not be  
16 placed on the license, that the license should be  
17 issued unconditionally. And then the ANC should  
18 present, can present evidence whether or not what  
19 the conditions should be and the Board will make  
20 a determination in the end whether or not the  
21 license will be granted with conditions or  
22 without conditions.

23                   Would that work for the parties?

24                   Basically, we could bypass the  
25 presentation of the Board's witness and Mr.

1 O'Brien, you can call your witnesses to testify  
2 why the license should be granted without  
3 conditions and Ms. Brown will provide evidence to  
4 say why the license should be granted with  
5 conditions.

6 MR. O'BRIEN: I don't know how much  
7 that truncates the proceedings, Mr. Chair.

8 CHAIRPERSON ANDERSON: I'm sorry, go  
9 ahead.

10 MR. O'BRIEN: May I suggest an  
11 alternative suggestion?

12 CHAIRPERSON ANDERSON: Yes, sir.

13 MR. O'BRIEN: As the Board hears from  
14 its investigator --

15 CHAIRPERSON ANDERSON: Yes, sir.

16 MR. O'BRIEN: There's only one issue  
17 here. It's peace, order, and quiet. And also as  
18 the protest letter mentioned trash, but trash  
19 isn't a peace, order, and quiet issue.

20 As the Board hears from the  
21 investigator, I believe after reading the  
22 investigator's report, his testimony will be to  
23 the effect that although he can't observe  
24 anything directly, because there's no store in  
25 operation, that he is not aware of any reason to

1 believe this application would adversely affect  
2 peace, order, and quiet.

3 Now that I believe is enough for the  
4 Board to proceed on to hear the protestant say  
5 why not? That would truncate things.

6 I've prepared our witnesses. We're  
7 prepared to go forward, but we could rest on the  
8 investigator's testimony that he is aware of  
9 nothing that would impair peace, order, and quiet  
10 and then put I think the ball in the lap of  
11 Commissioner Brown, where it really belongs, to  
12 say what the problem is here.

13 CHAIRPERSON ANDERSON: I don't  
14 disagree with you. The only position I'm saying  
15 is the Board agent does not make the  
16 recommendation. The Board agent is just, at  
17 least, the Board agent's position is presenting  
18 what was seen. The Board's agent does not make a  
19 conclusion, so I don't want it to be that the  
20 Board agent has concluded that the establishment  
21 is appropriate for the area. That's not -- that  
22 is not the role of the agent.

23 The agent is going to say this is my  
24 investigation and this is what I saw and then  
25 it's up to the Board to determine if it's

1 appropriate. And so both parties can ask  
2 questions of the Board's agent, but I just want  
3 to make sure that the Board is not going to adopt  
4 the conclusion to say the agent stated that it's  
5 appropriate. The Board has to make its own  
6 independent judgment based on what's heard today,  
7 whether or not that's appropriate.

8 So as I said before, the Board -- the  
9 agent can testify about his findings and about  
10 his findings and we can have cross examination.  
11 If both parties agree that one cross examination  
12 is done, if they don't want to present their  
13 case, then if they think that's sufficient for  
14 the Board to make a determination, if there's  
15 agreement there, I'll adopt that, but I'm not  
16 going to tell the parties -- the parties want to  
17 present their case the way they envisioned, they  
18 can do that. I'm just suggesting if it makes  
19 this shorter, but I'm not telling anyone how it  
20 is that they should present their case.

21 MR. O'BRIEN: I would suggest, Mr.  
22 Chair, that you probably should hear from your  
23 investigator.

24 CHAIRPERSON ANDERSON: We can hear  
25 from the investigator, and then once the

1 investigator presents its case, then let's see  
2 where we are. So basically what we'll do, the  
3 process then is we'll have an opening statement  
4 from the applicant, an opening statement from the  
5 ANC, and once we have the opening statements,  
6 then the Board will call the Board's witness and  
7 see where we go there.

8 All right, so does the applicant wish  
9 to make an opening statement.

10 MR. O'BRIEN: Very briefly, Mr. Chair.  
11 The evidence will show -- let me go back a step.  
12 Skyland has been a source of concern for the  
13 community and the D.C. Government for decades.  
14 And I harken back to when Walmart told what I  
15 think can fairly be described as a bait and  
16 switch on the city and left Skyland as it was.

17 The evidence will show that the city  
18 government aggressively encouraged, recruited  
19 Lidl to open this store. The evidence will show  
20 this is not the typical location for a liquor  
21 store, but the request of the city they're going  
22 forward with it.

23 I will say as I said in the Protest  
24 Information Form that the impression we had up to  
25 a point that Lidl be told welcome and it's



1 disappointing to find out there's a crumb test in  
2 this ABC license. That's my opening statement.

3 CHAIRPERSON ANDERSON: That you, Mr.  
4 O'Brien.

5 Ms. Brown.

6 MS. BROWN: Thank you, Mr. Chair. I  
7 want to kind of echo some of things that Mr.  
8 O'Brien said. Skyland has been an issue, but  
9 it's been an issue longer than since Walmart has  
10 pulled out. It's been an issue for the 25 years  
11 that I've lived in this community.

12 And Lidl is welcomed here, and we  
13 would love to see Lidl here. But we would like  
14 to Lidl here and operate to sell beer, wine, and  
15 spirits under certain conditions. We want to  
16 make sure that our community is maintained in  
17 such a way that there is not going to be the  
18 perception of loitering, the perception of trash,  
19 and that peace, order, and quiet will remain in  
20 our community.

21 Thank you.

22 CHAIRPERSON ANDERSON: Thank you. The  
23 Board will call its first witness, Mr.  
24 Christopher Condon.

25 MR. CONDON: Sure, so I was assigned

1 the protest investigation.

2 CHAIRPERSON ANDERSON: Yes, sir, let  
3 me ask can you please spell and state your name  
4 for the record and your role today, sir. I mean,  
5 where are you employed?

6 MR. CONDON: Sure, my name is  
7 Christopher Condon, C-H-R-I-S-T-O-P-H-E-R, last  
8 name is Condon, C-O-N-D-O-N. And I'm an  
9 investigator with ABRA, and that entails me  
10 conducting inspections and investigations of ABC  
11 establishments within the District of Columbia.

12 CHAIRPERSON ANDERSON: All right, good  
13 afternoon, sir. All right, how are you familiar  
14 with --

15 MR. O'BRIEN: Mr. Chair, Mr. Chair?  
16 I do think you need to swear the witness.

17 CHAIRPERSON ANDERSON: Oh, I  
18 apologize. I'm trying to do -- I'm looking for  
19 the report. Thank you. Mr. Condon, can you  
20 please raise your right hand, please.

21 MR. CONDON: Sure.

22 CHAIRPERSON ANDERSON: Do you swear or  
23 affirm to tell the truth and nothing but the  
24 truth?

25 MR. CONDON: I do.

1                   CHAIRPERSON ANDERSON: All right,  
2 thank you, thank you, Mr. O'Brien. He is trying  
3 to get the report so I can look at the report to  
4 follow it. I apologize.

5                   All right, so Mr. Condon, can you tell  
6 us how you're familiar with this protest, sir.

7                   MR. CONDON: I'm familiar with this as  
8 I was assigned the protest investigation of Lidl  
9 U.S. Operations, LLC, trading as Lidl.

10                  CHAIRPERSON ANDERSON: And did you  
11 have an opportunity to speak to parties in the  
12 case, sir?

13                  MR. CONDON: I did. So on Monday,  
14 March 14, 2022, approximately 10:40 in the  
15 morning, I telephonically interviewed Ms. Tiffany  
16 Brown. She's the Chairperson of ANC 7B.

17                  Ms. Brown said that they were close to  
18 signing a settlement agreement, but at the  
19 eleventh hour, if you will, the applicant's  
20 attorney had issues with the proposed hours that  
21 was in the settlement agreement.

22                  Ms. Brown stated that those hours that  
23 were granted in the proposed settlement agreement  
24 were the hours that the applicant applied for in  
25 the initial application, so she wasn't sure why

1 that was a problem with the attorney. And that  
2 basically they wouldn't sign the proposed  
3 settlement agreement.

4 Ms. Brown stated that there is no  
5 formal protest issue with having Lidl be a  
6 licensed establishment in the city, but they want  
7 ABC establishments within ANC 7B to have a  
8 settlement agreement and to be governed by it.  
9 And so she said that's more of a formality to  
10 have a settlement agreement.

11 She also stated that the -- that the  
12 ANC is willing to accommodate whatever hours the  
13 applicant is willing to -- or wants, I should  
14 say.

15 On Thursday, March 17, 2022, at  
16 approximately 6:45 p.m., Mr. Stephen O'Brien  
17 provided me a written document via email that  
18 provided a summary of the what the applicant's  
19 stance was on this protest. In the report you  
20 can see the exact cut and paste of what Mr.  
21 O'Brien provided me.

22 But to give a verbal summary of it,  
23 basically Mr. O'Brien says the applicant is  
24 disheartened with this meritless protest and that  
25 Lidl has 150-plus stores in the eastern portion

1 of the United States, and that they sell about  
2 80% private label brand products. And that  
3 selling alcohol is -- would help them financially  
4 stay afloat. And overall, they feel that this is  
5 not a complete protest in regards to that.

6 They also said having this grocery  
7 store would not diminish any real property values  
8 or cause any issues with the peace, order, and  
9 quiet within the neighborhood.

10 Lidl is going to be located in a MU-7B  
11 zone, which is a mixed-use zone intended for  
12 medium density, mixed-use development. In my  
13 report, you can see the exact breakdown pulled  
14 from the zoning website in regards to details  
15 from that.

16 There is one ABC establishment within  
17 1200 feet of Lidl. It's Safeway, and it's a  
18 grocery B store, so they sell beer and wine.  
19 That's within 1200 feet.

20 In regards to parking, I'm not sure  
21 exactly the parking situation that Lidl's going  
22 to have, but on Town Center Drive there's two-  
23 hour parking seven days a week between 8 a.m. and  
24 10 p.m. on both sides. I don't know, like I  
25 said, if Lidl's going to have a parking lot, but

1 there is street parking in front for two hours,  
2 paid.

3 Bus stops and subway, there's five bus  
4 stops within 400 feet of Lidl, and they're  
5 serviced by the 70, 79, 90, 92, and 96 routes.  
6 And the nearest Metro station is on Naylor Road,  
7 which is about 1.3 miles away from the where the  
8 proposed establishment is going to be.

9 There's no recreation centers, public  
10 libraries, or day care centers within 400 feet of  
11 the establishment. And Stanton Elementary School  
12 is located within 400 feet at 2701 Naylor Road,  
13 Southeast. And I have an exhibit with a  
14 photograph of the school.

15 The surrounding area consists of  
16 mainly commercial areas, with an apartment  
17 building across the street, which is called the  
18 Skyland Apartments. There's also the Skyland  
19 Town Center shopping mall across the street as  
20 well, where the proposed location is going to be.

21 There's a Starbucks south of where the  
22 proposed location is going to be. And below the  
23 apartment building is a Roaming Rooster, as well  
24 as a CVS. And Town Center Drive and Naylor Road  
25 intersect Alabama Avenue, SE.

1           The building exterior is -- the  
2 building is fully under construction. I'm not  
3 aware of what it's going to look like, as well as  
4 the interior. It's fully -- fully cleared area  
5 and I don't know what it's going to look like.

6           The current proposed hours of  
7 operation are 8 a.m. to 9 p.m. seven days a week,  
8 as well as those are the hours of sale as well.  
9 So from March 14 through March 27, 2022, I  
10 visited the location on six times. I didn't see  
11 any issue with noise or anything like that.

12           I included in there that no trash was  
13 in the vicinity, as in the letter Ms. Brown  
14 stated trash was in there. But I didn't see any  
15 issues with noise, I didn't see a lot of foot  
16 traffic or vehicle traffic at all on Town Center  
17 Drive.

18           It was actually extremely quiet every  
19 one of the times that I monitored the location.  
20 So no issues in regards to the full protest issue  
21 of peace, order, and quiet.

22           Calls for service from March 14, 2021,  
23 until March 14, 2022, there were no calls for  
24 service at the address. No police calls for  
25 service or anything like that. There's no

1 records of noise complaints with ABRA as there is  
2 no license there and there's no settlement  
3 agreement and no security plan in place as well.

4 And of course there's no investigative  
5 history as this is an initial application.

6 Mr. Anderson, do you want me to go  
7 through the exhibit?

8 CHAIRPERSON ANDERSON: Yeah, I was  
9 going to have you do that. But since we're not  
10 going to have you unload your report, why don't  
11 you basically tell us what the exhibits are and  
12 just describe them for the record. What exhibits  
13 are attached to your report?

14 MR. CONDON: Sure, so Exhibit 1 is a  
15 copy of the protest letter from the ANC. Exhibit  
16 2 is --

17 CHAIRPERSON ANDERSON: I'm sorry,  
18 hold. Mr. O'Brien, can you please mute your  
19 telephone, sir.

20 MR. O'BRIEN: I apologize.

21 CHAIRPERSON ANDERSON: Okay, go ahead.  
22 Go ahead, Mr. Condon.

23 MR. CONDON: Sure, Exhibit 2 is a copy  
24 of the zoning information. Exhibit 3 is a copy  
25 of the 1200-foot zone around the establishment.



1 Exhibit 4 is a copy of the 400-foot zone around  
2 the establishment. Exhibit 5 is a photograph of  
3 the Stanton Elementary School.

4 Exhibit 6 is a photograph of a two-  
5 hour parking sign directly in front of the  
6 establishment. Exhibit 7 is a photograph of a  
7 parking lot directly adjacent to the proposed  
8 location of the establishment. And Exhibit 8 and  
9 9 are both photographs of what the establishment  
10 looks like currently at the location.

11 Exhibit 10 is a photograph of a  
12 Starbucks along Town Center Drive. Exhibit 11 is  
13 a photograph of a two-hour parking sign across  
14 the street on Town Center Drive from the  
15 establishment. Exhibit 12 is a photograph of  
16 what the apartment building looks like across the  
17 street from the establishment.

