

DISTRICT OF COLUMBIA  
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 ALCOHOLIC BEVERAGE CONTROL BOARD  
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 MEETING

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 IN THE MATTER OF:                   :  
   :  
 Ultrabar Chrome                    :  
 911 F Street NW                    : Protest  
 Retailer CN - ANC 2C                : Hearing  
 License No. 74767                   :  
 Case #19-PRO-00163                 :  
   :  
 (Application to Renew               :  
 License)                               :  
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Wednesday  
 May 11, 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  
 ANTONIOS KARAGOUNIS, Applicant  
 DIMITRIOS MARMARAS, Applicant  
 ANDREW KLINE, Applicant Counsel  
 SIDON YOHANNES, Applicant Counsel  
 ASHLEY STEINBERG, Protestant  
 YANEV SUISSA, Protestant  
 BRETT SPOONER, Witness  
 GALEN EPPS, Witness  
 MICHAEL SHANKLE, ANC 2C  
 RHODA GLASGOW, DC ABRA Investigator

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

2 1:38 p.m.

3 CHAIRPERSON ANDERSON: And the final  
4 case in our calendar this afternoon is a protest  
5 hearing, Case No. 19-PRO-00163. This is Ultrabar  
6 Chrome, License No. 74767.

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

9 MS. FASHBAUGH: Please stand by. Mr.  
10 Kline, your rights have been elevated. Sidon  
11 Yohannes, your rights have been elevated.  
12 Michael Shankle, your rights have been elevated.  
13 Ashley Steinberg, your rights have been elevated.  
14 Yanev Suissa, your rights have been elevated.  
15 Brett Spooner, your rights have been elevated.  
16 And Rhoda Glasgow, your rights have been  
17 elevated. That is all, Mr. Chair.

18 CHAIRPERSON ANDERSON: Good afternoon,  
19 everyone. If everyone has a camera, can you  
20 please turn your camera on, please? All right.  
21 Good afternoon.

22 This is a protest hearing for Case No.  
23 19-PRO-00163, Ultrabar Chrome. So let's start  
24 with the representative of the licensee. So I  
25 would like everyone to start with the

1 representative of the licensee. Please spell and  
2 state your name for the record and your role,  
3 please.

4 MR. KLINE: Good afternoon. I'm  
5 sorry, I'm struggling with the camera. I'll get  
6 it fixed in just a minute. Andrew Kline from the  
7 Veritas Law Firm. I am here as counsel to the  
8 licensee.

9 CHAIRPERSON ANDERSON: And who else is  
10 here on your legal team, Mr. Kline?

11 MR. KLINE: Go ahead, Sidon.

12 MS. YOHANNES: I'm there as well.  
13 Sidon Yohannes on behalf of the licensee. And  
14 our clients are also present. I don't believe  
15 that they have been --

16 CHAIRPERSON ANDERSON: Ms. Yohannes,  
17 can you please spell your name for the record,  
18 please, ma'am?

19 MS. YOHANNES: Sure. S-I-D-O-N, Y-O-  
20 H-A-N-N-E-S.

21 CHAIRPERSON ANDERSON: And who's your  
22 client, ma'am? And please call their name and  
23 then the client can identify themselves for the  
24 record, please.

25 MS. YOHANNES: Antonios Karagounis and

1 Jimmy Marmaras. They're both present, but  
2 they've not been --

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

6 MR. KARAGOUNIS: Can you see me, first  
7 of all?

8 CHAIRPERSON ANDERSON: I can see and  
9 hear you, sir.

10 MR. KARAGOUNIS: Okay. A-N-T-O-N-I-O-  
11 S, Antonios, last name, K-A-R-A-G-O-U-N-I-S,  
12 Karagounis.

13 CHAIRPERSON ANDERSON: And who is the  
14 other owner? Could that other person please  
15 spell and state their name for the record,  
16 please?

17 MR. KARAGOUNIS: The other owner is  
18 Dimitrios, D-I -- I don't think he can -- he's  
19 trying to turn his camera on, I think. It's  
20 Dimitrios --

21 CHAIRPERSON ANDERSON: Okay. He's is  
22 there. So can he spell -- I see him. So Mr.  
23 Marmaras, can you please spell and state your  
24 name for the record, please? I can see him.

25 MR. MARMARAS: Yes, okay. I'm sorry.

1 My name is Dimitrios, Marmaras, D-I-M-I-T-R-I-O-  
2 S. Last name Marmaras, M-A-R-M-A-R-A-S.  
3 Everybody calls me Jimmy. Can you guy see me on  
4 the video?

5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: You're on my  
7 screen twice, sir. So I'm not sure. I see your  
8 name twice on the screen. But I can only see one  
9 -- on one screen is blank. The other screen has  
10 your picture. So I'm not sure if you're the one  
11 I am looking at.

12 MR. MARMARAS: Okay.

13 CHAIRPERSON ANDERSON: I think I see  
14 -- the screen I'm looking at --

15 MR. MARMARAS: I'm waving.

16 CHAIRPERSON ANDERSON: No, you're not  
17 -- oh, did you just shake your head, sir?

18 MR. MARMARAS: No, I'm waving.

19 MS. YOHANNES: That's a different --

20 CHAIRPERSON ANDERSON: No, I don't  
21 know. So who -- okay. All right. I think I  
22 know what's going on. All right. Mr.  
23 Karagounis, are you in the -- you're on my screen  
24 twice and you have two different background. So  
25 I'm not quite sure how that is, sir.

1 MR. KARAGOUNIS: That's weird.

2 CHAIRPERSON ANDERSON: All right. Let  
3 me see. All right. All right. Well, Mr. -- all  
4 right. Hold on. Okay. That's Mr. Shankle I  
5 see. No, I can't -- I cannot see you, Mr.  
6 Marmaras. But I can hear you.

7 MR. MARMARAS: I'm sorry. I'm not  
8 sure. It says my camera is on. I'm not sure  
9 why.

10 CHAIRPERSON ANDERSON: Well, I can  
11 hear you. So that's fine. If your camera  
12 doesn't work, that's fine. I can hear you. All  
13 right. Ms. Yohannes or Mr. Kline, is there any  
14 other persons on your TV you would like to  
15 identify? Or is that the extent of your team?

16 MR. KLINE: We have a witness who will  
17 be testifying later.

18 CHAIRPERSON ANDERSON: Okay. So all  
19 right. All right. So let's -- okay. Thank you  
20 then. Let's then go to the protestant. Who's  
21 the protestant? Can you please state and spell  
22 your name for the record, please? You're on  
23 mute, ma'am.

24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: I'm sorry.

1 Hold on.

2 MS. STEINBERG: Apologies.

3 CHAIRPERSON ANDERSON: I'm sorry.

4 What's your name again, ma'am? Please spell and  
5 state your name for the record, please.

6 MS. STEINBERG: My apologies for that.

7 My name is Ashley Steinberg, A-S-H-L-E-Y, S-T-E-  
8 I-N-B-E-R-G.

9 MR. MARMARAS: Yeah, it won't work.

10 CHAIRPERSON ANDERSON: Mr. Marmaras,  
11 can you mute your line, please, sir?

12 MR. MARMARAS: I'm sorry. I  
13 apologize.

14 (Simultaneous speaking.)

15 CHAIRPERSON ANDERSON: Yes, go ahead.  
16 You can fix your technological issue. But make  
17 sure that you remain on mute while -- okay, fine.  
18 All right. Ms. Steinberg, you're one of the  
19 protestants. Who else is here?

20 MS. STEINBERG: Yeah, so my neighbor,  
21 Yanev Suissa, you can see that's he's logged in.  
22 He's have a couple technical difficulties. So  
23 he'll be figuring that out and rejoining. But I  
24 can spell his name for the record if that's help  
25 or he can do it when he comes back.

1 CHAIRPERSON ANDERSON: When he comes.

2 (Simultaneous speaking.)

3 MS. STEINBERG: Okay. He's just  
4 figuring out his camera. So he'll be joining in  
5 a second. And there's Brett Spooner who is also  
6 my neighbor. Brett? Brett?

7 CHAIRPERSON ANDERSON: Mr. Spooner,  
8 can you hear us, sir? You need to unmute your  
9 line, sir. I see --

10 MS. STEINBERG: Oh, he said that they  
11 -- he lost his rights. He had to rejoin. When  
12 he rejoined, they have to give him rights again.  
13 He's having trouble.

14 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
15 can you please --

16 (Simultaneous speaking.)

17 MR. SPOONER: I can hear you. Can you  
18 -- I can hear you now. Can you hear me?

19 MS. STEINBERG: There you are. Hi.

20 CHAIRPERSON ANDERSON: I'm sorry.  
21 Who's speaking, please?

22 MR. SPOONER: This is Brett Spooner,  
23 B-R-E-T-T --

24 CHAIRPERSON ANDERSON: Can you please  
25 spell your name for the record, please, sir?



1 MR. SPOONER: Absolutely. Brett, B-R-  
2 E-T-T, Spooner, S-P-O-O-N-E-R.

3 CHAIRPERSON ANDERSON: Okay.

4 MR. SPOONER: Thank you.

5 CHAIRPERSON ANDERSON: Ms. Steinberg,  
6 any other protestants on the line?

7 MS. STEINBERG: Well, we have  
8 Commissioner Shankle as well.

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

12 MR. SHANKLE: Sure. It's Michael, M-  
13 I-C-H-A-E-L. Last name is Shankle, S-H-A-N-K-L-  
14 E. I'm the ANC Commissioner for 2C.

15 CHAIRPERSON ANDERSON: So is this case  
16 being protested by the ANC or by the abutting  
17 neighbor? Excuse me. I'm just trying to get  
18 some clarification.

19 MR. SHANKLE: By both.

20 CHAIRPERSON ANDERSON: Okay. So  
21 there's two protestant groups, the ANC and the  
22 abutting -- okay. Anyone else?

23 MR. KLINE: Group of five or more.

24 CHAIRPERSON ANDERSON: A group of five  
25 or more. I'm sorry. Group of five or more and

1 the -- the ANC and group of five or more. Anyone  
2 else on the line that we need to identify at this  
3 time?

4 (No response.)

5 CHAIRPERSON ANDERSON: Good afternoon,  
6 everyone. This is a protest hearing, and it is a  
7 -- although we're in 2022, this is a 2019 protest  
8 hearing. I just want to remind the parties that  
9 in September -- September 30th, 2022, the license  
10 class will also -- their license will be up for  
11 renewal.

12 And I do hope that the parties can  
13 maybe come to some type of agreement that  
14 whatever decision the Board makes today will  
15 cover -- the renewal for 2022 because I'm not  
16 sure if it would be helpful for all the parties  
17 if we issue a protest -- we have a protest case  
18 again today. And then on the renewal, we're  
19 going to have a -- we might be subject to another  
20 protest right after September. I just want to  
21 bring that to the attention of the parties to  
22 keep that in mind in whatever decision where we  
23 are today and whether or not the parties would  
24 jointly consider or whether the party would  
25 jointly state whatever decision that the Board

1 makes today would be binding on the parties for  
2 the 2022 renewal.

3 That's something that I would like  
4 maybe the parties to consider moving forward.  
5 You don't have to do that. You can basically  
6 state we're protesting this hearing today.

7 We see what the decision the Board  
8 makes. And then we still maintain the right too  
9 if they ask to renew their license in September  
10 that we're going to protest that again too. So I  
11 just want to bring that to the attention of the  
12 parties. All right. But --

13 MR. KLINE: Mr. Chairman --

14 (Simultaneous speaking.)

15 CHAIRPERSON ANDERSON: I'm sorry.  
16 Who's speaking? Yes, Mr. Kline.

17 MR. KLINE: Andrew Kline. I think  
18 that's a good point and hadn't raised it  
19 previously with the protestants. But it seems to  
20 me it's a beautiful day if we wanted to defer  
21 this. I mean, I know that the parties have  
22 spoken some and some measures have been taken.

23 And it seems to me that perhaps if  
24 there could be satisfaction, maybe we wouldn't  
25 even have to be back here in the fall rather than

1 doing it twice. But I leave that to the  
2 protestants. We're prepared to go forward. I  
3 just throw it out there, since the Chair  
4 mentioned that (audio interference).

5 CHAIRPERSON ANDERSON: Mr. Kline, for  
6 some reason -- basically, what you said, it was  
7 not clear. So I'm not quite sure what it is that  
8 you stated because your volume was in and out.

9 MR. KLINE: I apologize. Hopefully  
10 this is better.

11 CHAIRPERSON ANDERSON: Yeah, that's  
12 better, sir.

13 MR. KLINE: Yeah, I sometimes cover my  
14 mic up on my computer. I apologize.

15 I was suggesting that, although we  
16 hadn't previously discussed this with the  
17 protestants, there have been discussions about  
18 what might be done here.

19 And given that it's a beautiful day,  
20 it seems to be it could be efficient if the  
21 parties move forward, and the ANC and the group  
22 of five or more, as the Chair pointed out,  
23 certainly have the ability to protest again in  
24 the fall if things are to the satisfaction of the  
25 protestants. But I leave that to them. And

1 we're prepared to go forward today. But just  
2 trying to think about being efficient, and I  
3 leave that to the protestants to consider.

4 CHAIRPERSON ANDERSON: Are you -- what  
5 is -- I apologize, Mr. Short. Mr. Short, I'm not  
6 picking on you. I apologize, Mr. Kline. I have  
7 no idea what it is you're asking the protestants  
8 to do. So are you saying -- I know what I  
9 stated. But I don't know what you're stating  
10 because I don't know what it is that you're  
11 asking the protestant.

12 (Simultaneous speaking.)

13 CHAIRPERSON ANDERSON: And I think Ms.  
14 Steinberg, she's just as confused as I am.

15 MR. KLINE: Well, I'm sorry.

16 CHAIRPERSON ANDERSON: She's shaking  
17 her head.

18 MR. KLINE: I'll try to be clearer.  
19 What I'm suggesting is perhaps the protestants  
20 consider withdrawing the protest at this time,  
21 reserving their rights -- as they have anyway,  
22 they don't even need to reserve them -- to assert  
23 a protest in the fall. Given that there's been  
24 some discussions between the parties, perhaps  
25 that might be more constructive than what we're

1 going to do this afternoon.

2 But that's entirely up to the  
3 protestants. They obviously have the right to go  
4 forward to today, I don't question that. I'm  
5 just thinking about being efficient, and that's  
6 the only reason I lay it out there.

7 CHAIRPERSON ANDERSON: I'll start with  
8 you, Ms. Steinberg, based on the suggestion that  
9 was made by Mr. Kline.

10 MS. STEINBERG: We'd like to proceed  
11 today. Thank you.

12 CHAIRPERSON ANDERSON: All right. And  
13 what about the ANC?

14 MR. SHANKLE: The ANC will proceed  
15 today as well. Thank you.

16 CHAIRPERSON ANDERSON: All right. All  
17 right, fine. All right. So all right. This is  
18 how this protest will move along today. The  
19 applicant will have five minutes to present its  
20 case, then the protestants will have five minutes  
21 -- I'm sorry, to make an opening statement. I'm  
22 sorry. I'm sorry. I'm sorry. Okay. This is  
23 the process.

24 Then we'll be done in, like, an hour  
25 or a half an hour. This is the process that

1 we'll follow today. The Board will call its  
2 witness and the Board's witness will testify to  
3 the report.

4           Once the Board will call its witness,  
5 the Board members will have an opportunity to ask  
6 questions of the Board's witness. Once the Board  
7 asks questions of the Board's witness, then the  
8 applicant will have an opportunity to ask  
9 questions of the Board's witnesses. And then the  
10 protestants will have an opportunity to ask  
11 questions of the Board's witness.

12           Once the Board has presented its case,  
13 then the applicant will present its case. Once  
14 the applicant has presented its case, then the  
15 protestants will have an opportunity to present  
16 its case. Now I know that there is a -- there's  
17 two protests, one by group of five or more and  
18 the ANC. Now we're going to have -- who is  
19 taking the lead in representing in bringing forth  
20 this case? Is it the ANC or the group of five or  
21 more?

22           MS. STEINBERG: I think we've been  
23 working very closely together. But I'll be  
24 serving as the lead for the purposes of this  
25 hearing is that's helpful.

1                   CHAIRPERSON ANDERSON: Thank you, Ms.  
2 Steinberg. All right. All right. Now I also  
3 want to make it known to the protestant the first  
4 -- the Board is going to present its case, then  
5 the applicant is going to present its case. It's  
6 2:00 o'clock. Although I might tell each side  
7 that they have an hour to present its case,  
8 depending on cross examination, on the Board  
9 side, it's 2:00 o'clock.

10                   Maybe the applicant will present its  
11 case maybe around 3:00 o'clock, 3:30. I'm not  
12 sure what time the applicant after we've  
13 presented -- once the Board presents its case and  
14 with direct examination and cross examination.  
15 And then once we do that, then the applicant will  
16 present its case.

17                   So I want the protestants to be aware  
18 that they might not start presenting their case  
19 until 4:00 o'clock, 5:00 o'clock. That's when  
20 the protestants will start to present their case.  
21 So please alert your witnesses because I do not  
22 want to be told later on that we've been online  
23 since 1:40 and my witnesses had to leave. Okay?  
24 And all right. So I'm just letting the  
25 protestants know that maybe around 4:00, 5:00



1 o'clock is when they will present their case.