18 Exhibit 13 is a photograph facing  
19 north down Town Center Drive. Exhibit 14 is a  
20 photograph facing south down Town Center Drive.  
21 Exhibit 15 is a photograph facing the front of  
22 what the establishment is going to be. It is a  
23 currently fenced-in location. And Exhibit 16 is  
24 a photograph in front of the establishment as  
25 well, from the side.

1 CHAIRPERSON ANDERSON: Is that it?

2 MR. CONDON: That's it, yes.

3 CHAIRPERSON ANDERSON: I just have a  
4 couple of questions for you, Mr. Condon. What  
5 type of license is this licensee requesting?

6 MR. CONDON: It's a retail Class A  
7 license.

8 CHAIRPERSON ANDERSON: And are there  
9 -- I've been reviewing your report. You stated,  
10 you said that there's only in the 1200-foot area,  
11 there's only one other liquor license, is that  
12 correct?

13 MR. CONDON: That is correct, Safeway,  
14 correct.

15 CHAIRPERSON ANDERSON: And what type  
16 of license do they have?

17 MR. CONDON: They got a -- they have  
18 a grocery B license.

19 CHAIRPERSON ANDERSON: What's the  
20 difference between a, if you're aware, a B and an  
21 A license for a grocery store?

22 MR. CONDON: So B grocery is a  
23 requirement to sell grocery store items. A  
24 retail A has no requirement to sell any grocery  
25 items. And a B of course is beer and wine, and

1 an A is liquor -- or I'm sorry, spirits, beer,  
2 and wine.

3 CHAIRPERSON ANDERSON: I don't recall,  
4 do -- what type of parking did you observe around  
5 the area?

6 MR. CONDON: So I -- I observed just  
7 street parking. As stated, I'm not sure if  
8 Lidl's going to have a parking lot.

9 There is an empty parking lot that I  
10 have in my exhibits adjacent to the proposed  
11 location, but I'm not sure if that's going to be  
12 used for Lidl or another establish -- or another  
13 retail area. So from what I noticed it was just  
14 the street parking right now.

15 CHAIRPERSON ANDERSON: All right, I  
16 don't have any other questions. Any questions by  
17 any other Board member?

18 MEMBER SHORT: Chair?

19 CHAIRPERSON ANDERSON: Yes, go ahead.

20 MEMBER SHORT: Thanks. I just wanted  
21 to ask Mr. Condon what hours again are operations  
22 would they be able to sell alcohol if granted  
23 this license?

24 MR. CONDON: Eight a.m. to nine p.m.,  
25 seven days a week, sir.

1                   MEMBER SHORT: Thank you, that's all  
2 I have Mr. Chair.

3                   CHAIRPERSON ANDERSON: Any other  
4 questions by any other Board members? Mr.  
5 O'Brien.

6                   MR. O'BRIEN: Investigator Condon, I  
7 realized you were handicapped here because  
8 there's not a business to monitor. But based on  
9 your assessment of the application itself and of  
10 the neighborhood surrounding the location for the  
11 Lidl store, did you perceive any grounds  
12 whatsoever for fearing or concluding the  
13 possibility of a potential disruption of peace,  
14 order, and quiet emanating from this store when  
15 completed?

16                  MR. CONDON: So from my six visits, I  
17 saw no issues as it relates to an adverse impact  
18 on peace, order, and quiet.

19                  MR. O'BRIEN: Thank you. That's my --  
20 that's my question, Mr. Chair.

21                  CHAIRPERSON ANDERSON: Ms. Brown, any  
22 questions for the license -- for the -- for the  
23 investigator?

24                  MS. BROWN: Yes, I do have a question.  
25 So within the 1200 feet, did you notice at any

1 other establishment where there may have been  
2 loitering?

3 MR. CONDON: I was not monitoring any  
4 other location other than the proposed location.

5 MS. BROWN: Than the proposed  
6 location. Okay, you noted that Stanton was close  
7 to -- Stanton Elementary School was close to that  
8 applicant.

9 MR. CONDON: That's correct, yes, 400  
10 -- within 400 feet.

11 MS. BROWN: Within 400 feet. But  
12 within 400 feet there's also a gas station that's  
13 within 7B. Did you notice anything there?

14 MR. CONDON: I was not monitoring the  
15 gas station, so I'm not sure.

16 MS. BROWN: Okay, thank you.

17 CHAIRPERSON ANDERSON: Any other Board  
18 member before I dismiss this witness? Any --  
19 does the Board have any other additional  
20 questions for this witness? All right.

21 Well, thank you very much, Mr. Condon,  
22 for your testimony. You're free to go. Thank  
23 you.

24 MR. CONDON: Thank you.

25 CHAIRPERSON ANDERSON: At this stage,

1 it's now for the applicant to present its case.  
2 So what do you want to do, Mr. O'Brien?

3 MR. O'BRIEN: I'll present our case.

4 CHAIRPERSON ANDERSON: All right,  
5 who's your first witness?

6 MR. O'BRIEN: I would like to call  
7 Daniel Goodman as a witness.

8 CHAIRPERSON ANDERSON: Mr. Goodman,  
9 can you raise your right hand, please. Do you  
10 swear or affirm to tell the truth and nothing but  
11 the truth?

12 MR. GOODMAN: Yes, I do.

13 CHAIRPERSON ANDERSON: All right, go  
14 ahead, sir.

15 MR. GOODMAN: Yeah, so Daniel Goodman,  
16 again, D-A-N-I-E-L G-O-O-D-M-A-N, Director of  
17 Real Estate with Lidl U.S. I oversee Lidl's  
18 expansion for new store locations in the District  
19 of Columbia and the state of Maryland is my  
20 territory.

21 And I'm here to give some background  
22 on the history of the Skyland development, how it  
23 came to be that Lidl is entering this location,  
24 which of course we are very excited about in the  
25 community --

1 MR. O'BRIEN: Mr. Goodman, I'll be  
2 asking you questions.

3 MR. GOODMAN: Okay.

4 MR. O'BRIEN: And if you'd respond to  
5 those questions please.

6 MR. GOODMAN: Let's do it, even  
7 better.

8 MR. O'BRIEN: Okay. How many Lidl  
9 stores are there in the United States?

10 MR. GOODMAN: Approximately 170 total  
11 as of today.

12 MR. O'BRIEN: Okay, and you say as of  
13 today. To what extent is Lidl expanding its  
14 stores in the United States?

15 MR. GOODMAN: At this point very  
16 rapidly. We're -- we've got various stores under  
17 construction, including this one.

18 We've got others that are in the  
19 development process, whether that's in for  
20 permitting or in design. So we have goals of  
21 opening many more stores in the future across the  
22 eastern side -- eastern coast of the U.S. at this  
23 point.

24 MR. O'BRIEN: All right. To date,  
25 what would be the typical location of a Lidl

1 store?

2 MR. GOODMAN: Yeah, most of our stores  
3 to this point are in more suburban markets. A  
4 lot of that is driven by the size of store that  
5 we prefer and the deal structure and what our  
6 customer base have proven to -- have an appetite  
7 for us previously.

8 But yeah, typically if you look at  
9 most of our stores, it's more suburban.  
10 Relatively new as we move closer into major  
11 metropolis centers.

12 MR. O'BRIEN: Yeah, I think we could  
13 all agree that the Skyland site is not suburban.  
14 What -- how did it come about that Lidl decided  
15 to open a store in Skyland?

16 MR. GOODMAN: Yeah, so some history on  
17 how we got to this point. We received outreach  
18 starting originally from D.C. Economic  
19 Partnership.

20 Of course, and this has been stated  
21 previously during this meeting, but Skyland has  
22 been a point of focus for the District of  
23 Columbia Government and City Council, Mayor's  
24 Office to try to bring a new full-service grocer  
25 to this location. And so around early 2018 is



1 when it started with D.C. Economic Partnership  
2 reaching out to us.

3 And then over the next year and a half  
4 or year-plus, various meetings with D.C. Economic  
5 Partnership, D.C. Deputy Mayor of Economic  
6 Planning and Economic Development's office  
7 recruiting us and hoping that we could come --  
8 we'd want to come to this location.

9 So that's really how it came to be.  
10 You know, kind of back to the markets we were  
11 studying and focusing on around that time being  
12 more suburban. And we were approached and  
13 introduced via the D.C. Government to the  
14 landlord, who, the landlord partners here,  
15 Rappaport Companies and WC Smith. And that  
16 turned into where we are today.

17 MR. O'BRIEN: How aggressive was D.C.  
18 in recruiting you to Skyland?

19 MR. GOODMAN: I would say very, just  
20 in the sense that, again, with the history and  
21 the real desire by the community and the  
22 government to have this happen, a full-service  
23 grocer come here. The recruitment was very  
24 strong. Many meetings at Deputy Mayor of  
25 Planning and Economic Development's office with

1 and without the landlord.

2 Meetings at -- over multiple years,  
3 including the big public announcement in 2019 at  
4 the ICSC recon conference together. So I would  
5 say very strong.

6 MR. O'BRIEN: In a typical Lidl store,  
7 how -- what percentage of alcohol, and I realize  
8 this is an estimate, no one's going to hold you  
9 to it, but what percentage of sales at the  
10 typical Lidl store are from alcoholic beverages?

11 MR. GOODMAN: An estimate for that is  
12 really less than ten percent is a confident  
13 estimate if you look across the board.

14 MR. O'BRIEN: Okay. Would you, not  
15 you personally, would Lidl have continued to  
16 explore this opportunity if the sale of alcoholic  
17 beverages was not a possibility?

18 MR. GOODMAN: No.

19 MR. O'BRIEN: Will Lidl open this --  
20 would Lidl open this -- well, I'm going to take  
21 that back. If it's only ten percent, then why is  
22 it so important that you have alcoholic  
23 beverages?

24 MR. GOODMAN: So it's really about  
25 first of all being a full-service grocer, right.

1 And across the street from us is a Safeway that  
2 is a full-service grocery, including alcohol.  
3 And so it's really not just to make the  
4 additional revenue from directly from alcohol  
5 sales.

6 It's to ensure that people choose to  
7 come to us for their full grocery shopping  
8 experience. And that we're as convenient as the  
9 Safeway experience. Because if we're not and  
10 they're looking for a one-stop shop, we believe  
11 and evidence points to this in our experience,  
12 that people will choose to go to Safeway, for  
13 example, instead.

14 So it's really more than just the  
15 sales in alcohol themselves, it's being the full-  
16 service, convenient, one-stop experience. So  
17 therefore really all sales have -- ultimately to  
18 an extent hinge on this.

19 MR. O'BRIEN: All right, thank you  
20 very much, Mr. Goodman.

21 MR. GOODMAN: Okay.

22 CHAIRPERSON ANDERSON: Can I -- before  
23 -- can I ask, I need everyone to -- everyone to  
24 mute their telephone, their phone lines, with the  
25 exception of the witness and the attorney who is

1 speaking. So those are the only two phone lines  
2 that should be unmuted.

3 All right, okay so that's your last  
4 question, Mr. O'Brien?

5 MR. O'BRIEN: That was my last  
6 question, Mr. Chair.

7 CHAIRPERSON ANDERSON: Ms. Brown.

8 MS. BROWN: Thank you.

9 Mr. Goodman, you said that Lidl has  
10 170 stores in the U.S.?

11 MR. GOODMAN: One hundred -- I think  
12 you said 107, but 170, 1-7-0.

13 MS. BROWN: 1-7-0. How many of those  
14 stores sell alcohol?

15 MR. GOODMAN: I do not know the exact  
16 answer to that, but I'll say I believe everywhere  
17 that we are allowed to. So for example, in the  
18 state of Maryland, where it's state law for no  
19 alcohol, we do not there. But everywhere else  
20 that allows it, we do.

21 MS. BROWN: But no exact amount. I  
22 just wanted to also make a point of clarity.  
23 Safeway only sells beer and wine, they do not  
24 sell alcohol.

25 And can you remind me again what your

1 response was about if you were -- if Lidl was not  
2 able to see beer, wine, and alcohol it would not  
3 come to this location, can you answer that? Mr.  
4 O'Brien has asked that question.

5 MR. GOODMAN: Yeah, sure, I can answer  
6 that question.

7 MS. BROWN: If it's less than ten  
8 percent of the sales, then why is there such an  
9 urgency to sell it?

10 MR. GOODMAN: Okay, yes. To reiterate  
11 what I said before, it's really not just about  
12 those specific sales. It's allowing us to be a  
13 full-service, one-stop grocery option, just like  
14 Safeway is, in this market, and to remain  
15 competitive.

16 So we believe that if we're unable to  
17 sell alcohol, a lot of people would have good  
18 reason to not come to us at all for even the non-  
19 alcohol items that they shop for because they're  
20 able to go across the street buy everything  
21 without having to go to two different places.

22 So it's much more than just those  
23 sales themselves, it's to remain competitive as a  
24 whole and be a full one-stop offering for the  
25 community.

1 MS. BROWN: Okay, I have another  
2 question for you. So Lidl is not a very large  
3 store when you look at it. And it does not offer  
4 -- it has some offerings but it's -- I would not  
5 necessarily call it a full-service grocery store.  
6 It has fruits, it has vegetables. But most  
7 people that shop at Lidl also shop someplace  
8 else.

9 And so I'm just trying to figure out  
10 how the sale of alcohol would -- or not being  
11 able to sell alcohol would be -- make you less  
12 competitive when most people have to finish up  
13 shopping someplace else.

14 I'm not saying your store's -- let's  
15 be clear, the community is welcoming Lidl, we  
16 want a Lidl in our -- in our community. But  
17 Lidl, like some of the other stores that are like  
18 that, people typically shop there and shop  
19 somewhere else.

20 MR. O'BRIEN: Mr. Chairman --

21 MR. GOODMAN: What exactly is the  
22 question?

23 CHAIRPERSON ANDERSON: Hold on, Mr.  
24 Goodman, hold on please.

25 MR. O'BRIEN: I'm going to object to

1 the form of the question. It presumes matters  
2 not in evidence regarding the size of Lidl's  
3 store and its product offerings.