2 So their witnesses should be available  
3 later on in the afternoon. They're not -- we're  
4 probably not going to need -- their witness is  
5 probably not going to testify within the next two  
6 hours at least. Okay? And I also want to advise  
7 all the parties when it comes to IT.

8 What I will do is that I will -- if  
9 you have documents and witnesses, documents that  
10 you want to share with the Board, I will alert  
11 our IT person -- our IT specialist to give you  
12 the opportunity to share your screen. That's all  
13 that we will do. You need to have your  
14 documents. So I will -- if you want to introduce  
15 any documents, all that I will do is that I will  
16 give you permission to share your screen.

17 The Board does not have the ability to  
18 provide any other IT services. So both sides  
19 should be aware that the limitation is that you  
20 want to share your screen, I will give you the  
21 ability. I will ask our IT specialist to give  
22 you the ability to share your screen. But that's  
23 the extent of the IT assistance that we'll  
24 provide to you. All right. So is there any  
25 preliminary issues, motions that either side

1 wants to make before we start the process by the  
2 applicant?

3 MR. KLINE: Yeah, just from the  
4 applicant's side, a clarification, asking whether  
5 we can resume that the ANC's case is subsumed by  
6 the protest information form that was filed on  
7 behalf of the other protestants.

8 CHAIRPERSON ANDERSON: Actually, Ms.  
9 Steinberg is, yes. All right. Thank you, Mr.  
10 Shankle --

11 MR. KLINE: Thank you.

12 CHAIRPERSON ANDERSON: -- for making  
13 that. Any other preliminary -- any preliminary  
14 issues from the protestant, Ms. Steinberg?

15 MS. STEINBERG: No.

16 CHAIRPERSON ANDERSON: No? All right.  
17 So to start, the applicant will have five minutes  
18 to make an opening statement, then the  
19 protestants will have five minutes to make an  
20 opening statement. And then we will move to the  
21 Board's presentation. I will also ask that I  
22 know that I've also stated that each side will  
23 have an hour to present its case.

24 I need folks to be very mindful of the  
25 timeline. And I also want folks to be mindful of

1 the witnesses that they're calling because we're  
2 not going to -- I'm not going to have repetitive  
3 or redundant testimony. So therefore if a  
4 witness has testified, I do not expect the other  
5 witness to mimic that same testimony.

6 We need to have new information being  
7 presented by each of the witnesses. We try to  
8 move through this case as quickly as possible and  
9 try to be mindful of each other's timeline.

10 Okay. Any questions before we start?

11 No? All right. Mr. Kline, your  
12 opening statement, please.

13 MR. KLINE: Great. Good afternoon,  
14 Mr. Chairman, members of the Board. We are here  
15 to consider a renewal of an application for  
16 Ultrabar. This case -- I want to talk about what  
17 this case is not about and we'll talk about what  
18 it is about.

19 This is not a case about a bad  
20 operator violates ABRA regulations. It's not a  
21 case about an operator who's unresponsive to the  
22 neighborhood. It's not a case about an operator  
23 who does not make efforts to address concerns and  
24 issues raised by residents living in the  
25 neighborhood.

1           What we think this case is about is  
2 living in a downtown area and the expectations of  
3 residents there along with the expectations of  
4 those that operate businesses there including ABC  
5 licensed establishments. And what standard  
6 should apply when the Board considers a renewal  
7 of an application or even a new application in  
8 such neighborhoods? Now this case is very  
9 limited in nature.

10           One need only look at the protest  
11 information form that's been filed. And it's not  
12 being requested that the license not be renewed,  
13 that the applicant not be allowed to operate.  
14 The issue that's been raised by the protestants,  
15 the action that's being requested is that they  
16 want soundproofing, crowd management, and other  
17 mitigation measures.

18           All of that falls under  
19 appropriateness standards of D.C. Code 25-  
20 313(b)(2), the effect of the establishment on  
21 peace, order, and quiet, including -- and this is  
22 very important -- the noise and litter provision  
23 set forth in Sections 25-725 and 25-726. Now  
24 it's our position and it's been our position in  
25 reviewing appropriateness and reviewing peace,

1 order, and quiet that the Board does that in the  
2 context of the area in which the applicant  
3 operates, in the case (audio interference)  
4 intends to operate in the case of the new  
5 application. So that the standard that might be  
6 applied on upper 16th Street, for example,  
7 adjacent to residences or upper Wisconsin Avenue  
8 or upper Connecticut Avenue, or Hillcrest or  
9 whatever is different than in a downtown retail  
10 zone.

11 The zoning is different, and it is  
12 intended that these areas be viewed differently  
13 and that it be viewed in context. How do we know  
14 that? We know that because 25-725, which is the  
15 noise provision and it's specifically referenced  
16 in the appropriateness standard, makes a  
17 distinction and has a different standard for  
18 persons, residents living in commercial zones as  
19 opposed to those that live in residential zones.  
20 So we know right off the bat there's a different  
21 standard.

22 We believe the evidence in this case  
23 will show, as I intimated earlier, that the  
24 applicant has been responsive, has been  
25 cooperative, has been available, and has taken

1 measures time and time again to address issues  
2 that have been raised by the protestants and will  
3 be raised in this case. And we would suggest  
4 that, given all of that, that the protestants are  
5 not guaranteed the standard that they expect.  
6 But the applicant need only be reasonable and not  
7 provide a negative effect on peace, order, and  
8 quiet in the context of the neighborhood in which  
9 they operate, which, in this case, is on F  
10 Street, downtown Washington, one block from the  
11 Capital One Arena, which is our principle indoor  
12 sports/concert facility, and with the attendant  
13 entertainment places that surround the Capital  
14 One Arena.

15 And all of that must be looked at in  
16 context. And we believe the evidence will show  
17 that the applicant has acted responsibly, that  
18 the applicant is actually a very good actor. And  
19 they do -- not only do they do more than this, we  
20 believe the evidence will show they're as good as  
21 anybody in terms of the way they pay attention to  
22 their nightclub business. However, it is a  
23 nightclub, and there will be some effects.

24 So, at the conclusion of the case, we  
25 will ask that the Board, after having considered

1 the evidence, renew the license without condition  
2 or qualification. Thank you.

3 CHAIRPERSON ANDERSON: Thank you, Mr.  
4 Kline. Ms. Steinberg?

5 MS. STEINBERG: Thank you so much. As  
6 it turns out, I agree with Mr. Kline that what  
7 this case is and is not about. This is not a  
8 community of neighbors asking for complete  
9 silence as though we live in the suburbs.

10 We understand that when we made the  
11 choice to live downtown, we wanted to be part of  
12 the vibrant downtown community. We wanted to be  
13 part of a place with people on the streets at  
14 night and real life. What this case is about,  
15 though, is way beyond that.

16 Ultrabar's disruption is way beyond  
17 what is acceptable. It's noise, chaos,  
18 disruption. I can hear the lyrics to the songs  
19 that they're playing at 1:30 a.m. in my  
20 apartment. And supervisor investigator John  
21 Fiorentine confirmed that noise.

22 So to be clear, we don't want to be  
23 here. We have tried tirelessly to engage with  
24 Ultrabar. But they have refused to even speak to  
25 us about mitigation measures until a few days

1 ago.

2 It was not fun having to organize 169  
3 videos and photos, not to mention recording them  
4 to begin with over the past several years in  
5 order to demonstrate how out of control the noise  
6 and chaos is. We don't want to be here. But the  
7 fundamental and defining characteristic of  
8 Ultrabar's relationship to its community is its  
9 refusal to engage.

10 We have tried for months and months,  
11 and the only time Ultrabar will even speak to us  
12 is when there's the threat of doing something.  
13 They ordered some materials last week, as you've  
14 seen in the evidence. And what we're asking you,  
15 ABRA, to do is tell them that they need to follow  
16 the rules.

17 We're not asking for you to take away  
18 their license. We're not asking you not to renew  
19 it. We're just asking you to get them to adhere  
20 to what they're already supposed to be doing  
21 which is to minimize noise and minimize chaos and  
22 litter.

23 So these problems, I just want to give  
24 a little bit of an overview of what the history  
25 has been. These problems have been going on for



1 years as evidenced by the piece of evidence we  
2 submitted, the letter from our former president  
3 at the HOA. We also have a petition by local  
4 residents.

5 We're not making this up. When we  
6 first launched the protest however, the their  
7 owner, Mr. Karagounis, announced that he would  
8 never enter into a settlement agreement with us.  
9 That was the starting point. We then paused  
10 proceedings because of COVID.

11 MR. KLINE: I'm going to object and  
12 caution. I don't like to object to opening  
13 argument. We seem to be down a road of talking  
14 about settlement agreements --

15 CHAIRPERSON ANDERSON: Mr. Kline,  
16 she's just making a statement. She has not made  
17 any -- she has not stated what it is that they're  
18 asking for. She's just making a statement as a  
19 matter of fact.

20 Clearly -- hold on, Ms. Steinberg.  
21 Clearly, if the parties were able to settle this  
22 matter, we would not be here. So all she's  
23 stating is that we -- all she's stating is that  
24 and that's why we're here today is that the  
25 parties were unable to settle this matter.

1 MS. STEINBERG: And to be clear, I'll  
2 be very respectful about not introducing the  
3 substance of those settlement agreements into  
4 discussion. I offer however the -- your raised  
5 the point about engagement. I'm offering up the  
6 history of what the engagement has been and how  
7 difficult it has been to try to achieve a  
8 settlement agreement irrespective of that  
9 substance. So I'll continue. I'll just pull  
10 back up my notes. Apologies for a second.

11 So we paused the proceedings because  
12 of the COVID and the club wasn't operating.  
13 However, when the club reopened, instead of going  
14 straight to a hearing, we reached out to Ultrabar  
15 to work out some solutions. Through their  
16 counsel, Ultrabar claimed that they couldn't  
17 possibly talk about anything until they knew what  
18 we were hearing in our apartments.

19 So they said we had to invite an ABRA  
20 investigator in. We immediately reached out to  
21 Sarah Fashbaugh who was the community relations  
22 person, and she set up a visit with Supervisory  
23 Investor John Fiorentine. He visited, was  
24 horrified by the noise and the chaos, and sent us  
25 a list of possible solutions and measures that we

1 could work on to try to figure out, okay, well,  
2 are these measures we could take? Will this  
3 work? How can we reduce the noise?

4 We called, emailed, begged for months  
5 and months to speak about the agreement. We even  
6 emailed to find out did we miss a response. We  
7 didn't even get responses to those emails either.  
8 Eventually, we had a mediation. We were promised  
9 a response. More silence. A week ago, we  
10 finally received a response.

11 Now Ultrabar is going to argue that  
12 they're responsive because Jimmy has been  
13 responsive in real time to our complaints. That  
14 is to say I have Jimmy's cell phone number. And  
15 when it's really, really noisy, I text him.

16 Jimmy's a very nice guy. I really  
17 like him. That's not the point here. This is  
18 much bigger than Jimmy. It is not an acceptable  
19 system that we spend three nights a week texting  
20 him telling to keep the noise down or to keep the  
21 people from screaming outside.

22 This problem is bigger than Jimmy.  
23 This is about Ultrabar's refusal to adopt any  
24 structural measures to actually try to control  
25 the noise and the crowd management. So we have

1 169 videos and photos of Ultrabar destruction,  
2 text messages between us and Ultrabar personnel  
3 regarding noise from 2017 to 2019.

4 We have materials received by the FOIA  
5 request which my neighbor Yanev is going to speak  
6 about. We have petitions on the community  
7 neighbors urging Ultrabar to stop its  
8 destruction. We have the email from Supervisory  
9 Investigator John Fiorentine after his site visit  
10 advising us on what we should ask for in terms of  
11 potential mitigation measures.

12 And finally, we have emails  
13 demonstrating our attempts over the years to  
14 engage desperately in trying to find a  
15 resolution. And they won't even speak to us. So  
16 what we are asking for is for ABRA to do two  
17 things.

18 The first is to issue an order that  
19 requires them to ensure that noise is not audible  
20 in our apartment, including the hiring of a sound  
21 engineer, not their buddy but an independent  
22 engineer that can issue sound recommendations.  
23 And then, of course, implement those reasonable  
24 recommendations. And B, and order that creates  
25 legal consequences for failure to continually

1       abide by their security plan.

2                   The security plan was offered up into  
3 evidence and that's great. But the unfortunate  
4 thing is it's not being adhered to. We think  
5 what we're asking for is very, very reasonable.

6                   We just want them to behave  
7 responsibly. We understand that we don't live in  
8 the suburbs. We understand that we are part of a  
9 downtown community. But the way that Ultrabar  
10 conducts itself is above and beyond what is  
11 acceptable for the piece of our neighborhood. So  
12 thank you.

13                   CHAIRPERSON ANDERSON: So you're not  
14 asking us not to -- so you're not asking us not  
15 to renew the license. So you're asking us to  
16 renew the license but you're asking for  
17 conditions. Is that correct?

18                   MS. STEINBERG: Correct. We're trying  
19 to be reasonable here.

20                   CHAIRPERSON ANDERSON: I just want to  
21 know. Just want to make sure that we know  
22 because the renewal of the license itself is not  
23 in question. That there's an agreement that the  
24 license will be renewed.

25                   The issue is now whether or not with

1 the renewal should the Board impose conditions on  
2 this renewal. And so therefore, I'll ask both --  
3 I'm sorry. You're saying something, Ms.  
4 Steinberg?

5 MS. STEINBERG: I'm sorry. I was just  
6 going to say, correct, we respect the Ultrabar's  
7 right to operate. We just want to be able to  
8 sleep while it does so.

9 CHAIRPERSON ANDERSON: Fine, and I  
10 appreciate that, ma'am. So that's why I'm saying  
11 I want us then to more focus the hearing on what  
12 conditions, if any, in a sense that the licensee  
13 will -- since he knows that the license will be  
14 renewed whether or not conditions should be  
15 imposed. And that's what I need the licensee to  
16 argue, excuse me, and that the protestants, their  
17 case should be then focused on what conditions,  
18 if any, should also be imposed on a license.

19 So that's so we can streamline the  
20 license that way. And what I will also do in  
21 questioning our investigator, I will talk about  
22 those kind of issues based on the portion of the  
23 report that deals with this. Okay? All right.  
24 So the Board will call its first witness, Ms.  
25 Rhoda Glasgow. Ms. Glasgow, can you please spell

1 and state your name for the record, please?

2 INVESTIGATOR GLASGOW: Rhoda Glasgow,  
3 R-H-O-D-A G-L-A-S-G-O-W.

4 CHAIRPERSON ANDERSON: Can you raise  
5 your right hand, please, ma'am? Do you swear or  
6 affirm to tell the truth and nothing but the  
7 truth?

8 INVESTIGATOR GLASGOW: I do.

9 CHAIRPERSON ANDERSON: Can you tell me  
10 where you're currently employed, ma'am?

11 INVESTIGATOR GLASGOW: Alcoholic  
12 Beverage Regulation Administration.

13 CHAIRPERSON ANDERSON: What are your  
14 duties and responsibilities at ABRA, please?

15 INVESTIGATOR GLASGOW: I conduct the  
16 inspections and investigations of licensed ABC  
17 establishments in the District of Columbia.

18 CHAIRPERSON ANDERSON: And are you  
19 familiar with Ultrabar Chrome?

20 INVESTIGATOR GLASGOW: I am.

21 CHAIRPERSON ANDERSON: And how did you  
22 become familiar with this establishment?

23 INVESTIGATOR GLASGOW: I was assigned  
24 the investigation for the protest of the license.

25 CHAIRPERSON ANDERSON: And did there

1       come a time that you wrote a case report  
2       regarding this case?

3                   INVESTIGATOR GLASGOW:   I did.

4                   CHAIRPERSON ANDERSON:  All right.  So  
5       Ms. Fashbaugh, can you please give Ms. Glasgow  
6       the opportunity to share her screen, please?  I  
7       believe you have that ability, Ms. Glasgow.

8                   INVESTIGATOR GLASGOW:  Yeah.

9                   CHAIRPERSON ANDERSON:  Ms. Glasgow,  
10      can you please identify the document that you are  
11      showing us, ma'am?

12                  INVESTIGATOR GLASGOW:  This is my  
13      investigative report for the renewal of  
14      Ultrabar's ABRA license.

15                  CHAIRPERSON ANDERSON:  And when was  
16      this report drafted?

17                  INVESTIGATOR GLASGOW:  This report was  
18      drafted about two weeks ago.

19                  CHAIRPERSON ANDERSON:  Now tell us  
20      about did there come a time you spoke to -- did  
21      you speak to -- in conducting your investigation  
22      -- all right.  Let me ask you a question.  How  
23      did you go about drafting this report, please?

24                  INVESTIGATOR GLASGOW:  I conducted  
25      interviews with the protestants, interviews with



1 the applicant. And I combine my report, and this  
2 is what you see in front of you right now.