4 CHAIRPERSON ANDERSON: Well, Ms.  
5 Brown, can you rephrase your question? Maybe you  
6 want to break it up and ask specific questions.  
7 Maybe you could ask about the size, or -- but  
8 reform it, reform your question and ask him that.

9 MS. BROWN: Okay, Mr. Goodman, what is  
10 the approximate square footage of your store? A  
11 typical Lidl store?

12 MR. GOODMAN: Typically plus or minus  
13 30,000 square feet.

14 MS. BROWN: And if you were to compare  
15 that to, safe, a Safeway store that's across the  
16 street, how would you compare the two sizes?

17 MR. GOODMAN: In my experience,  
18 Safeway has a wide range of square footages.  
19 Typically bigger than 30,000 square feet, but you  
20 know, I wouldn't know necessarily what their  
21 average is.

22 MS. BROWN: Okay, so is it fair to say  
23 that Lidl, the Lidl that's being built at  
24 Skyland, is half the size of Safeway?

25 MR. GOODMAN: I don't know if it's

1 half. I would say it's smaller than the one  
2 across the street, but I honestly didn't come  
3 prepared with their exact square footage. I  
4 don't know if it's half.

5 MS. BROWN: I don't know their exact  
6 footage either.

7 MR. GOODMAN: Yeah, I don't have it  
8 off the top of my head.

9 MS. BROWN: But it is fair to say that  
10 Lidl is a smaller grocery store and does not  
11 offer the same amount of products as other bigger  
12 grocery stores, retail stores.

13 MR. GOODMAN: It's just such a wide  
14 range. I mean, yeah, there's certainly other  
15 grocers that offer more unique products than we  
16 do, and there's other grocers that we provide  
17 more unique products than.

18 MS. BROWN: Okay. I don't have any  
19 more questions for Mr. Goodman. Thank you.

20 CHAIRPERSON ANDERSON: All right, do  
21 you have a question, Mr. Short?

22 MEMBER SHORT: Yes, if I could. Yes,  
23 good afternoon, Mr. Goodman.

24 MR. GOODMAN: Good afternoon.

25 MEMBER SHORT: Mr. Goodman, are you



1 familiar with the Lidl store at 17th and H  
2 Streets, NE, Washington, DC?

3 MR. GOODMAN: The Lidl store at 17th  
4 and H?

5 MEMBER SHORT: Yes.

6 MR. GOODMAN: No.

7 MEMBER SHORT: Okay, well there is a  
8 Lidl's there and it's been there for a while.  
9 And it's directly across the street from a  
10 Safeway and shopping center across from it.

11 CHAIRPERSON ANDERSON: It's not a  
12 Lidl, Mr. Short. It's a different --

13 MR. GOODMAN: I believe I know what  
14 he's talking about, but it's not a Lidl.

15 MEMBER SHORT: I'm mistaken, forgive  
16 me. I thought it was a Lidl's. But anyway, are  
17 you familiar with that store in that  
18 neighborhood?

19 MR. GOODMAN: I believe I know which  
20 one you're talking about, yes.

21 MEMBER SHORT: And it's been there for  
22 20 years or better, or coming up on 20 years?

23 MR. GOODMAN: This is a competitor's  
24 store, and I'm not sure exactly when it opened,  
25 but I don't think it's been that long. But it's

1 not very new.

2 MEMBER SHORT: I'm asking this  
3 question because of the previous questioner, the  
4 ANC Commissioner. And basically what I find is I  
5 found myself in that competitor's store with a  
6 senior, one of my adopted mothers.

7 And apparently a lot of seniors like  
8 shopping there. So is Lidl's similar to that  
9 store? Because the prices there are I think are  
10 not -- are typically just a little lower than  
11 Safeway's.

12 MR. GOODMAN: Yes.

13 MEMBER SHORT: And I guess the  
14 question I want to ask you is what are Lidl's  
15 prices compared to Safeway's prices when a lot of  
16 seniors shop there?

17 MR. GOODMAN: Yeah, sure. Compared to  
18 Safeway, we are known and we've done comparisons  
19 of our own that have been published before, but  
20 much, much more affordable than Safeway. We --  
21 our mission statement is to offer high quality  
22 products at low prices.

23 And typically we have in any market  
24 that we're in, on average, the lowest prices. I  
25 mean, that may not be true across the board, but

1 typically certainly much lower than Safeway.

2 MEMBER SHORT: But in my direct  
3 community, which is in 7B, and I've been there  
4 for better than 30, coming up on 35 years, I know  
5 that most of my neighbors are seniors like  
6 myself. And I do know a lot of them look for the  
7 prices to compare.

8 And so I think it would -- I'm just  
9 going to ask would a Lidl's in competition with a  
10 Safeway provide seniors with a better pricing, in  
11 your opinion?

12 MR. GOODMAN: In my opinion, yes.

13 MEMBER SHORT: Okay, and you say the  
14 store hours will be between 8 a.m. and 9 p.m.  
15 every day?

16 MR. GOODMAN: That's what we submitted  
17 on our application, yes.

18 MEMBER SHORT: Okay, and I guess the  
19 last question I'm going to ask, and I'll make a  
20 statement previous to this, but are you familiar  
21 with the history of Hillcrest at all, with the  
22 community that this store lies in? Are you  
23 familiar with John Wilkes Booth?

24 MR. GOODMAN: Yes, I don't -- I'm not  
25 sure that I'm prepared to talk details, but a

1 little bit.

2 MEMBER SHORT: Forget that question.  
3 But the street I live on, Branch Avenue, is the  
4 street that he drove through. And at that time,  
5 that was a suburb of Washington -- of downtown  
6 Washington, DC.

7 And so it has a suburban kind of taste  
8 to it, the neighborhood. And so would you think  
9 that would be a minus or a plus for Lidl?

10 MR. GOODMAN: Whether this  
11 neighborhood is suburban, is that what you're  
12 asking?

13 MEMBER SHORT: Well, no, just not  
14 suburban. Do you think that the character of the  
15 neighborhood that Lidl, this proposed Lidl's is  
16 going into, it's going to be an asset for the  
17 community? That is the question I'm asking.

18 MR. GOODMAN: Sure. Absolutely, we  
19 feel that our product offering and what we offer,  
20 both product-wise and jobs-wise, is going to be  
21 an asset for this community. That's why we're  
22 excited to come.

23 MEMBER SHORT: Thank you for your  
24 testimony. That's all I have of you today.

25 Mr. Chair, thank you very much, that's

1 all I have.

2 CHAIRPERSON ANDERSON: Thank you, Mr.  
3 Short.

4 I have some questions for you, Mr.  
5 Goodman. And based on the presentation that was  
6 made earlier this day, the ANC, there's an  
7 agreement, at least from the ANC, that the  
8 license will be granted. So I guess we can --  
9 that's the agreement that the parties came to at  
10 the beginning of this year, and so the license  
11 will be granted.

12 So my questions are that you have  
13 applied for an A license. What is an A license,  
14 sir?

15 MR. GOODMAN: My understanding, and  
16 similar to what was stated earlier by the Board's  
17 witness, is an A license allows a business to  
18 sell spirits, wine, and beer alongside the full  
19 grocery product offering.

20 CHAIRPERSON ANDERSON: Now, do you  
21 know whether or not the Safeway across the street  
22 is allowed to sell spirits, sir?

23 MR. GOODMAN: My understanding, again  
24 from the testimony that I heard earlier, is that  
25 they have a B license, allowing them to sell beer

1 and wine but not spirits. And in my experience  
2 having been in that store, that's what they sell.

3 CHAIRPERSON ANDERSON: Now, are aware  
4 that at least currently in the District of  
5 Columbia, only two supermarkets are allowed to  
6 sell spirits in D.C., and that's one Safeway and  
7 Costco, are you aware of that?

8 MR. GOODMAN: I'm not, and you know,  
9 I mean, maybe Stephen or someone else can help  
10 with some information. But I -- I am not sure  
11 that that's the answer or not. I do at least  
12 know the new coming that has an A license.

13 CHAIRPERSON ANDERSON: A new what,  
14 sir, a new what coming?

15 MR. GOODMAN: It's a new grocer.

16 CHAIRPERSON ANDERSON: What grocer is  
17 that, sir, are you aware -- what grocer is that?

18 MR. GOODMAN: My understanding is the  
19 Wegmans on Wisconsin Avenue has an A license.  
20 Maybe I'm wrong about that. Just to clarify, I  
21 don't know the total number. I mean, if you're  
22 saying that because you know, then great. But I  
23 don't know that there's only two or not, I don't  
24 know the answer to that.

25 CHAIRPERSON ANDERSON: I guess the

1 question then, why did -- do you know why -- why  
2 this particular supermarket, why did they apply  
3 for an A rather than the typical B that's applied  
4 -- that's requested, that's usually applied by  
5 for supermarkets?

6 MR. GOODMAN: I'll just say for us as  
7 a company, the decision to apply for an A is our  
8 goal from the beginning has been to offer as full  
9 of an offering as we can. We do believe,  
10 contrary to questions I was asked earlier, that  
11 we are a full-service grocer offering.

12 And we do have spirits in our line of  
13 products that we sell and would like to sell when  
14 we can. And really, it's, we'd like to offer as  
15 much as we can to the community.

16 CHAIRPERSON ANDERSON: And what about  
17 -- you said that you have over a -- about 160  
18 stores. So do you know, in the 160 stores, that  
19 in the inventory, do you know approximately how  
20 many of those stores are able to sell spirits?

21 MR. GOODMAN: I don't know the answer  
22 to that.

23 CHAIRPERSON ANDERSON: All right,  
24 thank you. All right, any other questions by any  
25 other Board member?

1                   Ms. Brown, do you have any redirect  
2 based on the questions that were asked by the  
3 Board?

4                   MS. BROWN: No, thank you.

5                   CHAIRPERSON ANDERSON: Do you have a  
6 final word, Mr. O'Brien, any redirect?

7                   MR. O'BRIEN: No, thank you.

8                   CHAIRPERSON ANDERSON: All right,  
9 thank you, Mr. Goodman. Thank you for your  
10 testimony.

11                   All right, Mr. O'Brien, do you have  
12 any -- do you have another witness?

13                   MR. O'BRIEN: I do, but I feel  
14 compelled to represent that our firm does  
15 represent Wegmans, and Wegmans does have approval  
16 of a Class A license. I don't think I could  
17 remain silent about that when I have firsthand  
18 knowledge of that.

19                   CHAIRPERSON ANDERSON: All right, I  
20 don't know that, Mr. -- that's fine. I  
21 appreciate your representation but I -- I don't  
22 know. It's -- I don't know. That's not  
23 relevant.

24                   But thank you for the representation,  
25 but it's not relevant currently for this hearing



1 because the Board has -- the Board will grant the  
2 A license based on the representation that was  
3 made currently at this hearing.

4 The Board will grant this A license to  
5 Lidl. The only reason -- the exercise that we're  
6 going through here is to -- is based on the  
7 evidence presented is for the Board to make a  
8 determination whether or not this license will be  
9 granted without restrictions or if this will --  
10 will there be evidence or testimony presented  
11 today that will convince the Board to grant  
12 restrictions.

13 And that -- whatever decision is made  
14 by the Board will be made based on what's  
15 presented today. Okay, I just wanted -- just  
16 what's presented on the record today. All right.

17 Go ahead, you have another witness,  
18 Mr. O'Brien.

19 MR. O'BRIEN: I do, Ashley Robinson,  
20 please.

21 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
22 O'Brien, I'm sorry, Ms. Robinson. Can you please  
23 raise your right hand, please. Do you swear or  
24 affirm to tell the truth and nothing but the  
25 truth?

1 MS. ROBINSON: I do.

2 CHAIRPERSON ANDERSON: All right, go  
3 ahead, sir.

4 MR. O'BRIEN: Ms. Robinson, how are  
5 you employed?

6 MS. ROBINSON: I'm sorry, what did you  
7 say?

8 MR. O'BRIEN: How are you employed?

9 MS. ROBINSON: I've been with Lidl as  
10 District Manager for six years now, for almost  
11 six years in May.

12 MR. O'BRIEN: All right. And what  
13 relationship do you have to the store we're  
14 discussing today at Skyland?

15 MS. ROBINSON: I am the District  
16 Manager for this upcoming store and will be  
17 responsible for opening the store with the store  
18 manager and the team.

19 MR. O'BRIEN: All right. How long  
20 have you been with Lidl?

21 MS. ROBINSON: I've mentioned six  
22 years in May. I started as a district manager  
23 trainee six years ago. Trained overseas in  
24 Ireland for nine months. Came back, helped to  
25 open up some of our first 15 stores in the

1 Virginia area first, southern Virginia, and even  
2 some in North Carolina.

3 Also worked in HQ on some projects  
4 temporarily that really streamlined about --  
5 around our processes and optimizing (phonetic)  
6 our processes. And then moved into the Maryland  
7 area about a year and a half ago after running  
8 many Virginia stores for about two and a half  
9 years in my six years with us.

10 MR. O'BRIEN: All right. You heard  
11 testimony from the previous witness that Lidl  
12 offers better prices perhaps than some other  
13 grocers. In your experience, is that correct?

14 MS. ROBINSON: Absolutely. As a  
15 customer as well as an employee, I shop at Lidl  
16 as my primary focus or primary grocery store. We  
17 do have a wider range. I do think that we,  
18 though, scale our products.

19 So instead of selling 12 different  
20 types of peanut butter, we will send -- will  
21 provide two of our Lidl-branded peanut butters  
22 and then maybe two of your favorite or nationally  
23 known brands. So we do have a store that  
24 definitely accommodates a full shop for our  
25 customer.

1 MR. O'BRIEN: Okay. If one shops  
2 regularly at Lidl, does one still have to go to  
3 another grocery store for other products?

4 MS. ROBINSON: Not often. I mean, in  
5 any given situation there are things that  
6 customers are going to look for in any grocery  
7 store, right.