3 CHAIRPERSON ANDERSON: All right. So  
4 did you have an opportunity to speak to the  
5 applicant?

6 INVESTIGATOR GLASGOW: I did.

7 CHAIRPERSON ANDERSON: And what  
8 information, if any, were you able to glean by  
9 your conversation with the applicant?

10 INVESTIGATOR GLASGOW: Well, according  
11 to Mr. Dimitrios Marmaras, he actually --  
12 according to him, he made several attempts to  
13 adhere to their request. He also stated that he  
14 hired a company -- he paid a company actually to  
15 install more of the soundproofing around the  
16 establishment. He got quotes to reconstruct the  
17 inside of the establishment so that when one door  
18 opens, another door will be closed so the music  
19 would not penetrate outside of the establishment.

20 He said that he has spoken with the  
21 protestants. But they could not come up with an  
22 agreement. He did explain that he had been  
23 trying to do as much as he possibly can to be  
24 neighborly.

25 CHAIRPERSON ANDERSON: So who did he

1 speak to on behalf of the protestant?

2 INVESTIGATOR GLASGOW: I spoke with  
3 Ms. Ashley Steinberg and I spoke with Mr.  
4 Spooner.

5 CHAIRPERSON ANDERSON: Now what  
6 information were you able to gather based on your  
7 conversation with Ms. Steinberg and Mr. Spooner?

8 INVESTIGATOR GLASGOW: Well, Ms.  
9 Ashley Steinberg's concern was that the music was  
10 emanating out -- the music emanating from the  
11 establishment was unbearable. She stated the  
12 crowd lined up outside the establishment was  
13 loud. It attracted ATV cars that plays loud  
14 music.

15 They were riding around in circles,  
16 screeching tires. Ms. Steinberg also stated that  
17 because F Street is blocked off -- F and 10th  
18 Street, Northwest, is blocked off, that buses and  
19 cars fill up the street while they're dropping  
20 the patrons off. And it's not -- it's crowding  
21 the street actually.

22 So the residents in that area can't  
23 really park their cars or their Uber drivers  
24 can't come in the street. It's pretty crowded.  
25 She also suggested that they present a settlement

1 agreement to Mr. Marmaras, but it was rejected.

2 She outlined an agreement saying that  
3 with the corrective measures, it addresses noise  
4 and crowds. And she also suggested that the  
5 establishment should coordinate rideshare  
6 companies to creating a ridesharing location at  
7 8th Street and G Street, Northwest, rather than  
8 in front of the establishment. So basically, she  
9 wants when patrons are coming to the  
10 establishment to be dropped off at 8th and G  
11 Street rather than in front of the establishment.

12 Mr. Spooner actually when I visited  
13 him, his -- it was not an ideal night actually as  
14 he stated. There was not a lot of crowd outside  
15 of the establishment. When he windows were  
16 closed, we really couldn't hear anything. But  
17 when he opened the windows, we heard the  
18 chattering of the patrons waiting to get in the  
19 establishment.

20 CHAIRPERSON ANDERSON: So when did you  
21 visit Mr. Spooner's apartment?

22 INVESTIGATOR GLASGOW: I visited Mr.  
23 Spooner's apartment on Saturday, April 26th, 2022  
24 around 1:00 a.m.

25 CHAIRPERSON ANDERSON: And so tell us

1 about that visit -- a little bit about that visit  
2 and tell us what was going on at the  
3 establishment, if any.

4 INVESTIGATOR GLASGOW: Well, when I  
5 visited Mr. Spooner's residence, his apartment  
6 actually looks directly down in front of  
7 Ultrabar. There was a line that was -- there  
8 was, I would say, about 50 patrons lined up  
9 outside from the establishment going westward to  
10 10th Street actually waiting to get in. There  
11 was not a lot of activity with cars on the  
12 street.

13 I guess 1:00 o'clock was early for  
14 that place. I'm not sure. But it was not as  
15 crowded as I thought it would be. And Mr.  
16 Spooner agreed that it was not really an ideal  
17 night. It's normally really worse than that.

18 CHAIRPERSON ANDERSON: Let me ask.  
19 What are the hours of operation of this  
20 establishment?

21 INVESTIGATOR GLASGOW: They opened  
22 from 9:30 at night till 3:00 a.m.

23 CHAIRPERSON ANDERSON: So you're  
24 saying that you went there at 1:00 a.m.?

25 INVESTIGATOR GLASGOW: Yes.

1                   CHAIRPERSON ANDERSON: And on a  
2 Saturday night and you're saying this was not  
3 actively -- didn't reflect what the activities of  
4 this establishment are based on the time you  
5 attended?

6                   INVESTIGATOR GLASGOW: Yeah, it was  
7 not a really large, large crowd that night. And  
8 there was not a lot of cars in the street that  
9 night. I did, however, go back a couple of  
10 nights. I did monitor the establishment. And as  
11 you can see in my exhibits, there are days when I  
12 was there where there were a lot of cars on the  
13 streets.

14                  CHAIRPERSON ANDERSON: So why don't  
15 you tell us then when did you go back to visit.

16                  INVESTIGATOR GLASGOW: Okay. So the  
17 days that I visited the establishment were -- one  
18 second. So I visited the establishment nine  
19 times on the weekends because they're only open  
20 on Friday night and Saturday nights. They're  
21 open on Thursday nights when they are doing a  
22 special event. But mostly when they're operating  
23 with the crowds, it's on a Friday night and  
24 Saturday nights.

25                  CHAIRPERSON ANDERSON: Tell us about

1 each of your visits, please.

2 INVESTIGATOR GLASGOW: Sure. So when  
3 I went there on Friday, March 11th, there was not  
4 really a large crowd. There were some cars in  
5 the street. I went there around 1:00 o'clock. I  
6 stayed and I monitored until, like, 2:00 in the  
7 morning.

8 It did get a bit crowded, but the  
9 music was not -- I stayed in the car. So the  
10 music was not that loud. The only time the music  
11 was really, really loud, when I could actually  
12 hear the music from my car was when the doors  
13 were opening and closing for patrons to leave and  
14 go in.

15 Same as Saturday the 12th of March, I  
16 got there at around 1:30 in the morning. And  
17 again, there was a long crowded line outside of  
18 the establishment. But again, the music was not  
19 loud. I only heard the music when the doors were  
20 actually opening and closing.

21 And that goes for the March 25th, same  
22 thing. I got there around 11:00 o'clock at  
23 night. Actually, that night was not a lot of  
24 people because 11:00 o'clock was a little bit  
25 earlier. But there was not lot of cars in the

1 street that night as I remember as I recall.

2 April 9th, same thing. They do  
3 attract a lot of -- a large crowd of patrons.  
4 But they're mostly lined up on the street.  
5 Specifically, Friday the 22nd of March -- I'm  
6 sorry, April the 22nd, there was a little bit of  
7 loud talking in the street.

8 But one of the security guards, he  
9 mentioned it and please look at the sign. Stop.  
10 You can't be that loud. I remember hearing him  
11 saying because they did post signs outside saying  
12 to respect the neighbors and to keep the noise at  
13 a minimum.

14 April 23rd, there was a line as well -  
15 - a crowded line. The line was actually a bit  
16 longer that night. There were a lot of buses on  
17 the streets. Cars were coming in and turning at  
18 the intersection that was closed off. So that  
19 night probably would have been a difficult night  
20 for cars to go back and forth to drive in the  
21 street and come out.

22 May 6th at 11:30 was not that bad that  
23 night. Again, the music was not that loud. The  
24 only time the music actually -- I heard the music  
25 from when I was in the car was when the doors

1 were opening and closing. And May 7th, same  
2 thing. The line was long, but the music, again,  
3 when I heard it, it was when the doors were  
4 opening and closing.

5 CHAIRPERSON ANDERSON: Now tell me a  
6 little bit about this street closure. Do you  
7 know why the street is closed? If you know.

8 INVESTIGATOR GLASGOW: Yes. I asked  
9 about that and they said there was, like, a main  
10 break in the ground. So they're repairing that.  
11 That's why. Because I think with the manhole,  
12 the smoke or whatever is happening down there,  
13 they're repairing it actually.

14 CHAIRPERSON ANDERSON: So this is a  
15 temporary measure why this street is closed.

16 INVESTIGATOR GLASGOW: Yes, yeah, yes.

17 CHAIRPERSON ANDERSON: Is that your  
18 understanding?

19 INVESTIGATOR GLASGOW: Yes.

20 CHAIRPERSON ANDERSON: Now so all the  
21 times you went to observe the establishment, did  
22 you observe any ABRA violation?

23 INVESTIGATOR GLASGOW: No, because the  
24 only time I actually heard the music which that  
25 would not be a violation for them per se because



1 the music was -- I only heard the music when the  
2 doors were opening and closing. And as for an  
3 ABRA violation, no.

4 CHAIRPERSON ANDERSON: I'm not  
5 familiar with the block. But describe the block  
6 for me and where are the residents?

7 INVESTIGATOR GLASGOW: So the resident  
8 is directly across the street from Ultrabar. The  
9 street is close to the Capital Arena. It's  
10 between 9th and 10th Street, F Street between 9th  
11 and 10th.

12 It's at the corner of 10th Street. Of  
13 course, as you know, as I explained, it's blocked  
14 off. The busiest part of that area is one block  
15 away which is on 7th Street.

16 But because of the establishment, it  
17 draws a lot of traffic and cars in that area late  
18 at night. But during the day, there's about I  
19 want to say five or four establishments exactly  
20 on that street in the same block. But they're  
21 normally closed by the time Ultrabar starts  
22 operating. So they don't really have --

23 (Simultaneous speaking.)

24 INVESTIGATOR GLASGOW: I'm sorry.

25 CHAIRPERSON ANDERSON: No, you can

1 finish your thought, please.

2 INVESTIGATOR GLASGOW: Yeah, so they  
3 don't -- at night I would say from 11:00 o'clock  
4 the only establishment that's really operating on  
5 that street is Ultrabar.

6 CHAIRPERSON ANDERSON: So how many  
7 residential buildings, if any -- well, clearly,  
8 you said there is the residents across the  
9 street. But how many other residential  
10 properties, if any, are on that street within  
11 that block that Ultrabar is located?

12 INVESTIGATOR GLASGOW: I am not sure  
13 about the residences. I am only aware of Mrs.  
14 Steinberg's residence.

15 CHAIRPERSON ANDERSON: Which is across  
16 --

17 INVESTIGATOR GLASGOW: Which is  
18 directly --

19 CHAIRPERSON ANDERSON: -- the street  
20 from --

21 INVESTIGATOR GLASGOW: Yes.

22 CHAIRPERSON ANDERSON: Now you stated  
23 that you went to his apartment once and you did  
24 not hear noise from when his windows were closed.  
25 Did you ever go back to his apartment after that

1 initial visit?

2 INVESTIGATOR GLASGOW: No, so he  
3 advised me that I should go to Ms. Steinberg's  
4 residence because the way how her apartment is,  
5 like, it's in a deep -- it's, like, in a cove I  
6 think is what it's called. That they actually  
7 get the blunt of the music. The acoustics, it's,  
8 like, bouncing from there, the location of her  
9 apartment. But we have -- since I visited Mr.  
10 Spooner's apartment, we have been -- Ms.  
11 Steinberg and I have been trying to coordinate.  
12 But the only day that was available was after I  
13 submitted the report.

14 CHAIRPERSON ANDERSON: So you have  
15 never visited her apartment. Is that correct?

16 INVESTIGATOR GLASGOW: No, I have not.  
17 We couldn't coordinate a time that was available  
18 for both of us to meet.

19 CHAIRPERSON ANDERSON: But you know  
20 where her apartment is. I know you never  
21 visited, but you know where her apartment is  
22 located?

23 INVESTIGATOR GLASGOW: I have a fair  
24 idea as Mr. Spooner described it. The apartment  
25 building, it's, like -- has, like, a cut in. And

1 her apartment is basically in the cut in. So it  
2 gets all of the bass or whatever is coming from  
3 the establishment.

4 CHAIRPERSON ANDERSON: No, I'm saying  
5 is it across the street or is it behind the  
6 building. That's what I'm trying to find out  
7 where --

8 INVESTIGATOR GLASGOW: I'm sorry.  
9 It's across the street.

10 CHAIRPERSON ANDERSON: It's across the  
11 street? Okay, fine. But you're stating that  
12 based on your observations, the times you went to  
13 visit the establishment, you were -- did you come  
14 out of your car when you -- the observation? Or  
15 did you just sit in your car for that period?

16 INVESTIGATOR GLASGOW: I did come out  
17 of my car. I came out of the car. I walked  
18 across the street. But as I said, the nights  
19 that I visited, the most -- the blunt of the  
20 music was coming out when the doors were opening  
21 and closing when people were coming into the  
22 establishment and leaving the establishment.

23 There was one night actually that I  
24 was there. I guess someone was celebrating a  
25 birthday. And when they were letting people out,

1 the people, they were shouting and singing  
2 really, really loud. So I would assume that that  
3 would probably affect Mrs. Steinberg if she can  
4 hear from her apartment.

5 CHAIRPERSON ANDERSON: So tell us a  
6 little bit about the characteristics of the  
7 neighborhood, please.

8 INVESTIGATOR GLASGOW: So Ultrabar is  
9 located in a -- it's a D-7 zone. That is a high  
10 density commercial area. Basically, there's  
11 about 59 establishments located in the 1,200 area  
12 of Ultrabar. The 1,200 feet of Ultrabar, there  
13 are 19 that has an entertainment endorsement.  
14 There are 11 with a settlement agreement.

15 There are 6 establishments that has a  
16 combined endorsement and settlement agreement.  
17 There are 14 establishment with a sidewalk caf,,  
18 and 14 with a summer garden. And to be  
19 specifically clear, there are 11 taverns, 39  
20 restaurants, 4 hotels, 1 liquor store, and 1  
21 multi-purpose establishment.

22 CHAIRPERSON ANDERSON: I see your  
23 report, you talk about noise complaints.  
24 Elaborate on that, please.

25 INVESTIGATOR GLASGOW: Yes. So SI

1 Fiorentine -- Supervisory Investigator Fiorentine  
2 sent me the noise complaints regarding Ultrabar.  
3 And between -- sorry. So the calls for service  
4 with noise, there were 91 calls for service with  
5 noise actually from June 6th, 2021 to April 10th,  
6 2022. There were 91 calls for service.

7 With the noise complaints that was  
8 sent to ABRA that would call into ABRA's hotline,  
9 there were -- I'll do it right now. There were  
10 14 noise complaints that was called into ABRA's  
11 hotline from May 22nd, 2019 to January 22nd,  
12 2022. There were 14 noise complaints called into  
13 our hotline.

14 CHAIRPERSON ANDERSON: Were any of  
15 these complaints substantiated?

16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: I'm sorry. Go  
18 ahead, please, ma'am.

19 INVESTIGATOR GLASGOW: I'm sorry. So  
20 according to SI Fiorentine when he visited the  
21 establishment, he actually heard the noise were  
22 quite audible into the residents' apartment. He  
23 actually substantiated that the music was loud.  
24 But for the noise complaints, there was no detail  
25 of if an investigator did substantiate that it

1 was -- the music was loud or not on the days that  
2 the noise complaints came in.

3 CHAIRPERSON ANDERSON: But you're not  
4 aware -- are you aware of any ABRA substantiated  
5 noise complaints?

6 INVESTIGATOR GLASGOW: No.

7 CHAIRPERSON ANDERSON: Or noise  
8 violations?

9 INVESTIGATOR GLASGOW: No.

10 CHAIRPERSON ANDERSON: Now how is it -  
11 - do you know how -- how does ABRA go about  
12 substantiating noise complaints if you're aware?

13 INVESTIGATOR GLASGOW: Well, normally,  
14 we would actually have a D.C. inspector come with  
15 us to check for the noise level from the outside  
16 of the establishment. But we have not -- for the  
17 past couple of months, we have not had that  
18 inspector with us. So we would actually ask the  
19 person who calls in for the noise complaint if we  
20 can enter their establishment. If we can hear  
21 the music from inside of their establishment,  
22 then we could substantiate that, yes, there was a  
23 noise. The noise complaint is valid.

24 CHAIRPERSON ANDERSON: But you're  
25 saying that the -- are you aware whether or not

1 any ABRA investigator outside of your visit went  
2 inside any of the establishments to substantiate  
3 the complaint? Are you aware?

4 INVESTIGATOR GLASGOW: No, other than  
5 Supervisory Investigator Fiorentine, no one else,  
6 no.

7 CHAIRPERSON ANDERSON: Do you know  
8 whether or not -- but you don't know whether or  
9 not he wrote a report because if there is no  
10 report a part of this record are you aware?

11 INVESTIGATOR GLASGOW: No. And they  
12 probably would not have been because I would say  
13 that if it's not a violation of the -- if it's  
14 written in a settlement agreement that the music  
15 could not be heard inside of an establishment,  
16 well, that would be a violation. But there is no  
17 grounds for us to prove if I investigated myself  
18 without an inspector going in to check the noise  
19 level to prove to that, okay, so this is a  
20 violation.