8 So from my experience, yeah, there may  
9 be something unique that I have to go to, but  
10 most of our customers of the stores that I  
11 currently have have chosen to come here over  
12 others because our prices are so good. But also,  
13 we offer many of the things that they want in  
14 their normal grocery shop.

15 MR. O'BRIEN: All right. You  
16 mentioned Lidl brand peanut butter. Is that  
17 what's called private label?

18 MS. ROBINSON: Yes. So Lidl is known  
19 as, I think earlier today, Lidl is known -- our  
20 business model, we pride ourselves as being as  
21 Daniel even mentioned, high -- selling our  
22 products high quality at low prices.

23 The reason we're able to provide high  
24 quality products are because they are Lidl-  
25 branded. So we are able to control the quality

1 while keeping the prices down on our -- on our  
2 products.

3 MR. O'BRIEN: Do you have a sense of  
4 what percentage of the products Lidl offers are  
5 indeed Lidl private label?

6 MS. ROBINSON: I would say I don't  
7 have an exact number, but as previously  
8 mentioned, I would confirm we're 80/20, so 80%  
9 private label, 20% national brand in our stores.

10 MR. O'BRIEN: I'm going to ask Mr.  
11 Chair if we can upload an exhibit.

12 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
13 can you please give Mr. O'Brien the ability to --

14 MR. O'BRIEN: Okay, Ms. Mahmoud.

15 CHAIRPERSON ANDERSON: Ms. Mahmoud,  
16 Ms. Fashbaugh, can you please give Ms. Mahmoud  
17 the ability to share her screen, please.

18 I notice you've been having some  
19 internet connection, Ms. Mahmoud, so I'm not sure  
20 -- okay, all right, good.

21 Go ahead, Mr. O'Brien.

22 MR. O'BRIEN: Okay. If we can label  
23 this --

24 CHAIRPERSON ANDERSON: Hold on, hold  
25 on, hold on. Ms. Mahmoud, you need to mute your

1 phone. I'm not sure if you're in the same exact  
2 location with Mr. O'Brien.

3 MR. O'BRIEN: We are.

4 CHAIRPERSON ANDERSON: All right, so  
5 let me see. Go ahead.

6 MR. O'BRIEN: Mr. Chair, may we label  
7 what's on the screen Exhibit 1?

8 CHAIRPERSON ANDERSON: All right.

9 (Whereupon, the above-referred to  
10 document was marked as Exhibit 1 for  
11 identification.)

12 MR. O'BRIEN: Okay, Ms. Robinson, can  
13 you tell us what Exhibit 1 is?

14 MS. ROBINSON: Yeah, this is what we  
15 call the Visio or the layout of the upcoming  
16 store, Skyland store.

17 MR. O'BRIEN: Okay, where would the  
18 store entrance be?

19 MS. ROBINSON: On my screen your video  
20 is currently covering it, but it's right towards  
21 the front of the store where you may see the  
22 checkouts in the front. So that's where the  
23 entrance is. So where your mouse is, you would  
24 have to go all the way down to the bottom left  
25 corner.

1 MR. O'BRIEN: Okay. And I see what  
2 looks like one portion highlighted in yellow. Do  
3 you see that?

4 MS. ROBINSON: I do.

5 MR. O'BRIEN: And what -- what does  
6 that yellow represent?

7 MS. ROBINSON: That will be where our  
8 beer and wine will be placed. That's where we'll  
9 be merchandizing those products.

10 MR. O'BRIEN: Is that in the -- is  
11 that in the front of the store or in the back of  
12 the store?

13 MS. ROBINSON: That's back half of the  
14 store.

15 MR. O'BRIEN: You don't mean to  
16 suggest that it's the back -- that beer and wine  
17 are taking up half the back of the store --

18 MS. ROBINSON: Where the yellow is  
19 highlighted, it would be that section right  
20 there. So not the whole store, it's just where  
21 the yellow is highlighted.

22 MR. O'BRIEN: Okay, so if one is  
23 coming in the door of the store, entering the  
24 store, can one see beer and wine from there?

25 MS. ROBINSON: No, they will not be

1 able to. They will only be able to see as  
2 they're walking in the building.

3 MR. O'BRIEN: How does Lidl monitor  
4 for underage, meaning to preclude underage sales?

5 MS. ROBINSON: So first and foremost,  
6 during onboarding of our employees, they do go  
7 through a presentation that does include public  
8 safety topics and compliance topics.

9 One of those compliance topics is the  
10 sale of alcohol, where we review, you know, three  
11 -- three illegal sales of alcohol, including  
12 underage, third-party, as well as visibly  
13 intoxicated.

14 They also go through another module,  
15 our employees also go through another module on  
16 the computer on their -- within their first week  
17 of training to cover that. Once they are trained  
18 on that, they are allowed to be on the register.

19 And we also train them to look out for  
20 obviously visible age differences. So we call  
21 that our Challenge 40 policy. So they are  
22 required, all employees are required to ask  
23 customers for qualified identification if they  
24 look or appear to be under the age of 40.

25 There's also a prompt on the register



1 when a -- when the employee scans the alcohol,  
2 they'll prompt them to ask if the customer looks  
3 under the age of 40. They are to choose yes or  
4 no.

5 And then once they choose that, if  
6 they choose yes, they look under the age of 40,  
7 they are then to put in the date of birth that  
8 they see on the -- they're verifying the  
9 identification first with the customer. And then  
10 type on the date that appears onto the license.

11 MR. O'BRIEN: All right. I'm going to  
12 ask Ms. Mahmoud if she still has the ability to  
13 put on the screen, I'm going to ask that --  
14 share, label as Exhibit No. 2.

15 (Whereupon, the above-referred to  
16 document was marked as Exhibit 2 for  
17 identification.)

18 MR. O'BRIEN: Can you tell the Board  
19 what Exhibit No. 2 is, Ms. Robinson?

20 MS. ROBINSON: Yep. This is our, we  
21 have a number of handbooks and SOPs, obviously.  
22 This is our checkout SOP or handbook that our  
23 employees are responsible for reviewing any time  
24 they need any additional information or when they  
25 are to start or enter the business with us.

1                   And on this page that's displaying  
2 right here, it's showing exactly what I just  
3 discussed where they have the option of saying if  
4 the customer is over 40 or under 40 and what  
5 happens in that step.

6                   MR. O'BRIEN: All right, and then I'd  
7 ask Ms. Mahmoud to put the Exhibit No. 3 on the  
8 screen.

9                   (Whereupon, the above-referred to  
10 document was marked as Exhibit 3 for  
11 identification.)

12                  MR. O'BRIEN: And I'm going to ask Ms.  
13 Robinson to identify the Exhibit No. 3.

14                  MS. ROBINSON: Yes, so this is a piece  
15 of marketing that we use to advertise, or maybe  
16 not -- that's not the right word, but to also --  
17 for the customers to understand what our  
18 Challenge 40 process or -- process is.

19                  So it normally is put right on top of  
20 the registers so it's on, right on the pole that,  
21 where the light that shows what number checkout  
22 it is, it's right there. So when the customer is  
23 on the checkout, they see what our expectations  
24 are in terms of Challenge 40.

25                  MR. O'BRIEN: All right. Ms. Mahmoud,

1 take down the exhibits, please.

2 Ms. Robinson, are you aware that at  
3 this location in the District of Columbia in Ward  
4 7, the sale of single beers is prohibited?

5 MS. ROBINSON: Yes.

6 MR. O'BRIEN: And how -- how does the  
7 -- how does Lidl -- how will Lidl enforce that  
8 policy?

9 MS. ROBINSON: Well, from my previous  
10 experience working in Virginia where we had sold  
11 alcohol, we don't sell any six-packs as singles.  
12 So all of those products come as a six-pack.

13 If a customer comes to a register with  
14 a six-pack, all our employees are fully aware --  
15 or one item, one unit from that six-pack, our  
16 employee's fully aware that we do not sell them  
17 as singles. Because we don't even sell those  
18 type of items as singles.

19 As previously mentioned, our  
20 assortment is very streamlined. So what we have  
21 -- all of our employees are fully aware of what  
22 we sell and know that we aren't to sell any item  
23 without.

24 In the event that we were to find  
25 something on the floor that's missing one of the

1 six-packs, in that case we would take that off  
2 the floor and put it in our waste area to be  
3 disposed of through our policy and process.

4 MR. O'BRIEN: How often would the  
5 aisle on which alcoholic beverages are offered be  
6 monitored by store personnel?

7 MS. ROBINSON: Well, our supervisors  
8 are responsible for doing figure eights  
9 throughout the store daily. We have -- sorry.  
10 We have a number of managers in our building that  
11 are going to be trained and fully aware of the  
12 process and policies.

13 So our managers are responsible for  
14 surveying all areas of the building, specifically  
15 areas where we have high value items.

16 MR. O'BRIEN: Are you aware of a  
17 requirement in the District of Columbia that an  
18 Alcoholic Beverage Control Board licensed-manager  
19 be present at all times alcoholic beverages are  
20 open for -- are offered for sale?

21 MS. ROBINSON: Yes.

22 MR. O'BRIEN: And how -- how you would  
23 assure that that requirement was enforced?

24 MS. ROBINSON: We've already partnered  
25 with our Training and Development Department on

1       what that process looks like in terms of training  
2       our employees and ensuring that they do get the  
3       license.  Additionally, once we do open, we will  
4       have managers, no less than two managers, in our  
5       building at all times to support that.

6                   MR. O'BRIEN:  By two managers, do you  
7       mean two D.C. ABC-licensed managers?

8                   MS. ROBINSON:  Correct.  All managers  
9       will be licensed in our store.

10                   MR. O'BRIEN:  What measures will be  
11       taken to maintain cleanliness and discourage  
12       litter outside the store in the parking area?

13                   MS. ROBINSON:  Well, as a part of our  
14       normal operating procedures, our employees are --  
15       we assign an employee in rotation throughout  
16       their shift to go out and do what we call litter  
17       pick.  So while they're out normally doing a  
18       litter pick, they're also responsible for  
19       collecting carts, and obviously like I said,  
20       trash.

21                   So that's done on a as-needed basis,  
22       but it's also completed, that task is also  
23       completed specifically right before we open, and  
24       then after closing.  So that is how we normally  
25       monitor litter in the store, or outside of the

1 store.

2 In terms --

3 MR. O'BRIEN: I'm sorry, I can  
4 understand that the parking lot is clean when you  
5 open the store in the morning. But it seems to  
6 me by the end of the day, the parking lot could  
7 be full of litter.

8 MS. ROBINSON: Right. So as I said,  
9 mentioned, we also send them out as needed. So  
10 carts are something that we do on an hourly  
11 basis. So when they go out to the carts, they  
12 also are looking for trash and are responsible  
13 for bringing a trash bag out with them and a  
14 litter pick tool to pick up the litter in the  
15 parking lot. And --

16 MR. O'BRIEN: And that's hourly?

17 MS. ROBINSON: And it's hourly.

18 MR. O'BRIEN: How about trash as  
19 opposed to litter?

20 MS. ROBINSON: Yeah. Well, trash, if  
21 that's defined by like cardboard or boxes, we  
22 obviously well, if that is found outside, we also  
23 take that with us as a part of the litter pick.  
24 And we will bring the boxes inside.

25 And we do have a baler in all of our

1 locations that bales the boxes. And anything  
2 that -- after the baler is full, we wrap that up  
3 and we send it back to our distribution center,  
4 where they process that.

5 We also, obviously in most locations  
6 I've had experience with, we also have trash  
7 corral in the parking lot. That is locked up at  
8 night and can only be opened with a lockpad.

9 There is a -- our Logistics Department  
10 normally arranges about a month and a half to two  
11 months prior to opening I normally get  
12 communication from our Logistics Department on  
13 what days our trash will be picked up from our  
14 local trash facility. And then that's how we  
15 know when they're coming to pick up on a weekly  
16 basis.

17 In the event that it gets full, which  
18 I haven't had that experience in the past, but in  
19 the event that it gets full, our employees also  
20 have the option of, you know, gathering all of  
21 that up as well and putting it on -- on a pallet  
22 or in a box in our store and sending it back to  
23 our regional distribution center where -- and  
24 labeling it so that they can dispose of it in the  
25 regional -- in the regional distribution center

1 as well.

2 MR. O'BRIEN: All right. You  
3 mentioned that an employee goes our hourly to  
4 attend to the carts in the parking lot. How does  
5 -- how does Lidl discourage patrons from taking  
6 carts beyond the parking lot? So it's taking  
7 carts home, what does Lidl do to discourage that?

8 MS. ROBINSON: Well, at some of our  
9 locations we have something called the Gatekeeper  
10 Cart Containment. It's something that is  
11 affiliated with the company called Gatekeeper  
12 where the carts will lock once they leave a  
13 certain perimeter. Also once they leave the  
14 register at a certain point if it hasn't gone  
15 through a till.

16 All of our carts can only be  
17 deactivated if you use a remote. Because the  
18 wheels will lock until we deactivate it with a  
19 remote. And management has access to that  
20 remote, and they always have that on their shift  
21 so that they can go out into the parking lot or  
22 onto the sales floor to unlock the cart.

23 That is something right now that we  
24 can't -- that's still pending due to  
25 construction. We have to finalize the review of



1 our -- of the property. So I can't commit to  
2 that today, but that is some of the options we've  
3 had in the past in our previous -- in some of our  
4 previous stores.

5 MR. O'BRIEN: Okay, that reminds me,  
6 what's the projected opening date for this store?

7 MS. ROBINSON: September 28, 2022.

8 MR. O'BRIEN: All right, how will Lidl  
9 address potential loitering in the vicinity of  
10 the store, or inside the store for that matter?

11 MS. ROBINSON: Speaking from my  
12 experience in stores that I've had responsibility  
13 over, we've dealt with in the past people who may  
14 be loitering or panhandlers in the store.

15 As managers, it's our responsibility  
16 in which we've all been a part of it, and myself  
17 included, if reported by a customer or we observe  
18 it ourselves, we do ask the customer or the  
19 panhandler or a loiterer to leave the building.