21 CHAIRPERSON ANDERSON: What's the  
22 characteristics of the premises, please?

23 INVESTIGATOR GLASGOW: So the  
24 establishment has four floors, three levels and  
25 one basement. The entire structure inside of the



1 establishment, all the walls are equipped with  
2 egg crate soundproofing. It's, like, a sponge  
3 that is completely surrounding the entire  
4 establishment on all the walls.

5 It's like a soundproofing mechanism.  
6 So music cannot be heard on the outside. The  
7 three levels has three separate DJs while I was  
8 there actually in the establishment when the  
9 music was playing.

10 I think the loudest level was on the  
11 second floor. But other than that, the music was  
12 pretty -- it was not that loud that I could hear  
13 from the outside because I stepped outside to  
14 hear the music and it was not that loud. Maybe  
15 they lowered it when I was there. But at the  
16 time when I -- when I initially got there on one  
17 of the nights that I was monitoring and I went  
18 in, I could not hear the music that loud from the  
19 outside.

20 CHAIRPERSON ANDERSON: Let's see.  
21 What about calls for service to that location?  
22 Did you do -- were you able to do any record  
23 search? And what, if anything, were you able to  
24 ascertain?

25 INVESTIGATOR GLASGOW: Yes. So as I

1 explained before, there were 91 calls for service  
2 between June 6, 2021 to April 10, 2022. And  
3 those all consist of -- it ranged from assault, a  
4 fight, disorderly conduct, unwanted persons  
5 inside or outside of the establishment, noise,  
6 accident, injuries, and other miscellaneous  
7 occurrences.

8 CHAIRPERSON ANDERSON: But 91 or 19,  
9 which one?

10 INVESTIGATOR GLASGOW: Ninety-one,  
11 ninety-one, 9-1.

12 CHAIRPERSON ANDERSON: I think you  
13 need to correct -- your report says --

14 INVESTIGATOR GLASGOW: Yeah, yeah,  
15 yeah.

16 CHAIRPERSON ANDERSON: -- 19. So your  
17 report is incorrect by saying 19?

18 INVESTIGATOR GLASGOW: Yes.

19 CHAIRPERSON ANDERSON: Now are there -  
20 - let me see. Did you -- are there any exhibits  
21 attached to your report? Can you share?  
22 Describe the exhibits that are attached to your  
23 report, please.

24 INVESTIGATOR GLASGOW: Sure. So  
25 Exhibit 1 is the letter that was submitted to

1 ABRA from the former ANC Commissioner Kevin  
2 Wilsey and the group of five detailing their  
3 concerns for Ultrabar and the noise and the  
4 complaints that they submitted to ABRA. Exhibit  
5 2 is Ultrabar's security plan that was approved  
6 by us, by ABRA detailing their security measures  
7 if an incident happens, what's the procedure.  
8 Security should be equipped, should be  
9 knowledgeable of the establishment and all those  
10 things.

11 I have Exhibit 3. Exhibit 3 is the  
12 exterior of the establishment. It shows their  
13 lighting outside. Basically, it's their sign  
14 that says, please keep noise to a minimum.  
15 There's two posted on each side. There's a VIP  
16 side and then there's a regular -- a general  
17 entrance side. And it's posted on both sides of  
18 the establishment.

19 Exhibit 5, it's the crowd that is  
20 lined up. That is the way that the crowd lines  
21 up. It's going to towards 10th Street. That is  
22 the line that's waiting to enter the  
23 establishment. Exhibit 6 is a different angle of  
24 the line that is waiting to enter the  
25 establishment. Exhibit 7 shows two buses that is

1 in front of the establishment dropping off  
2 patrons.

3 CHAIRPERSON ANDERSON: I'm sorry. Do  
4 you know are these routine? Can you provide any  
5 further information on these buses if you're  
6 aware?

7 INVESTIGATOR GLASGOW: It's basically  
8 party buses. So it's not a bus that -- it's not  
9 something that is there every weekend. But it's  
10 like if it's a party bus and one rented out the  
11 bus and they're dropping off people to go into  
12 the establishment if they're having an event or  
13 something. But it's not every night that those  
14 buses are there. But that is one of the nights  
15 that I got a picture of it.

16 CHAIRPERSON ANDERSON: Okay.

17 INVESTIGATOR GLASGOW: This depicts  
18 the closure at 10th and F Street. That's the  
19 concrete barriers there. Exhibit 9 shows the  
20 padding. These are the egg crate padding that is  
21 installed throughout the establishment.

22 This actually covers a window.  
23 Exhibit 10 is more padding throughout the  
24 establishment. Exhibit 11 is padding. This is  
25 in the front area coming when you walk in the

1 door.

2 This is more padding there. More  
3 padding and this is in the stair case where  
4 there's more egg crate soundproofing. Exhibit  
5 13, it's the DJ booth that has padding in the  
6 blue and soundproofing in the blue and black.

7 Exhibit 14 shows more padding again.  
8 Exhibit 15, more soundproofing in a DJ booth.  
9 Exhibit 16, same, and this is in a staircase.  
10 Each level has the same soundproofing.

11 Exhibit 7 -- 17, I'm sorry, is  
12 soundproofing on the walls. Exhibit 18 shows the  
13 padding as well, the soundproofing. Exhibit 19,  
14 same. Exhibit 20 shows soundproofing as well.

15 Exhibit 21, and these are each floor  
16 that I visited. I took shots of the padding on  
17 each floor. Exhibit 22, this here is -- there  
18 was an opening in the roof, and he sealed the  
19 roof, that opening, and installed soundproofing  
20 there as well.

21 CHAIRPERSON ANDERSON: Let me ask you  
22 a question, Ms. Glasgow, before you move on. Did  
23 you ask the licensee about this padding? Where  
24 did they -- how did they -- how long has this  
25 mechanism -- proofing mechanism existed? And

1 secondly, why did they utilize this? Did you  
2 have that conversation with the applicant?

3 INVESTIGATOR GLASGOW: I did. He said  
4 -- I asked him how long he had it installed. He  
5 said he had it installed for a while. He didn't  
6 give me an exact time frame because he said that  
7 some of the padding is actually -- he has to  
8 replace it because it's sponge. So it's breaking  
9 apart because he's had it for a while.

10 As for why he did it, I'm assuming  
11 that because the protestants have been  
12 complaining for a while. So he was trying to  
13 mitigate some of the noise in some way. But I  
14 guess it didn't work.

15 CHAIRPERSON ANDERSON: Go ahead,  
16 ma'am.

17 INVESTIGATOR GLASGOW: Exhibit 23 is a  
18 letter that Mr. Marmaras sent to me showing his  
19 invoice for the purchase of new soundproofing  
20 equipment that he's showing that he paid a  
21 company to install the soundproofing equipment.

22 CHAIRPERSON ANDERSON: And when was  
23 this done? What is this invoice of?

24 INVESTIGATOR GLASGOW: The invoice is  
25 actually April 11, 2022.

1                   CHAIRPERSON ANDERSON:   Okay.

2                   INVESTIGATOR GLASGOW:   And Exhibit 24,  
3   it's my regulatory inspection when I visited the  
4   establishment on April 10th at 12:10 a.m.   And  
5   there was no ABRA violation found.   Exhibit 25  
6   shows all of the noise complaint that was called  
7   into ABRA's hotline.

8                   Exhibit 26, it's the D.C. zoning  
9   showing that the establishment is located in D-7  
10   zoning area.   Exhibit 27 is all of the  
11   establishment -- 59 establishments that is  
12   located within 1,200 feet of the establishment.  
13   Exhibit 29 -- I'm sorry.

14                  Exhibit 28 shows that there are no  
15   schools within 400 feet of the establishment.  
16   But there is a library that's 181 feet away.  
17   This picture actually is -- this exhibit, Exhibit  
18   29, shows the lighting that is outside of  
19   Ultrabar because the owner did mention that the  
20   protestants were saying that his light was too  
21   bright actually and it was affecting them.

22                  So I took a picture of the light to  
23   attach to my exhibit so you can see.   Exhibit --  
24   I'm sorry.   Exhibit 30 again shows the exterior  
25   of the establishment.   And Exhibit 31 again is

1 the exterior of the establishment.

2 Exhibit 32, again, outside of the  
3 establishment. This night here was not really a  
4 busy night. As you can see, there's not a lot of  
5 crowd. There were people waiting to get in, but  
6 it was not that crowded at night.

7 Exhibit 33 is the exterior of the  
8 establishment. Exhibit 34, again, outside of the  
9 establishment. Exhibit 35, it shows their trash  
10 at the back of the establishment. You can see  
11 again with the padding on the doors and the  
12 hallway.

13 Exhibit 36 shows the parking meter  
14 rules. There is no zoned parking, just two hour  
15 and three and a half hour parking. Exhibit 37 is  
16 inside of the nightclub when they're operating.  
17 Exhibit 38 shows the same thing, inside of the  
18 nightclub when they're operating.

19 Exhibit 39, this is the second floor I  
20 believe when they're operating. Exhibit 40, this  
21 is the top floor. And Exhibit 41 shows the calls  
22 for service which is 91 calls for service for  
23 noise, as I explained before, noise, fight,  
24 disorderly conduct, unwanted persons inside and  
25 outside of the establishment, noise, accident or



1 injuries to a person, or the miscellaneous  
2 occurrences.

3 CHAIRPERSON ANDERSON: All right. You  
4 can close your screen. I don't have any other  
5 questions. Do any of the Board members have any  
6 questions for Ms. Glasgow?

7 MEMBER GRANDIS: Mr. Chairman?

8 CHAIRPERSON ANDERSON: Mr. Grandis, go  
9 ahead, sir.

10 MEMBER GRANDIS: Hello, Investigator  
11 Glasgow. I want to thank you for your  
12 presentation.

13 INVESTIGATOR GLASGOW: Thank you.

14 MEMBER GRANDIS: Can we go back to  
15 your exhibits? Is there a way to have them  
16 called back up?

17 INVESTIGATOR GLASGOW: Yeah, sure.

18 CHAIRPERSON ANDERSON: What exhibit do  
19 you want her to go to, sir?

20 MEMBER GRANDIS: The one about -- the  
21 first one about zoning which I think -- I'm  
22 trying to look at my note.

23 INVESTIGATOR GLASGOW: I'm sorry?

24 MEMBER GRANDIS: The one about zoning.  
25 I think 26 or 27, 26 maybe. Do you remember you

1 mentioned something about zoning when you said  
2 Exhibit 26 or 27?

3 INVESTIGATOR GLASGOW: Yeah. Twenty-  
4 six, twenty-six.

5 MEMBER GRANDIS: Okay. And what zone  
6 did you say that you found this establishment  
7 located in?

8 INVESTIGATOR GLASGOW: In the D-7  
9 zoning.

10 MEMBER GRANDIS: And do you know a  
11 definition for the D-7 zoning?

12 INVESTIGATOR GLASGOW: Yes, one  
13 second.

14 (Pause.)

15 INVESTIGATOR GLASGOW: So the purpose  
16 of the D-7 zone are to permit high density  
17 commercial development and in conjunction with  
18 the subarea objective and regulations to  
19 reinforce Pennsylvania Avenue's unique role as a  
20 physical and symbolic link between the White  
21 House and the U.S. Capitol. The building with  
22 frontage on a designed primary or secondary  
23 street shall meet the design requirements on  
24 Subtitle 1.6.02. The following downtown subareas  
25 are found in the D-7 zone, downtown retail core,

1 downtown arts, Pennsylvania Avenue, and  
2 Chinatown.

3 MEMBER GRANDIS: And the residents or  
4 the resident that you had communication with,  
5 where was their -- were they in a contiguous  
6 building? Were they in a different building, the  
7 one you mentioned that you tried to go into but I  
8 don't think you could establish a convenient time  
9 for both?

10 INVESTIGATOR GLASGOW: No. Well, the  
11 building has -- it's a regular apartment  
12 building. You enter the building. The one that  
13 I could not get into, I'm assuming that it was  
14 just a continuation of the one that I did get  
15 into, Mr. Spooner's building. So there is no  
16 storefront in that building. There is just you  
17 enter the building and you enter inside of the  
18 apartment complex -- apartment building.

19 MEMBER GRANDIS: Thank you so much.  
20 Do you know the zoning of the building that the  
21 residence that you did go into observe the noise?

22 INVESTIGATOR GLASGOW: Well, according  
23 to this exhibit right here, they should be in the  
24 same D-7 zone.

25 MEMBER GRANDIS: So that would be a

1 commercial zone?

2 INVESTIGATOR GLASGOW: Yes.

3 MEMBER GRANDIS: Okay. You then had  
4 some pictures I think towards the end of lighting  
5 on the building?

6 INVESTIGATOR GLASGOW: Yes.

7 MEMBER GRANDIS: Can you bring one of  
8 those back up?

9 INVESTIGATOR GLASGOW: Sure. Do you  
10 see it?

11 CHAIRPERSON ANDERSON: We can't see  
12 your screen anymore, Ms. Glasgow.

13 INVESTIGATOR GLASGOW: Oh.

14 MEMBER GRANDIS: Okay. Thank you,  
15 Chair.

16 CHAIRPERSON ANDERSON: At least I  
17 can't. I'm not sure what's going on.

18 MEMBER GRANDIS: Okay. That's fine.  
19 But I remember the picture. Ms. Glasgow, when  
20 you said -- I think when you showed one of the  
21 pictures, you said something about the residents  
22 thought the lights were bright. Is that the word  
23 you used, bright?

24 INVESTIGATOR GLASGOW: Yes, that's  
25 what he -- that's what the owner explained to me.

1 He said that it was too bright, the protestants.

2 MEMBER GRANDIS: Which owner? I  
3 apologize.

4 INVESTIGATOR GLASGOW: I'm sorry. Mr.  
5 Dimitrios Marmaras.

6 MEMBER GRANDIS: Okay. And do you  
7 know -- he testified, like, last year. But did  
8 you have a conversation what he meant by bright?  
9 Was it interfering -- was it entering his  
10 building or his windows I guess is what I'm going  
11 towards?

12 INVESTIGATOR GLASGOW: He did not  
13 specifically said who was complaining about the  
14 bright light. He just stated that the  
15 protestants were complaining that the light was  
16 shining too bright and they can see it from their  
17 apartment.

18 MEMBER GRANDIS: Okay. Well, maybe  
19 we'll explore that later. But seeing it from the  
20 apartment is not the same as saying it's in the  
21 apartment. So okay. The last question I have,  
22 you had a couple pictures of the interior looking  
23 down on the -- I guess it's the large dance floor  
24 that's where all the patrons?

25 INVESTIGATOR GLASGOW: Yes.

1                   MEMBER GRANDIS: Okay. You didn't  
2 need to call the picture back up. I remember it.  
3 Do you know where the exits if I'm on that floor  
4 and if there was an emergency where I would find  
5 exits that I could safety exit the building?

6                   INVESTIGATOR GLASGOW: The staircase  
7 actually. That's the only exit I can see. You  
8 take the stairs all the way down.

9                   MEMBER GRANDIS: Excuse me. The  
10 picture that you're looking down, you see all the  
11 patrons on that large floor. Are they on a lower  
12 level, or are they on ground level? Or --

13                   INVESTIGATOR GLASGOW: No.

14                   MEMBER GRANDIS: -- what level is that  
15 dance floor?

16                   INVESTIGATOR GLASGOW: Each floor -- I  
17 took a picture of each floor and each floor is  
18 connected to the staircase that is on the right  
19 side.

20                   MEMBER GRANDIS: Yes. But I don't  
21 understand. You have to go up or down the  
22 staircase to get out?

23                   INVESTIGATOR GLASGOW: To me, I did  
24 not actually see -- there probably is. But I did  
25 not see an exit sign to the rear. I mean, I only

1 saw one on the first floor, but --

2 MEMBER GRANDIS: What did you see on  
3 the first floor? I want to make -- you saw  
4 something on the rear?

5 INVESTIGATOR GLASGOW: I saw the exit  
6 on the first floor, which I know because I saw it  
7 when I went back there --

8 MEMBER GRANDIS: Did you open it?

9 INVESTIGATOR GLASGOW: Yes, I did.  
10 That's where I saw the trash compactors.

11 MEMBER GRANDIS: Okay. Thank you.  
12 And would that -- so it was an area that people  
13 could get out easily from, at least on that  
14 level?

15 INVESTIGATOR GLASGOW: Yes.

16 MEMBER GRANDIS: Okay. The other  
17 levels would be either -- is there a lower level?

18 INVESTIGATOR GLASGOW: There's a  
19 basement, yes.

20 MEMBER GRANDIS: And the public is  
21 able to go into that level?

22 INVESTIGATOR GLASGOW: Yes.

23 MEMBER GRANDIS: But you did not  
24 observe an exit or egress from that level?

25 INVESTIGATOR GLASGOW: The basement

1 level, no.

2 MEMBER GRANDIS: Okay. And then you  
3 said there's a level above the first floor?

4 INVESTIGATOR GLASGOW: Yes, there are  
5 three levels.

6 MEMBER GRANDIS: Okay. And other than  
7 the stairwell that's on the right that you  
8 mentioned, you went up to that level, correct?

9 INVESTIGATOR GLASGOW: Yes.

10 MEMBER GRANDIS: Did you observe  
11 another exit?

12 INVESTIGATOR GLASGOW: No.

13 MEMBER GRANDIS: Okay. So we could  
14 talk about that later, I guess. Okay. I want to  
15 thank you for your answers and your presentation.  
16 Thank you.

17 INVESTIGATOR GLASGOW: You're welcome.

18 MEMBER GRANDIS: Chairman, I'm done.

19 CHAIRPERSON ANDERSON: Ms. Glasgow,  
20 please close your screen, please, ma'am. Any  
21 other questions by any other Board members? Any  
22 other Board members before I move on to Mr.  
23 Kline?

24 (No response.)

25 CHAIRPERSON ANDERSON: Your witness,



1 Mr. Kline.

2 MR. KLINE: Thank you, Mr. Chairman.  
3 Investigator Glasgow, good afternoon.

4 INVESTIGATOR GLASGOW: Good afternoon.

5 MR. KLINE: So you made 11 visits to  
6 the establishment or 9 visits? Your report says  
7 11, but I see 9. This is on page 4 of your  
8 report. I'm sorry.

9 INVESTIGATOR GLASGOW: Page 4?

10 MR. KLINE: No, page 7. I apologize.

11 INVESTIGATOR GLASGOW: It's actually  
12 on page 8 of my visits.

13 MR. KLINE: Okay. And then page --

14 INVESTIGATOR GLASGOW: Nine visits.

15 MR. KLINE: And page 7 says that you  
16 were there 11 separate occasions at the bottom of  
17 the page, the effect of the establishment on  
18 peace, order, and quiet?

19 INVESTIGATOR GLASGOW: Yes. Well, so  
20 there were nights that I was actually there to  
21 observe the establishment. And there were nights  
22 -- there were other nights that I just drove by  
23 and while I was in the area doing additional  
24 monitoring for other establishments. But I did  
25 hear if -- my focus actually was not on Ultrabar.

1 But I was actually paying attention to see if  
2 there were other stuff there going on.

3 MR. KLINE: Okay. Fair enough. So in  
4 addition to the 9 visits listed on page 8, you  
5 were by there a couple of other times?

6 INVESTIGATOR GLASGOW: Yes.

7 MR. KLINE: All right. And during  
8 those visits, you as you said in your report  
9 could not substantiate any issues with peace,  
10 order, and quiet in relation to Ultrabar,  
11 correct?

12 INVESTIGATOR GLASGOW: Yes.

13 MR. KLINE: All right. And let's talk  
14 a little bit more about the character of the  
15 neighborhood. I think we touched on it some.  
16 But to the east towards the -- what's now called  
17 the Capital One Arena. Some of us know it as the  
18 Verizon Center and the MCI Arena; it's had  
19 several names. That's about a little less than a  
20 block and a half away, right?

21 INVESTIGATOR GLASGOW: Yes.

22 MR. KLINE: And between the  
23 establishment and the arena is the Portrait  
24 Gallery, right?

25 INVESTIGATOR GLASGOW: I'm sorry?

1 MR. KLINE: Is the Portrait Gallery  
2 the museum --

3 INVESTIGATOR GLASGOW: No, I'm not  
4 aware, no.

5 MR. KLINE: If you don't, that's fine.  
6 All right. And in terms of this street, the 900  
7 block of F Street, are you aware of any other  
8 residents other than the Ventana building in  
9 which several of the protestants in the case  
10 reside?

11 INVESTIGATOR GLASGOW: No, I'm only  
12 aware of the resident that Ms. Steinberg and Mr.  
13 Spooner resides at.

14 MR. KLINE: Okay. And then across the  
15 street, there's also a hotel, isn't there?

16 INVESTIGATOR GLASGOW: Yes, and a  
17 restaurant next door, yes.

18 MR. KLINE: Okay. And to your  
19 knowledge, does the Riggs Hotel sometimes have  
20 buses that let people off at the hotel?

21 INVESTIGATOR GLASGOW: I am not aware  
22 of that.

23 MR. KLINE: Now turning again to  
24 visits, so you were there basically every couple  
25 of weeks it looks like aside from the other two

1 visits. Is that right?

2 INVESTIGATOR GLASGOW: Yes, every  
3 other week.

4 MR. KLINE: All right. And you didn't  
5 announce your visits in any way, did you?

6 INVESTIGATOR GLASGOW: No, I did not.

7 MR. KLINE: There was no reason for  
8 the licensee to know when you were going to be  
9 there or to take any steps to minimize problems  
10 so that you wouldn't see them, correct?

11 INVESTIGATOR GLASGOW: That's correct.

12 MR. KLINE: All right. So presumably,  
13 this is the way the place operates based upon  
14 what you observed, right?

15 INVESTIGATOR GLASGOW: Yes.

16 MR. KLINE: Okay. Now turning your  
17 attention to Exhibit 25. This is the list of  
18 complaints, correct?

19 INVESTIGATOR GLASGOW: One second.

20 MR. KLINE: Sure.

21 INVESTIGATOR GLASGOW: Okay. Exhibit  
22 25, mm-hmm.

23 MR. KLINE: Yeah. And you said that  
24 there were complaints to -- Ultrabar noise  
25 complaints that were made to ABRA, correct?

1 INVESTIGATOR GLASGOW: Correct.

2 MR. KLINE: And that's what this  
3 represents?

4 INVESTIGATOR GLASGOW: Yes.

5 MR. KLINE: Now in your experience,  
6 the place is barely rolling at 11:00, 11:30 at  
7 night, correct?

8 INVESTIGATOR GLASGOW: Correct.

9 MR. KLINE: And do you know whether on  
10 any of the nights, particularly those -- on those  
11 dates the complaints were made before midnight,  
12 whether there was activity at the arena those  
13 nights?

14 INVESTIGATOR GLASGOW: No, I can't  
15 confirm that.

16 MR. KLINE: Okay. But it would seem  
17 based upon what you observed in the regular  
18 operation of the club that 5-23 at 10:57, 7-12-  
19 2019 at 11:20, 1-14 and 1-15 and 1-21 and 1-22  
20 when these complaints were at 11:30, 11:45 at the  
21 latest that during this time there's not that  
22 much activity at the club, right?

23 INVESTIGATOR GLASGOW: Yeah. Well,  
24 there probably were not a lot of activity when I  
25 visited. But that may be -- well, at that time,

1       yeah, there was not a lot of activity.

2                   MR. KLINE:   Okay.   All right.   And if  
3   I told you the Wizards were having one of those  
4   nights, that wouldn't surprise you, would it?

5                   INVESTIGATOR GLASGOW:   No.

6                   MR. KLINE:   Now in talking to the  
7   protestants on what they said that they wanted,  
8   they talked about the rideshare zone in proximity  
9   of the establishment?

10                  INVESTIGATOR GLASGOW:   8th Street and  
11   G Street.

12                  MR. KLINE:   Okay.   That's a full two  
13   blocks away from the establishment, isn't it?

14                  INVESTIGATOR GLASGOW:   About a block,  
15   yeah.

16                  MR. KLINE:   About a block.   This is on  
17   F.   So this is 9th and 10th, right?

18                  INVESTIGATOR GLASGOW:   Yeah, so they  
19   want it about 8th.   Yeah, about two blocks.

20                  MR. KLINE:   Okay.   And in terms of  
21   constructing two sets of doors for the  
22   establishment, do you have any knowledge as to  
23   whether that might have been subsequently done?

24                  INVESTIGATOR GLASGOW:   Currently, they  
25   have, like, two doors.   But the owner, Mr.

1 Marmaras, explained that he is going to  
2 reconstruct the inside so that now when he built  
3 the operation, the music can get out. But the  
4 way he's going to reconstruct it is that the  
5 music would not get out at all. The specifics of  
6 the reconstruction, I don't know. But he  
7 explained that he is going to do it in a --  
8 reconstruct the inside of the establishment in a  
9 way that when one door opens, the other door has  
10 to remain closed.

11 MR. KLINE: Okay. And when was it  
12 that you had the discussion with him about  
13 reconstruction?

14 INVESTIGATOR GLASGOW: I had that  
15 conversation with him on April 16th.

16 MR. KLINE: So if it had been done  
17 subsequent to that, you wouldn't have any  
18 knowledge of that, correct?

19 INVESTIGATOR GLASGOW: I'm sorry?

20 MR. KLINE: If it had been done -- if  
21 that work had been done subsequent to that date,  
22 then you wouldn't have any knowledge of that?

23 INVESTIGATOR GLASGOW: That's true.

24 MR. KLINE: All right. The other  
25 complaint that you heard from Ms. Steinberg is

1 that the establishment doesn't adequately clean  
2 up the establishment's interior, leaving vomit  
3 and trash in the surrounding area. Did you see  
4 evidence of that?

5 INVESTIGATOR GLASGOW: At the time I  
6 was there, no.

7 MR. KLINE: All right. And you were  
8 there 11 times, right?

9 INVESTIGATOR GLASGOW: I was there --  
10 yes. But I was there during operation. Ms.  
11 Steinberg's complaint is after operation.

12 MR. KLINE: After operation?

13 INVESTIGATOR GLASGOW: Yes.

14 MR. KLINE: And you didn't make any  
15 visits to the establishment after operations?

16 INVESTIGATOR GLASGOW: No.

17 MR. KLINE: Okay. So if I could turn  
18 your attention to Exhibit 23.

19 INVESTIGATOR GLASGOW: Twenty-three.  
20 Sorry. You said 23?

21 MR. KLINE: Yes.

22 INVESTIGATOR GLASGOW: Okay.

23 MR. KLINE: All right. That's an  
24 email to you?

25 INVESTIGATOR GLASGOW: Yes.



1 MR. KLINE: Any idea why you got that  
2 email?

3 INVESTIGATOR GLASGOW: Yes, because  
4 when I visited Mr. Marmaras at the establishment,  
5 he advised me that he was doing -- he was re-  
6 soundproofing the establishment. And I asked him  
7 to send me any information regarding that so I  
8 can attach that to my exhibits for the protest.

9 MR. KLINE: Okay. And to your  
10 knowledge, this is what was intended to be done  
11 in the establishment to mitigate noise from the  
12 establishment?

13 INVESTIGATOR GLASGOW: Yes.

14 MR. KLINE: Okay, great. I have no  
15 further questions. Thank you. Thank you,  
16 Investigator Glasgow.

17 CHAIRPERSON ANDERSON: Ms. Steinberg,  
18 do you have any questions for Ms. Glasgow?

19 MS. STEINBERG: I do. And if it's all  
20 right with you, I'd like my neighbor as well,  
21 Yanev, to be able to ask some questions. Is that  
22 fine too? I'll start and then he'll go? We'll  
23 be fast. We promise.

24 CHAIRPERSON ANDERSON: I would -- I  
25 normally just have one person asking questions.

1 But would you have an objection, Mr. Kline?

2 MR. KLINE: Yes, I would object.

3 (Simultaneous speaking.)

4 CHAIRPERSON ANDERSON: I'm sorry.

5 What?

6 MR. KLINE: We object. We would  
7 suggest it's appropriate that there'd be one  
8 representative.

9 CHAIRPERSON ANDERSON: Ms. Steinberg,  
10 yes, ma'am.

11 MS. STEINBERG: Then I'd like to make  
12 a motion that none of their exhibits can come in  
13 because they weren't timely submitted. I mean,  
14 if we're really going to play this petty game,  
15 none of their exhibits and their PIF and exhibit  
16 list were not timely submitted. So I object to  
17 the introduction of all of their evidence. But  
18 of course, I don't want to do that. But if he's  
19 not going to let my colleague show a video in  
20 rebuttal, I mean, I think that's a little  
21 ridiculous.

22 CHAIRPERSON ANDERSON: Ms. Steinberg,  
23 the question that you asked, Ms. Steinberg, is  
24 that you wanted to ask a question and you wanted  
25 someone else to also ask questions. And one of

1 the reasons why I ask a question about who was  
2 going to present this case, was it the ANC or  
3 yourselves, because I try to limit who asks  
4 questions and we have one party. So where we  
5 are, I need you to be the lead person to ask the  
6 questions.

7 I'm not going to allow you -- I'm not  
8 going to allow -- it's like having two attorneys  
9 question a witness. Now only one attorney can  
10 question the witness. And then if there's  
11 another witness and another attorney wants to do  
12 that, that's fine. But I'm not going to allow  
13 two person questioning the witness. So whatever  
14 questions that your neighbor has, maybe he can  
15 give them to you --

16 MS. STEINBERG: That's more than fine.  
17 We'll do that.

18 CHAIRPERSON ANDERSON: -- and you can  
19 ask those questions. That's all this is about,  
20 ma'am. It's about --

21 MR. SUISSA: Can I ask a question?

22 CHAIRPERSON ANDERSON: -- just having  
23 one -- sir, sir, you can only speak if I give you  
24 permission to speak, sir. Right now, I have not  
25 given you permission to speak. So only Ms.

1 Steinberg can speak, sir. I apologize for that.  
2 Okay. So Ms. Glasgow is being cross examined.  
3 And if he has questions, I'll ask him that he  
4 provide those questions to you so you can ask  
5 questions of Ms. Glasgow.

6 MR. SUISSA: I have a question.

7 CHAIRPERSON ANDERSON: Yes, sir.  
8 Identify yourself for the record.

9 MR. SUISSA: Yes, I'm Yanev Suissa.  
10 I'm the co-petitioner in the case.

11 CHAIRPERSON ANDERSON: Hold on.

12 MR. SUISSA: Sorry.

13 CHAIRPERSON ANDERSON: Spell your name  
14 for the record, sir.

15 MR. SUISSA: Sure. It's Yanev, Y-A-N-  
16 E-V, and Suissa, S-U-I-S-S-A.

17 CHAIRPERSON ANDERSON: What's your  
18 question?

19 MR. SUISSA: I just had a question for  
20 you, Mr. Anderson.

21 CHAIRPERSON ANDERSON: Yes, sir.

22 MR. SUISSA: So I think what you were  
23 saying is that you want only one of the two of us  
24 to question the same witness. But if this  
25 witness is good for me, I do this one. And if

1 another witness is better for Ms. Steinberg, she  
2 does that one. Is that correct?

3 CHAIRPERSON ANDERSON: Yes, sir. You  
4 can do that, sir.

5 MR. SUISSA: Okay. Ashley, I  
6 recommend I do this one since my computer has the  
7 videos on them.

8 MS. STEINBERG: Great. Go for it.

9 MR. SUISSA: Okay. Are you  
10 comfortable with that, Mr. Anderson?

11 CHAIRPERSON ANDERSON: That's fine,  
12 sir. You're the only one. You have the right to  
13 cross --

14 MR. SUISSA: Okay.

15 CHAIRPERSON ANDERSON: -- examine this  
16 witness, sir. Go ahead, sir.

17 MR. SUISSA: Okay. So thank you, Ms.  
18 Glasgow, for all your help here. You've really  
19 done an amazing job. I wanted to show you one of  
20 two videos that are in the record that have been  
21 submitted as evidence and ask you if --

22 CHAIRPERSON ANDERSON: Hold on. When  
23 you're cross-examining the witness, you're  
24 supposed to cross-examine the witness on the  
25 testimony that they just gave, sir. Now, if you

1 have videos of the same evening that she went  
2 there, then you can ask those questions if it's  
3 the same -- if you have videos of the same  
4 evening that she went -- the same time period  
5 that she went to visit. But if you're asking for  
6 different periods and if it's not she did not  
7 testify on that issue, sir, you cannot do that in  
8 cross examination.

9 MR. SUISSA: Oh, okay. So let me ask  
10 you one of the sample questions I was going to  
11 ask. And if not, I'll give it back to Ashley  
12 instead. The question was she mentioned that  
13 this was the line -- I want to say is this the  
14 line -- this is the typical line that was  
15 submitted into evidence. Is this the line you  
16 saw -- the kind of line you saw? Is that the  
17 kind of question that's permissible or no?

18 CHAIRPERSON ANDERSON: Well, but what  
19 you can do, sir, is to -- what you can do, go to  
20 -- ask her to pull back her report and ask her to  
21 talk about the lines that's in her report. When  
22 you present your case --

23 MR. SUISSA: Oh, okay. I understand.

24 CHAIRPERSON ANDERSON: -- you can show

25 --

1 MR. SUISSA: I understand what you're  
2 saying.

3 CHAIRPERSON ANDERSON: -- what the  
4 line is.

5 MR. SUISSA: Okay. So Ashley, you do  
6 this one then because mine were related to that.  
7 Apologies, Mr. Donovan. Thanks for being  
8 patient. We're, like, regular citizens who don't  
9 always know what to do. You're great. Thank  
10 you.

11 CHAIRPERSON ANDERSON: I know you are,  
12 sir. That's why I'm trying to explain the  
13 process.

14 MR. SUISSA: All right. Ashley, go  
15 ahead.

16 CHAIRPERSON ANDERSON: All right.  
17 That's fine. Go ahead, Ms. Steinberg. You're on  
18 mute, ma'am.

19 MS. STEINBERG: And I literally just  
20 said, hi, everyone. I'm back. But I said it on  
21 mute. So now I'm really back.