20 And if we don't have success with them  
21 listening in our first attempt, we do go back to  
22 them and say if we -- if you don't abide by what  
23 we're asking for, we will ask you to -- we will  
24 call the local authorities. We do -- we have  
25 called the local authorities before, and that's

1 where we take it to that next step.

2 If there's anything that happens  
3 outside of that in terms of, you know, if it gets  
4 aggressive or abusive or threatening behavior  
5 happens throughout that process, we are -- we do  
6 have a banning notice policy that allows us to  
7 ban that particular loiterer or panhandler from  
8 our building in that event with --

9 MR. O'BRIEN: And banned for how long?

10 MS. ROBINSON: I'm sorry?

11 MR. O'BRIEN: Banned for how long?

12 MS. ROBINSON: I'm not sure of the  
13 actual. But to my knowledge, it's banned  
14 forever.

15 MR. O'BRIEN: Okay.

16 MS. ROBINSON: As long as we haven't  
17 lifted that banning notice on our side.

18 MR. O'BRIEN: I'm going to presume  
19 that you're -- this store is going to have both  
20 full- and part-time employees, am I correct?

21 MS. ROBINSON: Correct.

22 MR. O'BRIEN: Okay, can you estimate  
23 the number of employees that will be on your  
24 weekly payroll, or maybe it's biweekly. I  
25 understand that's a different question than how

1 many employees will be inside the store working  
2 at any particular moment.

3 MS. ROBINSON: Yes.

4 MR. O'BRIEN: But the question I'm  
5 asking is how many jobs is this store going to  
6 provide, both full- and part-time?

7 MS. ROBINSON: Our estimated hiring  
8 quota, and that includes full- and part-time  
9 including management in that total will be  
10 anywhere between 35-50, to be honest with you.

11 We really, with Lidl we obviously hire  
12 and staff our stores based off of the projected  
13 volume. But for us at this point in time, it's  
14 projecting anywhere between 35-50 on my side for  
15 that store. And that's including management.

16 MR. O'BRIEN: Okay, and where -- where  
17 -- how are those employees being recruited?

18 MS. ROBINSON: We have multiple ways.  
19 So it's our responsibility to open up what we  
20 call requisition. We open that requisition up  
21 through our Talent Department that's in house.  
22 That Talent Department then posts on our website  
23 and a number of different search engines,  
24 including Indeed.com.

25 And we've also, personally and myself,

1 I've -- me and a store manager recently met with  
2 the Director of the Skyland Workforce Center. We  
3 got to learn a little bit more about what they do  
4 within the community and what their main focus is  
5 and their main objectives in their organization.

6 And we have arranged to have  
7 interviews actually hosted there this week.  
8 Well, next week, sorry, next Wednesday --  
9 Tuesday, Wednesday, Thursday.

10 And then we also arranged some dates  
11 in the month of June to recruit and hire some  
12 walk-in interviews as well for our store  
13 associate candidates.

14 MR. O'BRIEN: Okay. What's the  
15 hierarchy within the store, the lowest level  
16 employee, what's that employee's title?

17 MS. ROBINSON: Floor associate. Then  
18 it goes to store supervisor, then store --  
19 assistant store manager, then store manager, and  
20 then myself.

21 MR. O'BRIEN: What opportunities are  
22 there for career advancement at Lidl?

23 MS. ROBINSON: I would say an  
24 exorbitant amount. I've had a number of  
25 employees that have, under even my jurisdiction

1 that have had the opportunity to be promoted  
2 within. I've had store associates, store --  
3 especially if they want a career at Lidl and  
4 people are looking for a career, I've had store  
5 associates that have been promoted to store  
6 supervisors. Store supervisors that have been  
7 promoted to ASM and upward.

8 There's one employee that I can think  
9 of that I hired almost three years ago, four --  
10 almost three or four years ago who started as a  
11 store associate, went to supervisor, and now has  
12 progressed into a more regional role as an IT --  
13 IT specialist.

14 So it's only logical for us, at the  
15 rate that we're expanding, as Daniel mentioned  
16 earlier, it's only logical for us to be able to  
17 provide more career opportunities to employees in  
18 our community in the future.

19 MR. O'BRIEN: Thank you, Ms. Robinson.  
20 Those are my questions, Mr. Chair.

21 CHAIRPERSON ANDERSON: Thank you. Ms.  
22 Brown.

23 MS. BROWN: Thank you. I have a few  
24 questions, actually more than a few. How many  
25 stores, Ms. Robinson, do you currently manage?

1 MS. ROBINSON: Currently, I have two  
2 not including Skyland, so the ones that are open  
3 would be Columbia and Bowie at this moment in  
4 time.

5 MS. BROWN: And at those stores that  
6 you manage, how many of them sell alcohol?

7 MS. ROBINSON: They're both in  
8 Maryland, so they do not sell alcohol, either  
9 one.

10 MS. BROWN: How many stores have you  
11 been the district manager over that actually have  
12 sold alcohol?

13 MS. ROBINSON: I was the district  
14 manager over the Fairfax location in Virginia. I  
15 was the district manager over the Ashburn  
16 location on Broadland. I was also the district  
17 manager of the Manassas location, the first  
18 Manassas location which is on, not Liberia. I  
19 cannot recall the exact address, but in Manassas.  
20 I had oversaw the Dumfries store that also sold  
21 alcohol.

22 The majority of my career was in  
23 Virginia, so it's only more recently in the last  
24 year and a half that I've been working in  
25 Maryland.

1 MS. BROWN: Okay, and those stores,  
2 just I want to make sure that I'm correct, in the  
3 State of Virginia, the Commonwealth of Virginia,  
4 they can only sell beer and wine, so they did not  
5 sell spirits, correct?

6 MS. ROBINSON: They did not sell  
7 spirits, no, just beer and wine.

8 MS. BROWN: What brands of beer, wine,  
9 and spirits is this store proposing to sell?

10 MS. ROBINSON: I'm not positive of the  
11 assortment quite yet since we're so far out from  
12 the opening date, but if you want me to speak to  
13 what my experience is, most of our labels are  
14 private label in Virginia.

15 So, we are, again, a private label  
16 company, so most of it is private label, but we  
17 do sell some brands, national brands such as  
18 Budweiser at the time when I was working there,  
19 Coors Light, so on and so forth.

20 MS. BROWN: Okay, you said something  
21 about that you all don't sell singles in your  
22 store and that the employees know if something  
23 comes up to put it in the waste. I guess you  
24 all, like, mark it off.

25 What do you all do or what is the

1 policy and plan to do to make sure that nothing  
2 is unbundled? What kind of monitoring will be  
3 provided in this store at Skyland?

4 MS. ROBINSON: Sure, so we have a  
5 process, what we call decarding. As you know or  
6 may not know, Lidl, obviously one of our lean  
7 operational tasks or operational mottos is we are  
8 known for presenting our products in boxes, so we  
9 sell our products in the case that it came in.

10 As the customer purchases the products  
11 out of the cases, we do what we call decarding,  
12 which is we take the box from the shelf, the  
13 empty box from the shelf or the box that's almost  
14 empty from the shelf and we place whatever two  
15 units that are left in there on top of the other  
16 box behind it.

17 In many cases, when we're doing  
18 decarding, that's when we do see many things like  
19 reshops and the issue that you just brought up of  
20 seeing items that may be not in its full case,  
21 right? So, in that moment, we remove it from the  
22 store and that's when we normally see it.

23 I think with alcohol, it's definitely  
24 a high priority for us in any store, so from our  
25 side, our managers are aware when they see



1 certain issues in terms of packages that aren't  
2 100 percent complete. In any case, regardless of  
3 whether it's alcohol or not, they know to remove  
4 it, and that's a part of our training with all  
5 employees from start to finish.

6 MS. BROWN: Thank you for that, but to  
7 further my question, how often are those aisles  
8 monitored more than the figure eight that you  
9 spoke of? That particular aisle where the beer,  
10 wine, and spirits are sold, those one or two  
11 aisles or whatever, how often will they be  
12 monitored?

13 MS. ROBINSON: I'm not sure if I  
14 understand your question because it would be  
15 hourly. As mentioned before, we would be  
16 monitoring hourly either way doing figure eights,  
17 and those figure eights do include walking every  
18 aisle.

19 So, I mean, when I say figure eights,  
20 I guess that's retail jargon that I've used in  
21 the past. Figure eights may not be possible in a  
22 store that doesn't allow you to do an actual  
23 figure eight. Typically what that means is  
24 walking aisles, walking up and down the aisles  
25 every hour.

1           Our stores are very -- our people are  
2 constantly on the floor due to the fact that we  
3 do a lot of the work during the day, so that  
4 monitoring is happening through their walks every  
5 day, but it's also as a needed basis to ensure  
6 that our products are being protected as well as  
7 getting the job done and keeping the store clean  
8 on a regular basis. It's a part of our 4+1  
9 pillars.

10           MS. BROWN: Okay, I just wanted to  
11 make sure that I heard you correctly, what you  
12 said about you all's prompting if someone appears  
13 to be, I guess, younger than 40. It's not Lidl's  
14 policy to ask for positive ID for everyone they  
15 sell beer, wine, and spirits to?

16           MS. ROBINSON: Our policy is if they  
17 appear under the age of 40, that they are to ask  
18 for identification. That would be my answer for  
19 that one, yeah.

20           MS. BROWN: So, I think what you're  
21 saying is that no, it is not Lidl's policy to ask  
22 for ID for everyone that appears before them?

23           MS. ROBINSON: No, it's a Challenge  
24 40, which is anybody under the age of 40, that  
25 appears to be under the age of 40 or if there's

1 any, you know, shadow of a doubt, in that case.

2 MS. BROWN: I want to go back to the  
3 letter. So, you said something about the carts  
4 are -- at first, you said the carts are picked up  
5 hourly, and at that time, they do litter picks  
6 when they do the carts, and then I think you said  
7 that it's as needed. Is it hourly carts and the  
8 litter as needed or is it hourly carts, hourly  
9 litter?

10 MS. ROBINSON: It's the same. So,  
11 typically when the employee goes out, they'll  
12 typically go get the carts first because that's  
13 more of the heavy, intensive task, but once  
14 they've gotten all of the carts out of the  
15 parking lot or in the corral, they'll then have,  
16 they'll do their litter pick in the same motion.

17 MS. BROWN: One of the issues in the  
18 protest is peace, order, quiet, and litter, and  
19 so I guess, you know, litter is -- carts are big  
20 for Lidl, but litter is big for those of us in  
21 the community, so making sure the establishment  
22 does not have anything around it.

23 I think, oh, I do have a few more  
24 questions about the employees. How many  
25 employees are proposed to be full time?

1 MS. ROBINSON: We have, from our side,  
2 it's really based off of what we would like in  
3 our stores. I try to aim for a 50/50 split  
4 because in those cases, we want people to have  
5 full-time opportunities, but we've had success in  
6 both sides of having more of a part-time  
7 opportunity because as a company we offer full  
8 benefits to all employees whether they're full  
9 time or part time.

10 MS. BROWN: So, the fact number is  
11 just half?

12 MS. ROBINSON: A 50/50 split, yeah.

13 MS. BROWN: How many employees have  
14 been hired at this location?

15 MS. ROBINSON: Well, currently --  
16 (Simultaneous speaking.)

17 MS. ROBINSON: We're only currently in  
18 the supervisor phase of hiring, so right now, we  
19 have hired two and we haven't onboarded them yet,  
20 but the store manager has already been identified  
21 for this store, as well as the assistant store  
22 manager has also been identified for this store.

23 MS. BROWN: When you say identified,  
24 they do or not work with Lidl yet?

25 MS. ROBINSON: No, they work for Lidl

1 and they have been working for Lidl. Both are  
2 more of my more tenured employees from my  
3 district.

4 MS. BROWN: I think that's it for my  
5 questions. Thank you.

6 MS. ROBINSON: You're welcome.

7 CHAIRPERSON ANDERSON: Any questions?  
8 Yes, Mr. Short?

9 MEMBER SHORT: Thank you. Ms.  
10 Robinson, thank you for your testimony so far.  
11 Two issues I'd like to hit on or I'd like to  
12 question you regarding. Are any of the store or  
13 have you worked at any stores that have a trash  
14 compactor dedicated for your store?

15 MS. ROBINSON: In terms of general  
16 trash outside of cardboard?

17 MEMBER SHORT: Yeah, well, cardboard,  
18 you know, because basically in the District, all  
19 stores that sell cardboard, they're required to  
20 break the cardboard down and --

21 MS. ROBINSON: Yes, so --

22 MEMBER SHORT: -- do some other  
23 things.

24 MS. ROBINSON: We have what we call a  
25 baler that only is used for cardboard though. In

1 terms of general trash outside of cardboard,  
2 again as mentioned, we normally arrange with our  
3 logistics department two times a week roughly, or  
4 in most cases they assign two times a week for  
5 someone to come and pick up our trash out of the  
6 trash corral that's normally located in the  
7 parking lot.

8 MEMBER SHORT: Okay, but have you ever  
9 considered a trash compactor or have any of  
10 Lidl's stores out of the 170 that you've  
11 mentioned or are coming have a trash compactor?

12 MS. ROBINSON: Again, for cardboard,  
13 yes, we have a baler in the store and we compact  
14 boxes. From general litter I guess you can say,  
15 I can't speak to that. I don't work in that  
16 department that handles the control over making  
17 sure that that is in the store. That would be  
18 more on the side of our procurement and  
19 facilities department.

20 MEMBER SHORT: Okay, all right, that's  
21 fair. Parking, that question came up or that  
22 issue came up briefly. How many parking spaces  
23 does the store have and how will parking be  
24 controlled?

25 MS. ROBINSON: Yeah, so parking spaces

1 from the two-pages I received from our facilities  
2 department, we have 225 parking spaces that are  
3 projected for this location.

4 How we control parking, so for a grand  
5 opening, normally that's when we expect -- I've  
6 opened up now, I think, five or six stores in the  
7 past six years that I've worked with the company.