22 CHAIRPERSON ANDERSON: Yes, yes.

23 MS. STEINBERG: Okay. So thank you,  
24 Ms. Glasgow. Really appreciate it. And thanks  
25 so much for all the correspondence over the past

1 couple of weeks trying to set things up.

2 I was wondering on what date were you  
3 assigned this case. And how does it work that  
4 you were assigned this case? Is it because a  
5 protesting hearing was filed or hearing was  
6 filed? What's that mechanism?

7 INVESTIGATOR GLASGOW: Yes. So  
8 actually as Mr. Donovan explained. This was a  
9 case that was supposed to come up since before  
10 COVID actually. And because of COVID, it was  
11 continued. So I'm assuming that you or the ANC  
12 at the time, he submitted a letter to ABRA  
13 stating that the establishment is not operating  
14 within -- you know, they're not being neighborly.  
15 It's physically addressing a lot of you guys'  
16 concerns.

17 MS. STEINBERG: And of course,  
18 Ultrabar is aware when such a protest is filed,  
19 right, to reopen those proceedings. So they're  
20 aware that you've been assigned to their case?

21 INVESTIGATOR GLASGOW: Yes.

22 MS. STEINBERG: And all of your visits  
23 that you conducted happened after the filing and  
24 the reopening of the protest, correct?

25 INVESTIGATOR GLASGOW: Yes.



1 MS. STEINBERG: So you had no  
2 interaction and no visits before the reopening of  
3 this protest?

4 INVESTIGATOR GLASGOW: That is  
5 correct.

6 MS. STEINBERG: So let's talk then a  
7 little bit about Supervisory Investigator  
8 Fiorentine's visit. Can you tell me when that  
9 visit was?

10 INVESTIGATOR GLASGOW: Okay. I'll  
11 tell you exactly. So SI Fiorentine didn't  
12 actually -- I'll tell you.

13 (Simultaneous speaking.)

14 INVESTIGATOR GLASGOW: Okay. So SI  
15 Fiorentine did not actually give a date in his  
16 correspondence to me. He just stated that he was  
17 there.

18 MS. STEINBERG: Is it fair to say that  
19 this happened last summer?

20 INVESTIGATOR GLASGOW: I can't -- I  
21 can't say because he did not put a date on it.

22 MS. STEINBERG: Okay. Is it safe to  
23 say that this happened before the protest was  
24 reopened?

25 INVESTIGATOR GLASGOW: Again, I can't

1 -- he did not --

2 (Simultaneous speaking.)

3 MS. STEINBERG: Okay. At what point  
4 did you speak to --

5 INVESTIGATOR GLASGOW: I'm sorry. I'm  
6 sorry. Yes, noise assessment, August 6, 2021,  
7 yeah.

8 MS. STEINBERG: Thank you. To your  
9 knowledge, was there a protest in motion or sort  
10 of live? Or were the proceedings suspended at  
11 that point or continued?

12 INVESTIGATOR GLASGOW: I'm not sure  
13 exactly when the protest was continued. I just  
14 recently got the protest, so --

15 MS. STEINBERG: Okay, thanks. So what  
16 did Investigator -- what did SI Fiorentine say to  
17 you about his visit?

18 INVESTIGATOR GLASGOW: He said that he  
19 did hear the music. The noise, it was audible  
20 from inside of the apartment. He did  
21 specifically say that he could hear the music  
22 only when the doors are being -- when the doors  
23 are open and being closed for patrons to enter  
24 and exit the establishment.

25 He did also observe the long lines

1 outside of the establishment. He did observe  
2 what I stated in my testimony about the cars, the  
3 screeching, the noise, the horns, the engine  
4 that's really, really loud. He stated also that  
5 there were some minors actually drinking outside  
6 -- discretely consuming alcohol outside of the  
7 establishment, but that was prior to them  
8 entering the establishment.

9 MS. STEINBERG: Got it. So SI  
10 Fiorentine did, in fact, experience the noise  
11 from inside our apartments?

12 INVESTIGATOR GLASGOW: Yes, according  
13 to what his statement says.

14 MS. STEINBERG: Thank you. Would it  
15 surprise you to learn that -- well, actually,  
16 let's move back. You said that there were 14  
17 calls to ABRA over the period in question here?

18 INVESTIGATOR GLASGOW: There were.

19 MS. STEINBERG: And for what period of  
20 time was the club not operating for that period  
21 that that covers? Because the club -- can you  
22 tell us the time period for what that 14 calls  
23 covers?

24 INVESTIGATOR GLASGOW: March 23rd,  
25 2019 and January 22nd, 2022.

1 MS. STEINBERG: Okay, thanks. And --

2 INVESTIGATOR GLASGOW: So basically  
3 two years.

4 MS. STEINBERG: Right. The past two  
5 years. Got it. Thanks. Okay. Would you be  
6 surprised to learn that Captain Donough  
7 (phonetic) from the police force told us to call  
8 911 instead of ABRA for noise complaints?

9 INVESTIGATOR GLASGOW: I'm not aware  
10 of that.

11 MS. STEINBERG: Would it surprise you  
12 to learn that Officer Kevin Carew, who was the  
13 person responsible for answering the phones, told  
14 us on repeated occasions that we weren't allowed  
15 -- that there was nothing he could do and that he  
16 would make a note of the file. But they wouldn't  
17 send anyone out and there was nothing they could  
18 do to substantiate the noise?

19 INVESTIGATOR GLASGOW: I'm not aware  
20 of that.

21 MS. STEINBERG: So I guess the  
22 question is what enables ABRA to come  
23 substantiate -- why do you think it's the case  
24 that we were never once offered the opportunity  
25 to have ABRA investigators in our house, except

1 for when we reached out to do that?

2 MR. KLINE: Objection. Calls for  
3 speculation.

4 MS. STEINBERG: Withdrawn. Let's talk  
5 about -- oh, residential neighborhood just to  
6 clear up some facts here. Are you aware of  
7 Mather Studios, a building that is on the  
8 backside of -- a residential building that's on  
9 the backside of Ultrabar?

10 MR. KLINE: No, I'm not aware of it.

11 MS. STEINBERG: Okay. Are you aware  
12 that's where Commissioner Shankle lives?

13 MR. KLINE: No.

14 MS. STEINBERG: Let's talk -- are you  
15 aware that 465 calls were made to 911 between  
16 2017 and 2019 basically right before the original  
17 protest hearing was filed, 465 calls were made to  
18 911 about issues with Ultrabar?

19 MR. KLINE: Objection. Goes beyond  
20 the scope of direct. And Ms. Steinberg, she's  
21 testifying.

22 MS. STEINBERG: I couldn't hear you.  
23 Can you repeat that?

24 MR. KLINE: I said that the question  
25 goes beyond the scope of direct examination. And

1 it appears that Ms. Steinberg is now testifying.

2 MS. STEINBERG: I asked if she was  
3 aware whether or not 465 calls were made. How is  
4 that testifying?

5 CHAIRPERSON ANDERSON: Ms. Steinberg,  
6 (audio interference).

7 MR. SUISSA: Chairman Anderson, I'm  
8 sorry. We can't hear you.

9 CHAIRPERSON ANDERSON: Can anyone hear  
10 me?

11 MS. STEINBERG: Now we can.

12 CHAIRPERSON ANDERSON: I don't know.  
13 I haven't done anything. All right. Ms.  
14 Steinberg, yes, please address your comments to  
15 me. Mr. Kline raised an objection. Then I will  
16 ask you to respond to his objection. And then I  
17 will make a ruling and then the witness will know  
18 whether to respond. So do you have a response to  
19 Mr. Kline's objection?

20 MS. STEINBERG: Yes. And apologies  
21 for not knowing the procedure here. I've never  
22 done this before. So sorry in advance. Yeah, my  
23 response would be I'm not testifying. I asked if  
24 she was aware of this fact. She can say no,  
25 she's not aware of that fact.

1                   CHAIRPERSON ANDERSON: So I'm going to  
2                   overrule the objection, Mr. Kline. And Ms.  
3                   Glasgow can respond to the best of her ability.  
4                   Ms. Glasgow, respond if you haven't answered,  
5                   ma'am.

6                   INVESTIGATOR GLASGOW: Can you repeat  
7                   the question?

8                   MS. STEINBERG: I just asked if you  
9                   were aware that 465 calls were made to 911  
10                  between 2017 and 2019 about Ultrabar?

11                  INVESTIGATOR GLASGOW: I am not aware  
12                  of that.

13                  MS. STEINBERG: Okay. Let's talk a  
14                  little bit about soundproofing. So I wanted to  
15                  know do you have specific expertise, for example,  
16                  if you look at the egg crate or if you look at a  
17                  particular piece of soundproofing. Do you have  
18                  independent expertise of whether or not that's  
19                  sufficient soundproofing? Or is your role more  
20                  observational?

21                  INVESTIGATOR GLASGOW: I don't have  
22                  specific training on soundproofing, no.

23                  MS. STEINBERG: And are you aware of  
24                  whether or not an independent sound engineer ever  
25                  evaluated any of the measures that have newly

1       been taken by Ultrabar?

2                   INVESTIGATOR GLASGOW:  No, he -- Mr.  
3       Marmaras actually stated that the company -- he's  
4       waiting for the company to come in to do their  
5       evaluation.

6                   MS. STEINBERG:  I see.  So do you know  
7       when, I guess -- based on the review of the  
8       evidence that you attached -- based on the review  
9       of the exhibits, do you know when these measures  
10      were starting to be taken, maybe dates on  
11      invoices, about around when this kind of thing  
12      started ramping up?

13                   INVESTIGATOR GLASGOW:  No, I am not.  
14      The only information that I had from Mr. Marmaras  
15      is actually dated April 16, 2022 of the email  
16      that he sent me.  And the date on the invoice  
17      actually is April 11, 2022.  That is the scope  
18      that I have of his -- you know, what he's doing.

19                   MS. STEINBERG:  Thank you.  No, that's  
20      really helpful and that was exactly my question.  
21      And so it sounds like based on your conversations  
22      with Jimmy that this is forward looking, that  
23      there's an intention to do more to mitigate the  
24      noise, correct?

25                   INVESTIGATOR GLASGOW:  Correct.



1 MS. STEINBERG: And all of this  
2 happened after the protest hearing was filed?

3 INVESTIGATOR GLASGOW: To my knowledge  
4 of -- I'm not sure what steps he took before I  
5 got assigned this protest. But as far as I know,  
6 as I said, the date here of the information that  
7 he sent me is April 16, 2022 and his invoice is  
8 dated April 11, 2022. What he had done before  
9 that, I have no knowledge of that.

10 MS. STEINBERG: Of course. I guess a  
11 final question, although if you'll permit me a  
12 couple seconds to just check to make sure that I  
13 haven't missed anything from my colleagues. But  
14 just a final question. I just wanted to --  
15 sorry. Give me one second.

16 Oh, so okay. So there is no  
17 independent sound engineering report. Oh, my  
18 final question was going to be back to this  
19 investigator, Supervisory Investigator Fiorentine  
20 visit. To your knowledge, is he a qualified  
21 individual to -- has he been at ABRA a long time?  
22 Is he a qualified individual to assess whether or  
23 not he is hearing noise in our units?

24 INVESTIGATOR GLASGOW: According to  
25 his statement, he said he did hear noise in your

1 apartment.

2 MS. STEINBERG: But I mean, he's a  
3 respected member of ABRA. You have no reason to  
4 doubt his testimony or his statement?

5 INVESTIGATOR GLASGOW: No reason.

6 MS. STEINBERG: Great. If you'll  
7 permit me 30 seconds to check to make sure that I  
8 haven't missed anything.

9 CHAIRPERSON ANDERSON: Yes, ma'am.

10 MS. STEINBERG: Exhibit 9, can we go  
11 to Exhibit 9 for a minute? Oh, I think we passed  
12 it. Can you just tell us whether or not there  
13 are any holes in that soundproofing?

14 INVESTIGATOR GLASGOW: Yes. As Mr.  
15 Marmaras explained that it's been there for a  
16 while. So they're actually ripping apart. So he  
17 needs to replace them. But clearly, you can see  
18 there are holes in there.

19 MS. STEINBERG: Okay. So a final  
20 question I have is obviously it's impossible --  
21 based on what you just said, it's impossible for  
22 you to assess whether or not in fact the  
23 soundproofing is sufficient. And you had only  
24 visited our apartments once. Would it surprise  
25 you to learn that this past Saturday night when

1 you and I -- unfortunately you and I were going  
2 to have a visit but it ended up being too late  
3 that I did in fact hear noise in my unit?

4 MR. KLINE: Objection. Assumes facts  
5 not in evidence.

6 MS. STEINBERG: Okay, withdrawn. I  
7 guess my final question then is would you be  
8 comfortable -- in light of everything you've  
9 seen, do you think it would be fair for -- in  
10 your experience as an ABRA investigator for  
11 Ultrabar to agree to institute measures so that  
12 we don't hear music in our apartments?

13 MR. KLINE: Objection. Beyond on the  
14 scope of her testimony and not relevant. That's  
15 a decision for the Board to make, not the  
16 investigator.

17 CHAIRPERSON ANDERSON: A response, Ms.  
18 Steinberg?

19 MS. STEINBERG: Yeah. I'm asking in  
20 her experience given all of her investigations  
21 before whether or not -- that she's done working  
22 for ABRA whether or not she thinks that those  
23 measures could be justifiably instituted.

24 MR. KLINE: Mr. Chairman, we have a  
25 law that provides specifically circumstances

1 under which noise shall not be audible in  
2 residences. And there's an exception to that  
3 law, and that's what we have. And for the  
4 investigator to testify an opinion contrary to  
5 what's in the law would not be appropriate in my  
6 opinion.

7 CHAIRPERSON ANDERSON: All right. I'm  
8 going to overrule the objection. I don't even  
9 know the investigator, whether or not she's  
10 qualified to make either -- so I'm going to allow  
11 her to answer if she can.

12 MS. STEINBERG: Thank you.

13 CHAIRPERSON ANDERSON: Go ahead, Ms.  
14 Glasgow, if you have an answer.

15 INVESTIGATOR GLASGOW: I don't. I  
16 don't have an opinion.

17 MS. STEINBERG: Okay, thanks. I think  
18 we have no further questions based on the report.  
19 Thank you so much, Ms. Glasgow, for being patient  
20 with our questions.

21 INVESTIGATOR GLASGOW: It's okay.  
22 Thank you.

23 CHAIRPERSON ANDERSON: Thank you, Ms.  
24 Steinberg. Ms. Glasgow, close your screen,  
25 please. I prefer to look at everyone. That's

1 why I always remind folks to close their screen  
2 when they're done. Any final questions by any  
3 Board members before I dismiss Ms. Glasgow?

4 MEMBER SHORT: Mr. Chair, I have one  
5 question to ask.

6 CHAIRPERSON ANDERSON: Yes, Mr. Short.

7 MEMBER SHORT: Good afternoon,  
8 Investigator Glasgow.

9 INVESTIGATOR GLASGOW: Hello.

10 MEMBER SHORT: Great. You testified  
11 that you sat outside of the venue. And when the  
12 doors opened and closed, you could hear loud  
13 music coming from the establishment, correct?

14 INVESTIGATOR GLASGOW: Yes.

15 MEMBER SHORT: Would that have been  
16 during the time after or before the time you went  
17 and saw the mitigations they'd done? You  
18 mentioned something, what, egg shaped?

19 INVESTIGATOR GLASGOW: Egg crate.

20 MEMBER SHORT: Egg crate. Was that  
21 during that same period of time?

22 INVESTIGATOR GLASGOW: Yes, they had  
23 already had the egg crate installed.

24 MEMBER SHORT: But when you sat  
25 outside, you still heard when the doors opened

1 and closed the loud music?

2 INVESTIGATOR GLASGOW: Yes.

3 MEMBER SHORT: Which meant that the  
4 mitigation wasn't working as well as maybe some  
5 engineer or someone might've wanted it to because  
6 if it was truly mitigated, opening and closing  
7 the doors wouldn't have alerted you the way it  
8 did. Would that be reasonable to say?

9 INVESTIGATOR GLASGOW: Yes.

10 MEMBER SHORT: Thank you. That's all  
11 I have, Mr. Chair.

12 CHAIRPERSON ANDERSON: Okay. Mr.  
13 Kline, I'm sorry. Is there another Board member  
14 want to ask other questions? Do you want to ask  
15 a question, Mr. Grandis?

16 MEMBER GRANDIS: No.

17 CHAIRPERSON ANDERSON: All right.  
18 Thank you. I thought the screen lit up. So I  
19 thought you unmute your phone. All right. Mr. -  
20 - this is one of the reasons why we do a follow  
21 up. Mr. Kline, do you have any questions of Ms.  
22 Glasgow based directly on the question that was  
23 asked by Mr. Short?

24 MR. KLINE: No, but I have based on  
25 the question that was asked by the protestant.

1                   CHAIRPERSON ANDERSON: No, sir. Just  
2 Mr. Short. Ms. Steinberg, do you have any  
3 questions that you need to ask based on Mr. --  
4 all right. Thank you. They said no. Thank you.  
5 Ms. Glasgow, thank you very much for your  
6 testimony. You're free to go.

7                   INVESTIGATOR GLASGOW: Thank you.

8                   CHAIRPERSON ANDERSON: All right. The  
9 Board then has no further witnesses to present.  
10 What I'm going to do, Mr. Kline, I'm going to  
11 take a ten-minute break. I just want to alert  
12 the parties. What I try to do is every two hours  
13 to take a break. So I'm going to take a ten-  
14 minute break for Mr. -- and then once we come  
15 back, Mr. Kline will present his case. Okay.

16                   MS. STEINBERG: Can I ask a quick  
17 question?

18                   CHAIRPERSON ANDERSON: Yes, ma'am.

19                   MS. STEINBERG: Sorry. And again,  
20 we're new at this. So basically, Mr. Kline  
21 presents for an hour and then we present for an  
22 hour. Is that what you said earlier?

23                   CHAIRPERSON ANDERSON: Each side has  
24 an hour to present their case. So I'm not --  
25 that doesn't mean -- because you might cross

1 examine, the Board might cross examine. So it  
2 might stretch longer than an hour. But --

3 MS. STEINBERG: Yeah.

4 CHAIRPERSON ANDERSON: -- yes, you  
5 have approximately an hour, yes.

6 MS. STEINBERG: Thank you.

7 CHAIRPERSON ANDERSON: All right. So  
8 do not log off. Just mute your phone. Turn your  
9 camera off. It's 3:32. We will be back on the  
10 record at 3:42.

11 (Whereupon, the above-entitled matter  
12 went off the record at 3:33 p.m. and resumed at  
13 3:43 p.m.)

14 CHAIRPERSON ANDERSON: We're back on  
15 the record. All right. Mr. Kline, are you ready  
16 to present your case, sir?

17 MR. KLINE: Yes, I am.

18 CHAIRPERSON ANDERSON: How many  
19 witnesses do you have, sir?

20 MR. KLINE: Three.

21 CHAIRPERSON ANDERSON: Three? All  
22 right. Who's your first witness, sir?

23 MR. KLINE: Jimmy Marmaras.

24 CHAIRPERSON ANDERSON: I know that I  
25 need to have the witnesses first offer a name to



1 keep the record straight. I know he said  
2 everybody called him Jimmy. But I don't know who  
3 Jimmy is. So who is he?

4 MR. MARMARAS: My name is Dimitrios  
5 Marmaras.

6 CHAIRPERSON ANDERSON: Mr. Marmaras,  
7 can you -- what happened to your camera now?

8 MR. MARMARAS: You know, I'm not sure.  
9 This camera is not working for some reason. I  
10 apologize. I don't know why it's --

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: All right. Can  
13 you raise your right hand, sir?

14 MR. MARMARAS: Yes, sir. Raising it  
15 right now.

16 CHAIRPERSON ANDERSON: Do you swear or  
17 affirm to tell the truth and nothing but the  
18 truth?

19 MR. MARMARAS: Yes, sir.

20 CHAIRPERSON ANDERSON: Your witness,  
21 Mr. Kline.

22 MR. KLINE: Thank you, Mr. Chair.  
23 Will you state your name and occupation for the  
24 record, please?

25 MR. MARMARAS: Yes, my name is

1 Dimitrios Marmaras, and I'm a managing partner of  
2 Ultrabar.

3 MR. KLINE: Mr. Marmaras, how long  
4 have you been involved with Ultrabar?

5 MR. MARMARAS: Since the first day we  
6 opened which was April 1st, 2006.

7 MR. KLINE: In 2006, what was that  
8 neighborhood like?

9 MR. MARMARAS: There was -- there was  
10 another nightclub that was next door to us to the  
11 right of us. There was a restaurant to the left  
12 of us where currently The Smith is. I believe it  
13 was a seafood restaurant back then. It was  
14 McCormick & Schmick's. We had, I believe if I'm  
15 not mistaken, the Ventana was being built, I  
16 believe, right when we bought it. And it was  
17 completed sometime in 2006.

18 MR. KLINE: Were you familiar with  
19 that neighborhood before Ultrabar was opened?

20 MR. MARMARAS: Yes, sir. We -- we  
21 used to do events in that neighborhood at other  
22 nightclubs that were there. There was a  
23 nightclub across the street from us. I do not  
24 remember the exact address. It was right next to  
25 Booth's Alley which is directly across the street

1 from us.

2 There was a nightclub there. We used  
3 to do events there. There was a nightclub on the  
4 other side on the E Street across the street from  
5 the FBI building. We used to do events there.  
6 And the actual nightclub that we ended up  
7 purchasing, we used to do events there as well.

8 MR. KLINE: And what was that?

9 MR. MARMARAS: That was called Home  
10 Nightclub. And when we were doing events, I  
11 would say from 1997 maybe until when we bought  
12 the place in 2006.

13 MR. KLINE: Okay. So as far as you  
14 know, this has been a nightclub since at least  
15 1997?

16 MR. MARMARAS: No, it was a nightclub  
17 before that. I believe the first incarnation of  
18 a nightclub, not 100 percent sure of the dates.  
19 It might've been 1989 or 1990. Since then,  
20 though, it's been a nightclub.

21 MS. STEINBERG: Objection. What's the  
22 relevance of this -- any of this?

23 CHAIRPERSON ANDERSON: Ms. Steinberg,  
24 you have to -- if you're going to make an  
25 objection, you have to raise the objection when

1 Mr. Kline asks the question, not --

2 MS. STEINBERG: Sorry, sorry.

3 CHAIRPERSON ANDERSON: -- the answer.

4 Okay. So you can raise an objection right after  
5 he asks a question, then I'll make a ruling on  
6 that. Go ahead, Mr. Kline.

7 MR. KLINE: So this, at one point, was  
8 a bit of a nightclub then, correct?

9 MR. MARMARAS: Correct.

10 MR. KLINE: And in terms of this spot,  
11 you said that you've been there since 2006. Is  
12 that correct?

13 MR. MARMARAS: Yes, sir. That's  
14 correct.

15 MR. KLINE: The building has a bit of  
16 unusual character, does it not?

17 MR. MARMARAS: It's -- physically, I  
18 mean, it's an old building. It's from the late  
19 1800's, I believe.

20 MR. KLINE: And what was its prior use  
21 if you know?

22 MS. STEINBERG: Objection. Like, why  
23 is any of this relevant?

24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: Ms. Steinberg,

1 let me respond. It is relevant. I don't know --  
2 remember the Board makes the decision. And so  
3 he's just giving us some background information.  
4 Of course he's going to get to the point.

5 But these are just some questions that  
6 lawyers normally ask just to give us -- to give  
7 the Board just an idea of the building. As you  
8 noticed in Ms. Glasgow's report, I'd ask her  
9 about the building and she showed us what the  
10 building looked like. And so these are  
11 appropriate questions to ask when you're opening  
12 your case just to give the parties a feel of what  
13 it is, ma'am.

14 MS. STEINBERG: Understood. Thank  
15 you.

16 CHAIRPERSON ANDERSON: Go ahead, Mr.  
17 Kline.

18 MR. KLINE: All right. Thank you, Mr.  
19 Chair. Mr. Marmaras, so this was -- I think we  
20 established this was a bit of a -- the building.  
21 The building, what was its previous use if you  
22 know?

23 MR. MARMARAS: I believe prior to  
24 being a nightclub, it was a bank.

25 MR. KLINE: Okay. And that's pretty

1       apparent by the physical appearance of the  
2       building, isn't it?

3               MR. MARMARAS: That's correct, yes.  
4       There's a sign outside that says, First Columbia  
5       Bank -- First Columbia National Bank.

6               MR. KLINE: And that's one of the  
7       things that makes the location unusual, isn't it?

8               MR. MARMARAS: I'm sorry. What was  
9       that?

10              MR. KLINE: That's one of the things  
11       that makes the location unusual, isn't it?

12              MR. MARMARAS: Correct, yes.

13              MR. KLINE: All right. Now currently,  
14       how often do you operate? When do you operate?

15              MR. MARMARAS: Currently we open on  
16       Friday and Saturday nights. And there are times  
17       where we may host a private event or a corporate  
18       event. We had -- a week ago, we had -- there was  
19       a law school association event at the convention  
20       center. And we had an after event for that.

21              So there are times that throughout the  
22       week that we may host an event. But that's not  
23       consistent. That might be maybe half a dozen  
24       times a year.

25              MR. KLINE: And has it always been

1 that way that your business has been concentrated  
2 on Friday and Saturday nights?

3 MR. MARMARAS: On Friday and Saturday  
4 nights. Before -- actually, way prior than  
5 COVID, we were open on Thursday nights as well.  
6 But we ended up closing down the Thursday night  
7 party.

8 An exact date, I'm not sure. It might  
9 be 2018 maybe. I'm just trying to guess what the  
10 date was. But around there, 2017 or 2018, we  
11 stopped doing regular Thursday night events.

12 MR. KLINE: All right. But primarily  
13 during the history of the business, you've only  
14 been open Friday and Saturdays?

15 MR. MARMARAS: Yes, sir.

16 MR. KLINE: Now during the -- well,  
17 first of all, what are your duties? What's your  
18 involvement with the business? What do you do?

19 MR. MARMARAS: Well, I oversee and I  
20 manage the business. And we have managers there  
21 too. And I oversee and supervise the managers.

22 MR. KLINE: Okay. Is that hands on?  
23 Are you there? What does that involve?

24 MR. MARMARAS: Yes, sir. I'm there  
25 all the time basically, unless if it's maybe a

1 night that I'm sick. I'm there all the time.

2 MR. KLINE: And what time do you  
3 typically get there?

4 MR. MARMARAS: I usually get there  
5 around 10:00, 10:30, sometimes earlier. Just  
6 depends on traffic.

7 MR. KLINE: And how late are you  
8 there?

9 MR. MARMARAS: Until after we close  
10 and everyone leaves.

11 MR. KLINE: Do some of your duties  
12 involve interfacing with the community?

13 MR. MARMARAS: In what sense? With  
14 the neighbors?

15 MR. KLINE: Yeah.

16 MR. MARMARAS: Yes, I've spoken to  
17 Ashley Steinberg many times.

18 MR. KLINE: What about other persons  
19 in the neighborhood?

20 MR. MARMARAS: There was a resident we  
21 used to talk to all the time, Ms. Joanne Newhouse  
22 (phonetic). I haven't seen her since COVID, so  
23 I'm not sure if she's still in the Ventana. She  
24 was a resident of Ventana. There were other  
25 neighbors in the past that we've spoken to. A



1 lot of them have moved away. But currently the  
2 one neighbor that I do have open communication  
3 with, it is Ms. Ashley Steinberg.

4 MR. KLINE: Okay. And in dealing with  
5 these neighbors, are you accessible? Are you  
6 available to be reached?

7 MR. MARMARAS: I believe so, yes.

8 MR. KLINE: And how do people reach  
9 you?

10 MR. MARMARAS: I'm sorry?

11 MR. KLINE: How do people reach you?

12 MR. MARMARAS: Predominately text  
13 messaging. There's been maybe a few times  
14 might've been a phone call. And sometimes I've  
15 had Ashley just come by and say hi outside. This  
16 past weekend, she just came and said hello  
17 outside.

18 MR. KLINE: Okay. Prior to Ms.  
19 Steinberg being there, you had similar access by  
20 other neighbors that live there?

21 MR. MARMARAS: It was Ms. Joanne  
22 Newhouse.

23 MR. KLINE: Okay. So let me put it a  
24 different way. You're pretty liberal about  
25 giving out your cell phone number?

1 MR. MARMARAS: Yeah, no, I've told  
2 anybody reach me please anytime they want 24/7.

3 MR. KLINE: And has Ms. Steinberg and  
4 others taken advantage of that?

5 MR. MARMARAS: Ms. Steinberg has, yes.

6 MR. KLINE: And what are those  
7 indications been about principally?

8 MR. MARMARAS: Usually, she's sending  
9 me text messaging, letting me know that there's  
10 cars outside that are noisy or the crowd outside  
11 is noisy or she can hear music coming from inside  
12 the venue.

13 MR. KLINE: And what, if anything, did  
14 you do in response to that?

15 MR. MARMARAS: If it's a car outside,  
16 I send security to ask the vehicles to please  
17 lower their music if they're lowering their -- if  
18 they have their music loud while they're driving  
19 by or if they're parked outside. If -- if  
20 they're not agreeable to doing that, I send RDO a  
21 lot of times our detail that's outside and ask  
22 them to let people know, you know, either to move  
23 down or turn the music off. And a lot of times,  
24 though, it's people at red lights that are  
25 sitting there on the red light. They're blasting

1 their music.

2 A lot of times, it's outside. They're  
3 honking their horn. But I like to think every  
4 time I hear a noise outside -- I'm outside the  
5 whole time. Every time I hear something, we're  
6 hopefully pretty quick to try to address that  
7 issue.

8 MR. KLINE: Has the closure of F  
9 Street had any effect on the issues that you've  
10 described with respect to noise from vehicles?

11 MR. MARMARAS: It has. It has. It's  
12 not even pertaining to our business as well.  
13 There's been instances where ambulances and fire  
14 trucks not related to us are driving by and they  
15 get stuck there. There's vans and buses and cars  
16 that are doing drop offs at the hotel. They're  
17 coming in there. They're getting stuck there.

18 There are regular vehicles driving.  
19 9th Street is a main throughway going into  
20 Virginia, going down to Main Street in D.C. So a  
21 lot of people use that road.

22 A lot of people cut through on F  
23 Street and they get stuck there on that closure.  
24 That closure, I'm not sure why it happened.  
25 We've got different answers about that.

1           The first answer I heard, there was a  
2 manhole cover that blew up. Then I heard it was  
3 a water main break. It's some kind of utility  
4 work that's been going on now I would like to say  
5 maybe for the last two months now. But we can't  
6 --

7           MR. KLINE: This is that 10th Street -  
8 -

9           MR. MARMARAS: No, yeah, that's on  
10 10th Street. Initially what they did was they  
11 actually shut down F Street from 9th to I believe  
12 all the way to 11th Street for one weekend. And  
13 then the following weekend, they just closed down  
14 the 10th and 9th -- I'm sorry, the F and 10th  
15 Street intersection, they closed that. So if  
16 you're driving -- if you're driving on F Street  
17 going towards 10th, it's closed off. And  
18 likewise, if you're driving on F Street from the  
19 other side, from 11th Street driving to 10th,  
20 that area is cordoned off.

21           MR. KLINE: And to be clear, that's  
22 created some problems on F in front of your  
23 establishment?

24           MR. MARMARAS: Well, yeah, it has. I  
25 mean, there's not -- people can't pass through.

1                   MR. KLINE: Okay. But you mentioned  
2 the hotel across the street and you mentioned  
3 buses. Do they frequently have buses?

4                   MR. MARMARAS: There's -- there's --  
5 there's vans, there's cars that do drop offs over  
6 there as well. Sometimes there are buses that do  
7 drop offs over there as well.

8                   MR. KLINE: And where is that hotel in  
9 relation to the Ventana?

10                  MR. MARMARAS: That's next door to  
11 Ventana. It's on the corner of 9th and F. It  
12 used to be the Marriott, but they sold it, I  
13 think a little bit before COVID. And if I'm not  
14 mistaken, I believe now it's just the Riggs  
15 Hotel. It's called the Riggs Hotel now.

16                  MR. KLINE: All right. And is the  
17 entrance on F or is it on 9th?

18                  MR. MARMARAS: The entrance is on F  
19 Street right on the corner of 9th and F.

20                  MR. KLINE: So it's basically --

21                  MR. MARMARAS: But it is on F. It's  
22 facing F Street, correct.

23                  MR. KLINE: It's across the street  
24 from your establishment?

25                  MR. MARMARAS: Not directly, but it's

1 -- yeah, it's right next to -- right next to --  
2 across the street from us.

3 MR. KLINE: Okay. Now you've been  
4 there since '06. Have there been issues or  
5 complaints about noise from your establishment  
6 since '06?

7 MR. MARMARAS: Not in the beginning.  
8 We didn't -- I'm not sure if there were residents  
9 that were living there at that time. And we  
10 weren't really getting complaints. Sometimes Ms.  
11 Joanne Newhouse would complain about the parking  
12 outside, that people would park outside on the  
13 streets and there wouldn't be any parking.

14 But there wasn't really. Sometimes  
15 she would make -- you know, she would ask why it  
16 was noisy outside. But it wasn't something that  
17 to the effect where we were being -- I don't  
18 believe, I can't recall, being protested for  
19 something like that. I believe the complaints  
20 started coming maybe around 2017, I believe.

21 MR. KLINE: Okay. I've seen in the  
22 investigator's report evidence of various  
23 soundproofing measures that were taken. When was  
24 that installed? When did you first endeavor to  
25 mitigate sound from the building?

1                   MR. MARMARAS: Initially, my business  
2 partner, Antonios Karagounis, I believe had  
3 spoken to Mr. Michael Shankle. And he had  
4 mentioned that sometimes he could hear noise in  
5 the back. Every time he would take the trash  
6 out, there was a door. We would open the door.

7                   And when the door would open, you  
8 could hear noise out there. So what we did, we  
9 added a double door in the back. And we added  
10 foam -- soundproof foaming in the back. And  
11 that, I believe, from what I understand fixed the  
12 problem in the back whereas that's security back  
13 there.