8 Normally, what we do see is we have an  
9 outside company that we hire that controls the  
10 parking for grand opening because that's normally  
11 when we have the influx of customers. We have a  
12 number of customers that are in our building at  
13 that time due to the excitement of a grand  
14 opening store.

15 So, normally we have someone in the  
16 parking that is controlling, or a number of  
17 people in the parking lot. I can't give you an  
18 exact number, but I've seen in some of my grand  
19 openings three or four people in the parking lot  
20 just controlling traffic and correct directions.

21 Sometimes, depending on the location,  
22 we've had, you know, police patrol that were  
23 there based off of the influx of how many  
24 customers we have, and that's how we control it  
25 during grand opening time.

1                   When our grand opening phase kind of  
2 dies down, we don't necessarily need control of  
3 parking from my experience in our parking lots,  
4 so that would be something, if we did experience  
5 any issues after grand opening phase kind of  
6 dissipates, then we can address that at that time  
7 I would believe.

8                   MEMBER SHORT: Okay, thank you very  
9 much for your testimony. That's all I have, Mr.  
10 Chair.

11                   CHAIRPERSON ANDERSON: Thank you. Any  
12 other questions by any other Board members?

13                   MEMBER GRANDIS: Mr. Chairman?

14                   CHAIRPERSON ANDERSON: Yes, Mr.  
15 Grandis?

16                   MEMBER GRANDIS: Thank you. Mr.  
17 O'Brien, thank you for being here today. May I  
18 ask Ms. Robinson some questions directly or  
19 should I ask them through you?

20                   MS. ROBINSON: You need to ask Ms.  
21 Robinson the questions directly, Mr. Grandis.

22                   MEMBER GRANDIS: Okay, Ms. Robinson,  
23 thank you for your expert testimony about how the  
24 grocery stores you work at function. You may  
25 have addressed this, but I may have missed the



1 details. Did you all address security at the  
2 store?

3 MS. ROBINSON: At this point in time,  
4 we have been in discussion with the department  
5 that's responsible for securing security within  
6 our building.

7 We do have other locations within our,  
8 you know, within our region that do have  
9 security. So, yes, we have discussed it, but it  
10 hasn't been solidified as of yet because we're  
11 too far out from grand opening.

12 MEMBER GRANDIS: So, you're saying  
13 some other of your stores that have --

14 MS. ROBINSON: Not my stores, but  
15 locations within our region overall, so.

16 MEMBER GRANDIS: In your region?

17 MS. ROBINSON: Yes, so maybe not  
18 within --

19 MEMBER GRANDIS: So, you would be --

20 MS. ROBINSON: -- in my district.

21 MEMBER GRANDIS: So, you would be able  
22 to work with those experts who already provide  
23 security for your store in other locations to  
24 help advise you? Is that what you all have been  
25 doing or will be doing?

1 MS. ROBINSON: That's the hope and  
2 that's the expectation, but again, since we're so  
3 far out in grand opening, some of the details of  
4 that has not been solidified as of yet.

5 MEMBER GRANDIS: Just know it's a very  
6 big part of the equation.

7 MS. ROBINSON: Understood.

8 MEMBER GRANDIS: Okay.

9 MS. ROBINSON: Understood.

10 MEMBER GRANDIS: Have you all  
11 discussed cameras at that location?

12 MS. ROBINSON: All of our Lidl stores  
13 do have cameras that do have a very wide scope of  
14 surveillance in parking lots as well as  
15 throughout our aisles. I am no technician, but I  
16 know that they are, from viewing CCTV footage in  
17 the past for some other cues in my stores, they  
18 are pretty much a 360 camera angle, so you're  
19 able to see from one camera up and down any given  
20 aisle within our stores.

21 MEMBER GRANDIS: Are you familiar with  
22 that in D.C., that there are no laws against  
23 loitering?

24 MS. ROBINSON: I'm not familiar with  
25 that.

1                   MEMBER GRANDIS: I would recommend  
2 that your security people who work with other  
3 stores study the parameters of individuals in  
4 front of your store and from your doorways. D.C.  
5 does not have anti-loitering.

6                   Now, there are laws, and your attorney  
7 perhaps can help you with this after the hearing,  
8 but there are laws that help to move people along  
9 who are incommoding, or blocking, or being  
10 belligerent.

11                   But we need to be very careful that we  
12 respect everyone, and that I think if you don't -  
13 - if your company doesn't have experience with  
14 D.C., that they need to incorporate that in  
15 working out security issues for you all.

16                   MS. ROBINSON: Okay.

17                   MEMBER GRANDIS: Okay.

18                   MS. ROBINSON: I appreciate that.

19                   MEMBER GRANDIS: Can you explain to me  
20 again if it's already been explained why you're  
21 going for an A license and not a B license?

22                   MS. ROBINSON: That, Daniel had  
23 explained that. I'm not the one that applied for  
24 that license. That's not my scope or my area of  
25 the business.

1                   MEMBER GRANDIS: Okay, then I'll  
2 direct that to Daniel in a minute then. Will you  
3 be with this store after the grand opening period  
4 or is that sort of your function with this  
5 company, that you handle what you're doing now  
6 through the grand opening period?

7                   MS. ROBINSON: I will be with this  
8 store, from what I know, I will be with this  
9 store until grand opening as well unless some  
10 opportunity comes my way. If they want to make  
11 me the CEO, yeah, sure, but --

12                   (Laughter.)

13                   MS. ROBINSON: -- unless another  
14 opportunity comes my way, I will be with the  
15 store when it grand opens.

16                   MEMBER GRANDIS: We like ambition.

17                   MS. ROBINSON: Yeah.

18                   MEMBER GRANDIS: We like that. The  
19 point is, is this your job after the store opens  
20 or do you --

21                   MS. ROBINSON: Yeah, I've been with  
22 even -- I mean, I even -- I mean, I've opened so  
23 many stores at this point, I may have forgotten  
24 one. I also opened a store last December in  
25 Brooklyn Park, Maryland and that was my store for

1 over a year.

2 I tend to -- I have the most  
3 experience in these areas in terms of grand  
4 openings, so I have always been a resource, but  
5 every time I've opened it, I've always been the  
6 lead DM and with the expectation of me staying in  
7 that store and being DM and leading that team.

8 MEMBER GRANDIS: Thank you.

9 MS. ROBINSON: But the store manager  
10 there also, she is permanent always and, you  
11 know, she's worked with us over a year. A  
12 resident close by to the community, the ASM is  
13 there, so we're familiar with that area and we're  
14 familiar with -- you know, they're excited to be  
15 around and be able to present to you guys our new  
16 store.

17 MEMBER GRANDIS: One of your stores  
18 has opened up in Rehoboth Beach, Delaware, so I'm  
19 a bit familiar with the concept, but I have to  
20 say I was bewildered my first time going in.

21 MS. ROBINSON: Okay.

22 MEMBER GRANDIS: I wasn't sure if I  
23 was at a Safeway, or a Costco, or something in  
24 between. Do you understand my point?

25 MS. ROBINSON: Yes.

1                   MEMBER GRANDIS: Do other people --  
2                   okay.

3                   MS. ROBINSON: Yes.

4                   MEMBER GRANDIS: So, I'm glad I can  
5                   make someone laugh. I think you must understand  
6                   my --

7                   MS. ROBINSON: I understand.

8                   MEMBER GRANDIS: -- uncertainty was  
9                   when I walked in, but seriously, when it comes to  
10                  branding, you know, there are all these, you  
11                  know, Safeways, and then they all have these  
12                  Whole Foods. They're different brandings, so how  
13                  would you, in your corporation, who are you all  
14                  compatible or competitive, where do you all fit?

15                  MS. ROBINSON: I think we're most --  
16                  I mean, as a die-hard Lidl employee, I think we  
17                  aren't competing with anyone at this point, but I  
18                  think what we're most likely compared to is Aldi  
19                  mainly because our business model is streamlined  
20                  just like them. We believe in having a lean, you  
21                  know, operation. We believe in everything being  
22                  efficient and accurate, down to our normal  
23                  operating processes.

24                  And, I mean, from an aesthetic point  
25                  of view, we totally believe that our -- I'm

1       sorry, we totally believe that our branding and  
2       our merchandising is streamlined as well. So,  
3       you'll notice again they also have merchandise in  
4       boxes as well and, you know, have a --

5               MEMBER GRANDIS: So, when you say the  
6       boxes, that's what I experienced. Is that sort  
7       of like a Costco element and then there are other  
8       individual elements where you can just pick up  
9       one item instead of a box?

10              MS. ROBINSON: No, everything is sold  
11       individually, but, you know, if you do go to a  
12       Safeway, everything is hand stacked on the shelf.  
13       So, the employees are physically taking  
14       everything out of a bigger box --

15              MEMBER GRANDIS: Yes.

16              MS. ROBINSON: -- that doesn't have a  
17       presentation look to it and placing it on the  
18       shelf where we don't. Our employees, they take  
19       it straight off the pallet. They take the top  
20       off and they put the whole box on the shelf, and  
21       the customers shop one by one.

22              MEMBER GRANDIS: And that helps keep  
23       costs down I would imagine?

24              MS. ROBINSON: Yes, it does.

25              MEMBER GRANDIS: Okay, well, you've

1       been very helpful, but Mr. Chairman, may I ask --

2                   CHAIRPERSON ANDERSON: Unfortunately,  
3       no, Mr. Grandis. Mr. Goodman is no longer a  
4       witness, so we have all --

5                   MEMBER GRANDIS: Thank you.

6                   CHAIRPERSON ANDERSON: -- lost our  
7       opportunity.

8                   MEMBER GRANDIS: I'm fine. Thank you.  
9       Thank you all.

10                  MS. ROBINSON: You're welcome.

11                  CHAIRPERSON ANDERSON: Thank you. Any  
12       other questions by any of the Board members? I'm  
13       hearing none. Ms. Brown, any follow-up based on  
14       the questions that the Board asked?

15                  MS. BROWN: I did have an additional  
16       question. It was about the trash. How often did  
17       you say the trash would be taken out?

18                  MS. ROBINSON: From the actual trash  
19       corral, typically with any other store that I've  
20       opened, it's two times a week, but it's arranged  
21       prior to grand open from our logistics department  
22       with the local trash facility.

23                  MS. BROWN: Okay, and the trash is  
24       going to be enclosed? Is that --

25                  MS. ROBINSON: It's always enclosed



1 and with a lockpad on it that only the store team  
2 and the trash pickup people will know.

3 MS. BROWN: And so with the trash,  
4 when is the proposed schedule to be picked up?

5 MS. ROBINSON: I do not know the  
6 proposed scheduling for that yet.

7 MS. BROWN: Thank you.

8 CHAIRPERSON ANDERSON: Are you  
9 resting, Ms. Brown?

10 MS. BROWN: Yeah, that's it. I'm just  
11 sitting here watching them build the Lidl outside  
12 my door.

13 CHAIRPERSON ANDERSON: All right,  
14 thank you. Mr. O'Brien, any questions based on  
15 the questions that were asked by the Board?

16 MR. O'BRIEN: Yes, Ms. Robinson, would  
17 you describe what a baler is, B-A-L-E-R?

18 MS. ROBINSON: A baler is essentially  
19 a compactor that we only use for cardboard.

20 MR. O'BRIEN: And what does it do?

21 MS. ROBINSON: Without using the word  
22 baler in it, it compacts the cardboard, you know,  
23 because we have so much cardboard in our stores  
24 that we use from our boxes that we merchandise  
25 our products in.

1                   It compacts all of the cardboard up to  
2                   about, I would say, a large wooden pallet, and  
3                   then we wire it. Before we bale it, we have to  
4                   wire. When it gets full, we have to wire it.  
5                   That wire compresses it all together and contains  
6                   it. We put it on a pallet and then we send it  
7                   back to our RDC for them to dispose of  
8                   accordingly.

9                   MR. O'BRIEN: Okay, thank you. Thank  
10                  you, Mr. Chair.

11                  CHAIRPERSON ANDERSON: Thank you. All  
12                  right, do you rest, Mr. O'Brien?

13                  MR. O'BRIEN: Yes, we rest, Mr. Chair.

14                  CHAIRPERSON ANDERSON: Mr. O'Brien, do  
15                  you also want to move your documents into  
16                  evidence?

17                  MR. O'BRIEN: Yes, thank you, numbers  
18                  1, 2, and 3 were identified and we ask that they  
19                  be admitted.

20                  CHAIRPERSON ANDERSON: Any objection,  
21                  Ms. Brown?

22                  MS. BROWN: No objection.

23                  CHAIRPERSON ANDERSON: So, Exhibits 1,  
24                  2, and 3 are now part of the record without  
25                  objection.

1 (Whereupon, the above-referred to  
2 documents were received into evidence as  
3 Applicant Exhibit Nos. 1, 2, and 3.)

4 CHAIRPERSON ANDERSON: Do you rest,  
5 Mr. O'Brien?

6 MR. O'BRIEN: Yes, sir.

7 CHAIRPERSON ANDERSON: Ms. Brown, do  
8 you plan to testify or how do you plan to --

9 MS. BROWN: At this point in the  
10 protest, I believe you said that we are not at a  
11 point where we can do a settlement agreement, so  
12 I would like to say on part of it --

13 CHAIRPERSON ANDERSON: No, hold on,  
14 hold on, hold on. Part of this is hard to do  
15 because if you're going to testify, we have to  
16 swear you in, so that's already just asking a  
17 question.

18 MS. BROWN: Well, maybe. I just  
19 wanted to put out some conditions for approval of  
20 this.

21 CHAIRPERSON ANDERSON: All right,  
22 well, then I'm going to swear you in, and then if  
23 you're going to put, you need to tell why, so  
24 would you raise your right hand, please? Do you  
25 swear or affirm --

1                   Now, there are two ways. Okay, so  
2 this is your presentation, so, sorry, go ahead,  
3 ma'am, and then Mr. O'Brien will be subjected to  
4 cross examine you on what you're presenting.

5                   MS. BROWN: So, based upon what was  
6 said today, I would like to have the license  
7 approved with certain conditions, one, that Lidl  
8 come up with a security plan for this store and  
9 specifically how they plan to secure and ensure  
10 that the beer, wine, and spirits are monitored by  
11 electronic surveillance and by human monitoring.

12                   Okay, you want me to go on, also that  
13 they post signs that say no loitering, also that  
14 there is an ABC manager on duty at all times in  
15 the store or whenever beer, wine, and spirits are  
16 sold, that they won't sell to minors, that they  
17 ask for positive ID for everyone that purchases  
18 beer, wine, and spirits, that they don't sell  
19 single --

20                   They said that they don't sell single  
21 items, but that they don't sell single items of  
22 alcohol, or wine, or spirits, and that they only  
23 sell alcohol during their business hours which  
24 was placed on their application, and so that was  
25 from 8:00 a.m. to 9:00 p.m., that they keep a

1 record if MPD is called to their store, that they  
2 keep the store and the outer perimeter clean and  
3 in good repair so that there is no trash in the  
4 front of the store, that there is no trash in the  
5 parking lot and within 100 feet, that they don't  
6 sell to minors and that they post that also.

7 They said they post up their 40 sign,  
8 but that it's also posted that they don't sell to  
9 minors, and I think that is about it.

10 CHAIRPERSON ANDERSON: Mr. O'Brien --  
11 I'm sorry, are you done, Ms. Brown?

12 MS. BROWN: I'm done.

13 CHAIRPERSON ANDERSON: Any questions,  
14 Mr. O'Brien?

15 MR. O'BRIEN: Yes, Commissioner Brown,  
16 what is your concern with the business hours of  
17 the store?

18 CHAIRPERSON ANDERSON: Could I ask a  
19 question? I'm confused. The posted hours on the  
20 placard, is that 8:00 to 9:00, is that 8:00 a.m.  
21 to 9:00 p.m.

22 MS. BROWN: Yes.

23 CHAIRPERSON ANDERSON: I don't  
24 understand why -- that's why I thought -- is  
25 there an issue? Are there hours outside that's

1       been discussed?

2                   I'm just trying to find out because I  
3       heard, at least in the -- but I'd read in the  
4       case report that was presented by our  
5       investigator there was an issue, so the only  
6       hours that were placarded were from 8:00 a.m. to  
7       9:00 p.m.

8                   Those are the hours of operation for  
9       the store and those are the hours of operation  
10      for sales and service, and those are the hours  
11      that this Board will issue today when the license  
12      is issued since we have agreed to issue the  
13      license.

14                  Those are the placarded hours and  
15      those are the hours that the license will state,  
16      so, okay, but if there is something else that the  
17      Board is missing, go ahead, Mr. O'Brien.

18                  MR. O'BRIEN: Commissioner Brown, you  
19      don't have a problem with greater hours for  
20      legal, do you?

21                  MS. BROWN: No, the issue with the  
22      hours --

23                  CHAIRPERSON ANDERSON: I'm sorry, I'm  
24      sorry, hold on, hold on. This is a protest  
25      hearing and the protest hearing that we have is

1 for what was placarded. What was placarded is  
2 for a Class A license for sales and service from  
3 8:00 a.m. to 9:00 p.m.

4 We should not be -- and that is what  
5 the ABC Board will be issuing a license, a Class  
6 A license for 8:00 a.m. to 9:00 p.m. I do not  
7 understand why, within this hearing, we are  
8 speaking about greater hours, because there are  
9 no greater hours.

10 I mean, if the licensee is asking to  
11 amend its application, then that's another  
12 process. I mean, that's not something that we're  
13 going to do here. Then the licensee would have  
14 to apply for a substantial change to change its  
15 hours, but this protest hearing will address the  
16 issues that are placarded, and what was placarded  
17 was 8:00 a.m. to 9:00 p.m.

18 MR. O'BRIEN: There will be --

19 CHAIRPERSON ANDERSON: I'm sorry? Go  
20 ahead, Mr. O'Brien.

21 MR. O'BRIEN: Mr. Chair, there will be  
22 forthcoming an application to change those hours.

23 CHAIRPERSON ANDERSON: Then that is --  
24 I'm sorry, then, of course, once this license is  
25 granted, then the licensee has to come back and

1 apply for a substantial change and that's  
2 subjected to a protest, so --

3 MR. O'BRIEN: Mr. Chair, if I may, not  
4 all changes of hours are subject to protest.

5 CHAIRPERSON ANDERSON: Well, I'm just  
6 saying the Board will have to make a  
7 determination if the change, if we believe that  
8 this is something that the community needs to be  
9 notified of, so we have to make a determination.

10 So, the Board, once the application is  
11 made, then the Board would have to make the  
12 determination, but I -- this is one of the  
13 reasons why I always tell parties to try to  
14 settle matters, because these are things that can  
15 be addressed at mediation or a settlement  
16 agreement, and then the parties could have  
17 determined whether or not they want extended  
18 hours and whether or not --

19 But I don't know, but I'm just saying  
20 though those are issues that are beyond a protest  
21 hearing and the Board will not address those,  
22 whether or not expanded hours, because the  
23 placarding said 8:00 a.m. to 9:00 p.m. and we are  
24 -- unless there is an official amendment that was  
25 filed by the licensee to the Agency, we are



1       unable to address this hear.

2                   And as you said, Mr. O'Brien, if  
3       you're going to ask for a change of hours, then  
4       the Board would then have to make a determination  
5       whether or not we believe this is a substantial  
6       change that we need to inform the community or  
7       whether or not the Board, as a matter of course,  
8       will approve that.

9                   So, I'm just going to say I'm not  
10       going to allow that question because we can't  
11       have that discussion at this protest hearing.

12                   MR. O'BRIEN: Mr. Chair, I'm trying to  
13       respect the Board's desire, I'm going to use the  
14       Chair's words, to truncate the proceedings.

15                   CHAIRPERSON ANDERSON: But Mr.  
16       O'Brien, it's not a matter of truncating. And  
17       you are aware, sir, the hours that are on the  
18       placard, we can only address the hours on the  
19       placard. I'm not trying to truncate. The hours  
20       on the placard are from 8:00 to 9:00.

21                   We cannot -- because the community had  
22       not been on notice that expanded hours are being  
23       requested. So, this is not a matter of me  
24       truncating. This is a matter of me saying that  
25       there has been no request by you at this hearing

1 that you're asking for extended hours.

2 MR. O'BRIEN: Okay.

3 CHAIRPERSON ANDERSON: Now that you're  
4 here and I'm not -- so I have no position on the  
5 extended hours. All I'm stating is that this  
6 hearing is on what was placarding. That's all  
7 I'm saying.

8 I'm not -- I'm just saying the hearing  
9 is on what was placarded and what was placarded  
10 is 8:00 a.m. to 9:00 p.m. That's all I'm saying,  
11 nothing else, sir, but if you want to ask a  
12 question, go ahead and ask the question, sir.

13 MR. O'BRIEN: Mr. Chair, the  
14 investigative report, in the investigator's  
15 interview of miss, I'm sorry, of Commissioner  
16 Brown, recites in the last sentence, Ms. Brown  
17 stated that the ANC is willing to accommodate the  
18 hours' changes that the applicant wants, and I  
19 read from the investigative report.

20 So, my question to Commissioner Brown  
21 is would Commissioner Brown object to a change of  
22 hours to open at 7:00 a.m. instead of 8:00 a.m.  
23 and to remain open until 10:00 p.m. instead of  
24 9:00 p.m.?

25 MS. BROWN: So, it's getting ready to

1 get a little loud in my house. So, we would not  
2 object if there was a change on the placard. The  
3 issue with the whole, with what we've been going  
4 through even with mediation was that we, the  
5 settlement agreement, we were agreeing to what  
6 was on the placard. We said that's fine.

7 The applicant failed to ask for all  
8 the hours in which they could sell beer, wine,  
9 and spirits. Most other businesses, they put  
10 every hour. They do it from 6:00 a.m. to 2:00  
11 a.m. even though they're not open during that  
12 time.

13 And I said as a representative of the  
14 ANC that the hours for our settlement agreement  
15 had to be what was on the placard, but, no, we  
16 would not disagree to the hours being changed,  
17 but we did what was on the placard.

18 We want Lidl in our community. We are  
19 happy to have another full-time grocery store,  
20 but we are unwilling to just let things go willy-  
21 nilly based on what the applicant applied for.

22 They applied for the hours of 8:00  
23 a.m. to 9:00 p.m. and not putting that in the  
24 settlement agreement was not going to be an  
25 option for us. We were going to agree to the

1 hours which were stated, and that's what I said  
2 at mediation and that's what I'm saying right  
3 now.

4 MR. O'BRIEN: Well, am I correct that  
5 if the applicant, that is Lidl, applied to the  
6 Board to add an hour in the morning and an hour  
7 in the evening, that you would not have any  
8 objection to that?

9 MS. BROWN: I would not have any  
10 objection as the ANC representative as long as  
11 the other conditions of the license were put in  
12 place also, the no loitering sign, the partnering  
13 with security, not selling single items, asking  
14 for positive ID from everyone, the litter piece  
15 with making sure the outside of the store and  
16 within 100 feet.

17 Yeah, no, we would not object to that,  
18 but if the license is issued with conditions,  
19 then, no, we would not object to them coming back  
20 and asking, the applicant coming back and asking  
21 for expanded hours --

22 MR. O'BRIEN: All right.

23 (Simultaneous speaking.)

24 MS. BROWN: -- amend its application.

25 MR. O'BRIEN: Let's put the hours

1       aside now if we may. What is your evidentiary  
2       foundation for asking for each one of these  
3       conditions to be attached to the license?

4               MS. BROWN: ANC 7B would like to have  
5       all licensees to be under a settlement agreement.  
6       The evidence, one thing was witness Robinson said  
7       that they don't have the security in place and  
8       that she was not aware of the loitering law or no  
9       loitering law, and that there doesn't seem to be  
10      a security plan in place.

11               (Simultaneous speaking.)

12              MS. BROWN: Based on what Ms. Robinson  
13      said about not ID'ing everyone, that's a problem.

14              MR. O'BRIEN: What's the evidentiary  
15      foundation for believing that failure to ID  
16      everyone is a problem?

17              MS. BROWN: Based on what she said, if  
18      someone appears to be under 40, I think that we  
19      need to make sure, to ensure that no one is  
20      buying beer, wine, or spirits, that they're the  
21      proper person. The way we do that, to ensure  
22      that nothing is being sold to minors, is that we  
23      ID everyone.

24              MR. O'BRIEN: Okay, you've met me in  
25      person, Commissioner, and we can see each other

1 on the screen. Would you expect that Lidl should  
2 have to ID me with my advanced appearance if I  
3 walked into the store?

4 MS. BROWN: If they have to ID me,  
5 then they have to ID you.

6 MR. O'BRIEN: And what is your  
7 evidentiary foundation for the need for such a  
8 requirement?

9 MS. BROWN: Is it not the law that  
10 everyone has to be at least 21, and the way that  
11 you know someone is at least 21 is by ID'ing  
12 them? That is your proof.

13 MR. O'BRIEN: Well, are you simply  
14 asking that Lidl comply with the law?

15 MS. BROWN: I am, and how does Lidl  
16 expect to verify ages, to legally --

17 MR. O'BRIEN: Okay, well, let me try  
18 it differently. What is the evidentiary  
19 foundation for your belief that Lidl's policy of  
20 checking everyone who appears to be under 40 is  
21 insufficient?

22 MS. BROWN: Because they do not check  
23 ID of everyone that they sell beer, wine, and  
24 spirits to. They have not checked or verified  
25 the date of birth. The way you verify the date

1 of birth is through a positive identification.

2 MR. O'BRIEN: But you would agree,  
3 would you not, that there is no doubt in the  
4 world that I, O'Brien, am older than 21?

5 MS. BROWN: I don't know that to be  
6 the case, not without a positive ID.

7 MR. O'BRIEN: Is not the problem here  
8 -- you said a moment ago, Commissioner, that it's  
9 your, I'm not sure the word. I don't want to put  
10 words in your mouth, that -- is not the problem  
11 that there's no settlement agreement? Is that  
12 the issue?

13 MS. BROWN: The issue is that ANC 7B  
14 would like all licensees within our commission to  
15 be under a settlement agreement.

16 MR. O'BRIEN: All right, and is that  
17 really the essence of the grounds for your  
18 protest, that there's not a settlement agreement?

19 MS. BROWN: The grounds for the  
20 protest is peace, order, noise, quiet, and  
21 little.

22 MR. O'BRIEN: Okay, what evidence do  
23 you have to suggest that Lidl will have an  
24 adverse impact on peace, order, and quiet in the  
25 neighborhood?

1 MS. BROWN: The sale of alcohol in the  
2 community can adversely affect the peace, order,  
3 noise, and quiet of a community given that there  
4 is no security in place and no security plan  
5 based upon what Ms. Robinson said.

6 MR. O'BRIEN: And what would a  
7 security plan say?

8 MS. BROWN: I'm not really sure  
9 because I don't work in retail, but I guess you  
10 would have to ask Lidl what their typical  
11 security plan would be in place, but not having a  
12 plan at all is not a good thing.

13 MR. O'BRIEN: Well, I suggest that the  
14 Board could not simply order a security plan. It  
15 would have to say what a plan would provide, and  
16 I'm asking you what your evidentiary foundation  
17 for any requirement of a security plan would be?

18 MS. BROWN: So, I would like for there  
19 to be a sign that says no loitering at minimum,  
20 that there is a plan to deal with loitering from  
21 a security plan, that --

22 MR. O'BRIEN: So, when you say you  
23 would like --

24 (Simultaneous speaking.)

25 MS. BROWN: -- security of the --



1 MR. O'BRIEN: I'm sorry.

2 MS. BROWN: No, when we look at  
3 security and securing the beer, wine, and  
4 spirits, that it is not by human monitoring and  
5 also by electronic surveillance. That could be  
6 something inside of a security plan.

7 MR. O'BRIEN: But what is your  
8 evidentiary foundation for saying that that is  
9 necessary in this instance?

10 MS. BROWN: I guess if we look back at  
11 some of the Board's reports on the grocery store  
12 across the street, that could be evidentiary  
13 fact. I did not bring that to present, but if  
14 you look back at what's public from the Board,  
15 their results from investigations, then that  
16 could be fact.

17 (Simultaneous speaking.)

18 MR. O'BRIEN: I'm sorry.

19 MS. BROWN: The investigator said that  
20 he did not notice anything when he walked over,  
21 when he looked at Stanton, which is the  
22 elementary school, but it would be hard to miss  
23 the people loitering around the gas station. You  
24 would have to have your eyes closed not to see  
25 that driving around in front of Stanton. The gas

1 station is right across from there.

2 MR. O'BRIEN: Okay, are you -- would  
3 you agree that any conditions imposed by the  
4 Board on this license would have to be based on  
5 substantial evidence of record in this case, that  
6 we're not dealing here with simply lifting or  
7 checking items on a menu, that any condition  
8 imposed, there has to be evidence that it's  
9 necessary, not merely a desire? I'm sorry if  
10 that was an imperfect question, but do you  
11 understand that, Commissioner?

12 MS. BROWN: Somewhat, but in the same  
13 way that Lidl is asking to operate in our  
14 community in its current location makes it seem  
15 as though there's not a grocery store in this  
16 immediate community, and that would not be true,  
17 so the fact that --

18 (Simultaneous speaking.)

19 MR. O'BRIEN: Would you say that  
20 again? I didn't catch that.

21 MS. BROWN: I said the fact that Lidl  
22 is coming to operate right across the street from  
23 where there is another grocery store, to make the  
24 assumption that there is no grocery store, that  
25 there is not a need because there is a grocery

1 store right across the street, so why are we  
2 building another one right here?

3 So, you're saying evidentiary fact.  
4 Why is Lidl coming? We don't need a grocery  
5 store right across the street. Lidl is offering  
6 us more of the same because it is a grocery  
7 store, as a full-service grocery store. We have  
8 a full-service grocery store.

9 So, when you're saying evidentiary  
10 fact, it's evident that we have a grocery store,  
11 that there is a retailer right across the street  
12 that's providing the same service, but Lidl is  
13 coming to offer us more choices.

14 So, is it evidentiary fact that Lidl  
15 has more choices? There is no evidence of that  
16 because the store is not built, just like there  
17 is no evidence that there is no peace, order,  
18 noise, and litter issues because it's not there.

19 MR. O'BRIEN: Commissioner Brown, I  
20 understood you to say a few minutes ago that Lidl  
21 was welcome in the neighborhood?

22 MS. BROWN: Lidl is welcome in the  
23 neighborhood, but you're making it -- but your  
24 questioning is making it seem as though that  
25 there will be no issues. There will be issues if

1 a store is retail. There are people. There will  
2 be issues. They are welcome in the community.

3 MR. O'BRIEN: And I understood you to  
4 say you don't object to the granting of the  
5 license?

6 MS. BROWN: I don't object to the  
7 granting of the license without conditions.

8 MR. O'BRIEN: And by conditions, you  
9 mean the conditions that you have identified?

10 MS. BROWN: The conditions that I have  
11 identified.

12 MR. O'BRIEN: Okay, I'm going to ask  
13 you one more time --

14 (Simultaneous speaking.)

15 MS. BROWN: Go ahead.

16 MR. O'BRIEN: I'm going to ask you  
17 again whether you've got evidentiary support for  
18 the need for any of these conditions that you've  
19 identified?

20 MS. BROWN: I guess my answer to that  
21 is it's the same evidentiary reporting or  
22 evidence that Lidl is needed. So, the same basis  
23 on which Lidl is needed is the same basis, is the  
24 same evidentiary fact that I have. Lidl is  
25 coming right across the street from where there

1 is another grocery store, so it's the same  
2 premise.

3 MR. O'BRIEN: Thank you, Commissioner.  
4 Those were my questions, Mr. Chair.

5 MS. BROWN: Thank you, Mr. O'Brien.  
6 I have no cross examination of myself.

7 CHAIRPERSON ANDERSON: Any questions  
8 by any Board members? None, no questions.  
9 Normally, I would, but I don't see a reason --  
10 all right, so do you rest, Ms. Brown?

11 MS. BROWN: Say again?

12 CHAIRPERSON ANDERSON: Is that it? Do  
13 you rest? That's the presentation of your case?

14 MS. BROWN: That's the presentation,  
15 yes.

16 CHAIRPERSON ANDERSON: All right, Mr.  
17 O'Brien, do you wish to make a closing?

18 MR. O'BRIEN: Yes, sir.

19 CHAIRPERSON ANDERSON: Go ahead, sir.

20 MR. O'BRIEN: I'll just kind of  
21 organize my thoughts here in some coherent  
22 manner, Mr. Chair.

23 CHAIRPERSON ANDERSON: Hold on, Mr.  
24 O'Brien. We can take a five-minute break if you  
25 want, if the parties want. We can take a five-

1 minute break.

2 MR. O'BRIEN: I don't need it.

3 CHAIRPERSON ANDERSON: Okay, all  
4 right, fine, go ahead, sir, all right.

5 MR. O'BRIEN: In response to a couple  
6 of questions or observations by Board members,  
7 Board Member Grandis mentioned D.C.'s, that there  
8 is no real anti-loitering law.

9 We're dealing here in this instance  
10 with private property as opposed to the public  
11 street, and I do suggest, with respect, that the  
12 owner or the lessee of private property is  
13 entitled to discourage loitering on the property  
14 and to have loiterers removed by the police if  
15 necessary. That's the distinction, public  
16 property versus private property.

17 The Chair asked about the Class A  
18 application. I already did mention Wegmans, but  
19 I'd like to invite the Board's attention to the  
20 Council passing on second reading yesterday of  
21 the Reopen D.C. Act, which at the behest of  
22 Councilmember Gray of Ward 7, contains an  
23 explicit provision to attract supermarkets to  
24 Ward 7 with the promise of eligibility of a Class  
25 A license, and indeed, a second Class A license

1 elsewhere in the city.

2 I know the mayor hasn't signed it yet,  
3 at least I'm not aware that she's signed it  
4 during the course of today, Wednesday, but I  
5 think we all anticipate the mayor is going to  
6 sign it, and so as stated policy, it will be  
7 very, very shortly the stated policy that Class  
8 A, supermarkets holding Class A stores, Class A  
9 licenses in Ward 7 and Ward 8 are encouraged.

10 Conditions attached to a license have  
11 to be supported by, and the term is substantial  
12 evidence of record. The Board, with respect,  
13 cannot simply pin the tail, the condition tail on  
14 the donkey. There has to be a reason why a  
15 particular condition is required.

16 And the Board's orders typically say,  
17 for instance, we grant the license, but we find,  
18 based on the evidence, the following is required.  
19 There is no evidence that any condition that  
20 could be attached to this license is required.

21 The applicant, I'm sorry, the  
22 protestant ANC is the one asking for conditions.  
23 It is incumbent upon the applicant, I'm sorry,  
24 the protestant ANC to say why this condition is  
25 necessary, why this other condition is necessary,

1 and it's not a case of simply selecting items  
2 from a menu and saying oh, this would be nice.  
3 Why don't we stick this condition on? It's got  
4 to be supported by evidence of record.

5 Now, to use just one example, I'm not  
6 going to go down Commissioner Brown's laundry  
7 list, but a good example is the issue of ID.  
8 Commissioner Brown demands a condition that  
9 everyone, including the obviously tired O'Brien,  
10 be carded.

11 Whereas, you have a testimony and  
12 exhibits of the licensee's attention to and  
13 aggressive enforcement of the ban on selling  
14 minors alcohol. Now, Commissioner Brown  
15 necessarily has to say that that's not good  
16 enough.

17 If you look 40 or under, we're going  
18 to card you, but if you look over 40, don't worry  
19 about it. It was incumbent upon her to introduce  
20 evidence why that wasn't sufficient, not an  
21 opinion, evidence, and there is no evidence.

22 And there's no substantial evidence of  
23 record to impose any of the conditions that she  
24 enumerated, several of which are required by law  
25 anyway, such as policing the area for trash and



1 litter. That's D.C. Code 25-725.

2 Not selling to minors, well, that's  
3 what the law already provides. I don't think the  
4 Board is in the business of issuing conditions  
5 that essentially say oh, by the way, you have to  
6 obey the law. I think that's all pretty well  
7 understood by everyone in the community, in the  
8 licensee community.

9 So, requirements of law are not  
10 grounds for conditions, and at the risk of  
11 repeating myself more than once, any condition  
12 the Board might contemplate has to be supported  
13 by evidence of record, and there is no evidence  
14 supporting any one of these conditions. For that  
15 reason, Mr. Chair, we ask that the license be  
16 granted as filed.

17 CHAIRPERSON ANDERSON: Thank you, Mr.  
18 O'Brien. Ms. Brown?

19 MS. BROWN: Mr. Anderson, we too at  
20 the ANC, we believe that the license should be  
21 granted, however, with conditions. Everyone  
22 knows that everyone should follow the law, but  
23 based upon the testimony of Ms. Robinson about  
24 the store's practices, with Lidl's practices, but  
25 does not ensure that the law is being closely

1 followed, you know, just if someone looks under a  
2 certain age. We have to verify ages and we do  
3 that by asking for positive ID, and I don't think  
4 that's too much to ask.

5 The settlement agreement we had  
6 attempted to do did with some things kind of did  
7 enumerate what the law already says. The issue  
8 was the hours, but since the applicant failed to  
9 put down all of the hours that they could  
10 possibly sell alcohol, that's why we're here  
11 today.

12 So, I ask that the Board grant the  
13 license with the conditions outlined. There is  
14 no evidence to say that Lidl is going to be a  
15 great partner in the community. We just hope  
16 that they would, but if we have a document we can  
17 hold Lidl accountable to, we can show them this  
18 is what you all said, that you agreed to when you  
19 came into this community.

20 The law that he referenced has not  
21 gone into effect yet. It is not signed by the  
22 mayor, so until such time, it is not the law.  
23 That's it. Thank you.

24 CHAIRPERSON ANDERSON: All right,  
25 thank you, Ms. Brown. All right, one moment,

1 please. The record is now closed, and I normally  
2 ask if the parties, will the parties file  
3 objections. I'm not even going to ask that  
4 because that's not -- I normally ask -- well, you  
5 know, I have to ask. Do the parties wish to file  
6 proposed findings of facts and conclusions?

7 Well, I don't think that's necessary  
8 here because the parties are not objecting to the  
9 granting of the license, so I believe that's not  
10 necessary here, but I believe that the parties  
11 will agree to, based on the evidence and  
12 testimony provided here today, the Board will  
13 make a decision to issue the license, and whether  
14 or not there will be conditions imposed or not.  
15 That's all.

16 As was presented at the beginning of  
17 this hearing, both parties agree to the granting  
18 of the license and both parties agree to the  
19 granting of the license for the hours that were  
20 placarded, which is from 8:00 a.m. to 9:00 p.m.

21 All right, but, so the Board will  
22 issue a decision, I believe -- well, it's less  
23 than 90 days because this is a new license, so  
24 the Board will issue a decision within the next  
25 90 days on whether or not conditions, if any,

1 will be imposed on this license, and the Board  
2 will make its decision based on what was  
3 presented in evidence today.

4 All right, so let me bring closure to  
5 this case then. As Chairperson of the Alcoholic  
6 Beverage Control Board for the District of  
7 Columbia, in accordance with D.C. Official Code  
8 Section 2575 of the Open Meetings Act, I move  
9 that the ABC Board hold a closed meeting for the  
10 purpose of seeking legal advice from our counsel  
11 on case number 22-PRO-00004, Lidl, pursuant to  
12 D.C. Official Code Section 2575(b)(4)(a) of the  
13 Open Meetings Act, and deliberate upon case  
14 number 22-PRO-00004, Lidl, for the reasons cited  
15 in D.C. Official Code Section 2575(b)(13) of the  
16 Open Meetings Act. Is there a second?

17 MEMBER SHORT: Mr. Short, I second.

18 CHAIRPERSON ANDERSON: Mr. Short has  
19 seconded the motion. I will now take a roll call  
20 vote on the motion before us now that it has been  
21 seconded. Mr. Short?

22 MEMBER SHORT: Mr. Short, I agree.

23 CHAIRPERSON ANDERSON: Mr. Cato?

24 MEMBER CATO: Bobby Cato, I agree.

25 CHAIRPERSON ANDERSON: Ms. Crockett?

1 MEMBER CROCKETT: Rafi Crockett, I  
2 agree.

3 CHAIRPERSON ANDERSON: Ms. Hansen?

4 MEMBER HANSEN: Jeni Hansen, I agree.

5 CHAIRPERSON ANDERSON: Mr. Grandis?

6 MEMBER GRANDIS: Edward Grandis, I  
7 agree.

8 CHAIRPERSON ANDERSON: And Mr.  
9 Anderson, I agree.

10 As it appears that the motion has  
11 passed, I hereby give notice that the ABC Board  
12 will recess this proceeding to hold a closed  
13 meeting pursuant to Section 2575 of the Open  
14 Meetings Act.

15 I want to thank everyone for their  
16 active participation today for this hearing.  
17 Thank you very much. The Board will issue a  
18 decision granting, as I stated, for granting this  
19 license with or without conditions shortly. Have  
20 a great day. Thank you very much.

21 MS. BROWN: Thank you.

22 CHAIRPERSON ANDERSON: Yeah, thank  
23 you. We have one more case and we have been  
24 going for a while, so what I'm going to ask,  
25 we're going to be off the record for ten minutes.

1 The Board members can -- I don't want anyone to  
2 leave.

3 We're just off the record for ten  
4 minutes. It's 4:06. At 4:15, I'm sorry, at  
5 4:15, we will call our next case. So, please do  
6 not log off. Just take -- you can mute your  
7 microphone and turn your camera off, but we'll  
8 come back on the record at 4:15.

9 (Whereupon, the above-entitled matter  
10 went off the record at 4:07 p.m.)

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## A

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