14                   So every time a busboy would go  
15 outside to throw the trash, the door would open.  
16 But you close it and then the secondary door  
17 would open and then that would close as well. So  
18 at no time was there a door really open so sound  
19 could go out in the back. The only thing you  
20 really hear, I believe, in the back right now is  
21 just the air conditioned units from the  
22 restaurants next door to me, but --

23                   MR. KLINE: So when do we think that  
24 was done? What's your best estimation as to --

25                   MR. MARMARAS: Best estimation, that

1 was in 2019.

2 MR. KLINE: Okay. Now prior to that,  
3 was there any soundproofing at all?

4 MR. MARMARAS: Just we had placed  
5 soundproofing foam on the main floor where the  
6 speakers are. And we had also placed yoga mats  
7 underneath the bass cabinets to control the  
8 vibration.

9 MR. KLINE: And when did you do that?

10 MR. MARMARAS: Maybe 2019, the yoga  
11 mats. The foam -- the foam -- that initial foam  
12 that we put up there for the main floor by the  
13 speakers, maybe 2017 or 2018.

14 MR. KLINE: So that was before any  
15 protesting, correct?

16 MR. MARMARAS: I believe so. I  
17 believe. My dates are little warped because we  
18 were closed for COVID. But I think 2018 was the  
19 protest, the original one, I believe. Or 2019, I  
20 believe was the original protest.

21 MR. KLINE: Prior to this protest, you  
22 said you had heard from Ms. Newhouse. Did you  
23 hear from anyone else in the neighborhood about  
24 any issues with the establishment?

25 MR. MARMARAS: I started hearing from



1 Ashley Steinberg around 2017. I had met her  
2 outside. She came and introduced herself. Maybe  
3 2016 or 2017, she came and introduced herself.  
4 And I give her my contact info. And I told her,  
5 listen, if there's anything, you know, you need  
6 or if there's any concerns or anything, please  
7 give out my number to everyone and please feel  
8 free to call me or text me.

9 MR. KLINE: And was that taken  
10 advantage of?

11 MR. MARMARAS: Yes, sir. Yeah.

12 MR. KLINE: How often?

13 MR. MARMARAS: It would stagger.  
14 There would be times where it'd be maybe a couple  
15 of times a night. There would be times maybe I  
16 didn't hear from her. Maybe she was out of town.  
17 I'm not sure. I didn't hear from her for a  
18 couple of weeks. Maybe times where maybe once a  
19 weekend or a couple times a weekend. It would  
20 stagger.

21 MR. KLINE: Now in terms of you've  
22 heard the complaints about noise, have steps been  
23 taken to alleviate the situation concerning  
24 noise? I'll ask you that first, and then we'll  
25 get to other steps that you might be considering.

1           MR. MARMARAS: Well, we started -- we  
2 started installing soundproof foam. I believe --  
3 I believe it was May of 2020, I believe. We  
4 started installing soundproof foam in the foyer  
5 in the front entrance and on the walls, on the  
6 ceilings.

7           And actually prior -- I believe in  
8 2019, we found because it was a leak on the  
9 ceiling on the top -- on the top floor. And when  
10 we fixed it, we actually found -- we weren't  
11 aware of this. There was actually a skylight.

12           But there was a drop ceiling. It was  
13 a ceiling. But hidden behind that, there was a  
14 skylight. So once we found that there was a  
15 skylight, we actually closed that off. That was  
16 in 2019.

17           But in 2020, we started installing the  
18 soundproofing foam in the front foyer and the  
19 front entrance on the doors. On all the windows,  
20 we closed all the windows that existed. We put  
21 plywood, foam, plywood again, and foam again.

22           I know there was a picture that was  
23 shown that was missing one of the foams. Behind  
24 that foam, there was plywood and then more foam.  
25 Sometimes those foams tear apart. It's foam.

1 It's not, you know, metal. So we try to find  
2 where they are and replace them and glue new foam  
3 on there when we can when we see it.

4 MR. KLINE: And why were those steps  
5 taken? What was it that made you think that  
6 would be effective in terms of mitigating the  
7 noise?

8 MR. MARMARAS: Well, the neighbors  
9 across the street were complaining they could  
10 hear the bass, that they could feel the bass and  
11 they could hear music coming out. We have two  
12 doors, two entrance doors. And the entrance  
13 doors are not spaced out too far apart, maybe  
14 four feet from each other.

15 So when we had people leaving, one  
16 door, the other door would open basically. And  
17 then when people are entering, one door would  
18 open, the other door would open pretty much  
19 almost at the same time. So there'd be times  
20 when both doors were open.

21 MR. KLINE: All right. But before we  
22 get to the doors, I want to go back to the foam.  
23 You installed foam.

24 MR. MARMARAS: Yes.

25 MR. KLINE: What was it that made you

1 believe that that would be effective in  
2 mitigating noise?

3 MR. MARMARAS: Well, soundproofing  
4 foam, I thought that maybe that might control the  
5 sound coming out from there. And the fact that  
6 there was a bay window there that had glass, I  
7 thought maybe sound could be escaping from there  
8 as well. And I thought maybe if we put  
9 soundproofing foam through the ceiling, through  
10 the walls, through the staircase, everywhere,  
11 that would control sound from escaping from the  
12 front doors and going outside.

13 MR. KLINE: Okay. And did there come  
14 a time that you consulted or attempted to consult  
15 with noise professionals in terms of what other  
16 steps might be taken?

17 MR. MARMARAS: We had a guy that -- we  
18 had a gentleman that came in to see our sound  
19 system so we could lower maybe the amplification  
20 on the bass. And he did some work for that. As  
21 a sound engineer, no, we didn't have an acoustic  
22 expert come in and take a look at the venue.

23 MR. KLINE: Okay. But you said that  
24 you had the sound guy that looked at the system.

25 MR. MARMARAS: Yeah.

1           MR. KLINE: What was it that he told  
2 you and that he advised you?

3           MR. MARMARAS: I mean, basically, he  
4 told us to move some of the bass cabinets and to  
5 lower the amps. And that's what we did.

6           MR. KLINE: Okay. Now you've also  
7 done -- so as of March of '20, you were closed,  
8 right?

9           MR. MARMARAS: Yeah, March -- I can't  
10 remember the exact date, March 13. Whenever that  
11 went into effect for the COVID closures. It was  
12 March -- maybe 14th, whenever that Saturday night  
13 was. I believe starting that Monday, that's when  
14 those closures began.

15           So that Saturday was our last night  
16 that we were open. It could've been March 14th,  
17 I believe, or 13th. And we were closed until we  
18 were allowed to reopen again in June of 2021.

19           MR. KLINE: Did the COVID closures and  
20 the financial impact on your business have any  
21 effect on steps you might've been willing to take  
22 with respect to mitigation of the noise?

23           MR. MARMARAS: I mean, we took a -- we  
24 took a serious financial hit. I'm not going to  
25 lie. You know, I didn't even know if we were

1 going to be able to stay open.

2           You know, the -- the things that  
3 helped us was actual -- the Mayor and the D.C.  
4 Council when, you know, they had the funds, the  
5 bridge funds, and all the other little funds that  
6 they had that they could help the businesses  
7 survive. That helped us a lot. But, you know,  
8 at some -- at one point, we didn't even know if  
9 we were going to open again because we didn't  
10 know how long that was going to stretch.

11           Initially, it was supposed to be 15-  
12 day closure which we were fine with 15 days. I  
13 was fine. But then it stretched. It stretched  
14 to 15 months then. You know, honestly, we didn't  
15 even know if we were going to open in June to be  
16 honest. And then when word came out that we're  
17 allowed to open, that was -- maybe another two,  
18 three months later, we would've had to close down  
19 for good if we couldn't open.

20           MR. KLINE: It's been -- so you're  
21 taking some steps now and you have been taking  
22 steps in the last few weeks in an effort to  
23 mitigate sound further. Is that correct?

24           MR. MARMARAS: Yeah, but we took steps  
25 even -- some steps even when we were closed for

1 COVID. I know that in -- we wanted to be  
2 proactive just in case we did -- we were going to  
3 open up. So in January of 2020, we ordered and  
4 installed sound dampening insulators.

5 And I believe that was in January of  
6 2020. We bought those insulators. And then  
7 again in May of 2021, we bought more acoustical  
8 panels -- the egg crate acoustical panels and  
9 more sound dampening insulators.

10 Mostly, I just wanted to make sure  
11 that -- we weren't there for months. I wanted to  
12 update everything, make sure that everything was  
13 fine if, by chance, we could open again. Now, by  
14 May, I believe we knew that we were going to  
15 open, I think, in June. I think the Mayor had  
16 already made the announcement, I believe. So we  
17 went ahead and bought more foam to actually foam  
18 a little bit more of the area.

19 MR. KLINE: So --

20 MR. MARMARAS: Replace some of the  
21 foam that needed replacing.

22 MR. KLINE: So the work that was done  
23 January of '20, that was actually prior to COVID,  
24 correct?

25 MR. MARMARAS: Yes. Actually, that

1 was prior to COVID, yes, because COVID, we closed  
2 in March of 2020, yeah.

3 MR. KLINE: March of '20?

4 MR. MARMARAS: Yeah, and then again in  
5 May of 2021. And then again we bought more  
6 acoustical foam in July of 2021. And we bought,  
7 I believe, in July of 2021, we also bought  
8 curtains, soundproofing curtains as well.

9 MR. KLINE: Okay. Over the last  
10 couple of years, approximately how much money  
11 have you spent on sound mitigation efforts?

12 MR. MARMARAS: Including just recently  
13 in the last couple of weeks?

14 MR. KLINE: Yes.

15 MR. MARMARAS: I would say well over  
16 40,000 dollars.

17 MR. KLINE: All right. Now it's  
18 suggested that what you've done in the last  
19 couple of weeks -- let's talk about what it is in  
20 a minute -- that's only being done and you only  
21 react in your space with a protest hearing. Is  
22 there any truth to that?

23 MR. MARMARAS: Well, we had a  
24 mediation hearing in March, I believe. And in  
25 that mediation hearing, the neighbors had



1 mentioned about adding additional doors. So I  
2 spoke to my business partner and we reached out  
3 to a company that the company is called Sound Cow  
4 that does acoustical panels and foam and whatnot.  
5 And we came up with an idea to build a sound  
6 barrier wall and a new foyer and a new hallway  
7 and install new doors. So they told us what to  
8 order. They sent us the schematics. They sent  
9 us detailed instructions how to build it.

10 We received that material April -- we  
11 had ordered it prior, I believe, to Investigator  
12 Glasgow coming in there. And when they came, it  
13 was the following week. And then once the  
14 materials came, we began construction and we  
15 finished that construction. And we added a new  
16 soundproofing wall barrier. And we added three  
17 solid core doors -- additional doors to the doors  
18 that we currently have.

19 MR. KLINE: Okay. Now in terms of the  
20 work that you did, did you get -- did you consult  
21 with experts as to what should be done?

22 MR. MARMARAS: The company, it's  
23 called Sound Cow. They're based in Pennsylvania.  
24 We had reached out to another -- it was a company  
25 in Florida. It was Acoustical Architect

1 Engineers. We had reached out them in March as  
2 well to be able to maybe fly them in so they  
3 could come and take a look at the place for a  
4 couple nights that we're open and see --  
5 recommend what we can do.

6 Now they had mentioned to me that it  
7 was their busy season. They'll get back to us,  
8 but it wouldn't probably be until July. So once  
9 they told us that, I reached out to Sound Cow and  
10 I spoke with them. And they recommended us to  
11 build a sound barrier wall. They gave us -- they  
12 recommended the exact equipment that needed to be  
13 used, and they gave us detailed instructions how  
14 to build it.

15 MR. KLINE: And have you built that?

16 MR. MARMARAS: Yes, sir. We finished  
17 it last weekend. The last weekend was the first  
18 weekend, I believe, that we had that installed  
19 with two doors. We're still waiting for the  
20 third solid core door to come in. It was delayed  
21 in shipment.

22 I believe hopefully -- I'm waiting for  
23 it actually today to come in so we can install it  
24 for this weekend. So once that door is  
25 installed, that would be the third door. Right

1 now, there are front two door, the sound barrier,  
2 and two solid core doors. But we have the  
3 framing for the third door.

4 MR. KLINE: So is that, in effect,  
5 like, a vestibule?

6 MR. MARMARAS: I'm sorry?

7 MR. KLINE: Is that, like, a  
8 vestibule?

9 MR. MARMARAS: That's -- yeah, that --  
10 that's -- that will hopefully prevent any sound  
11 from coming outside from the main floor. In  
12 addition to that, we also moved our DJ booth that  
13 was located near the front door. We moved that  
14 DJ booth to the opposite side of the main floor.  
15 So the monitors and the speakers that were there  
16 were moved on the other side as well. So there  
17 wouldn't be as much noise escaping through the  
18 front door.

19 MR. KLINE: Okay.

20 MR. MARMARAS: It was completed last  
21 week as well.

22 MR. KLINE: I would ask ABRA tech to  
23 allow Ms. Yohannes to share and pull up 17 --  
24 Applicant's Exhibit --

25 CHAIRPERSON ANDERSON: I'm sorry. Ms.

1 Fashbaugh, can you please allow Ms. Yohannes to  
2 share her screen, please? Ms. Fashbaugh, can you  
3 please -- okay. Go ahead.

4 MS. YOHANNES: Can everyone see 17?

5 MR. KLINE: Yes. Mr. Marmaras, can  
6 you identify Exhibit 17? Can you see it?

7 MR. MARMARAS: Yes, sir. Those are  
8 the two original double doors, the entrance to  
9 come into the business. And on the side are foam  
10 -- acoustical foam that we had installed there.  
11 That acoustical foam we installed back in 2020 or  
12 2019.

13 MR. KLINE: So that's what existed  
14 previously, correct?

15 MR. MARMARAS: Yes, sir. Yes.

16 MR. KLINE: All right. Ms. Yohannes,  
17 Exhibit 18, please.

18 MS. YOHANNES: Can you see Exhibit 18?

19 MR. MARMARAS: Yes, that's another  
20 view of the front doors.

21 MR. KLINE: Okay. So that's what  
22 existed previously?

23 MR. MARMARAS: Yes, yeah. That's  
24 another view. It looks like one door is open.  
25 The internal doors are open. Those are the

1 external doors out there.

2 MR. KLINE: Okay. Exhibit 19? And  
3 what do we see there?

4 MR. MARMARAS: That is the new sound  
5 wall that we installed while it was being  
6 installed. That's -- so that's -- that frame you  
7 see there, that's one solid core door that we  
8 installed. The door to the right is the other  
9 solid core door that we installed. Then when you  
10 go into that hallway, there's a third solid core  
11 door that is waiting for us to be installed once  
12 it comes in hopefully this week today.

13 MR. KLINE: Okay. So the door --

14 MR. MARMARAS: And on the wall -- I'm  
15 sorry. On the wall, we have -- on that wall --  
16 okay. So inside that wall is a special sound  
17 quieting structure that's inside framed.

18 Then we have this insulation that's  
19 called quick batt. Then we have another  
20 insulation called quick barrier. Then it's  
21 closed with insulating gaps that go in between  
22 the frames so it won't escape through the frames.  
23 Then it's closed with boards. And on the  
24 outside, we put sound dampening foam as well on  
25 the outside.

1 MR. KLINE: Okay. So looking at  
2 Exhibit 19 as you've said, there are two doors  
3 that are shown, one to the left and one to the  
4 right, correct?

5 MR. MARMARAS: Yes, correct. Now that  
6 door is always shut. The way we did it this  
7 weekend, that door is always going to be shut  
8 unless --

9 MR. KLINE: Which door?

10 MR. MARMARAS: The first door that  
11 you're seeing, that's close by the staircase  
12 right there, that door will always be shut.

13 MR. KLINE: Left or right, please?

14 MR. MARMARAS: Left, left. I'm sorry,  
15 left.

16 MR. KLINE: Okay. So looking through  
17 the left door, what is it that you see through  
18 the left door?

19 MR. MARMARAS: I see our two doors --  
20 I see the one door that is part of the two doors,  
21 original doors that were there for our entrance,  
22 the original doors.

23 MR. KLINE: Okay. And then the second  
24 door that we saw in 17 and 18, that's been  
25 removed?

1 MR. MARMARAS: No, no. The original  
2 doors are still there. We haven't removed them.  
3 No, they're still going to be there.

4 MR. KLINE: There's three sets of  
5 doors to get outside?

6 MR. MARMARAS: There's going to be  
7 five sets of doors to get outside. I mean,  
8 there's the original two doors, then you have  
9 this door on the left which will always be closed  
10 unless we close the club and everyone is leaving.  
11 Then we have the doors to the right.

12 Those doors are always closed unless  
13 people come from the hallway to open those doors  
14 to come inside. And then they close  
15 automatically once there's no one pushing the  
16 door. And then there's another set of doors  
17 inside. That's a hallway in there.

18 You can't see it from that picture.  
19 There's a hallway in there that leads to another  
20 set of doors. Those doors are also closed  
21 automatically unless some pushes them to go  
22 outside.

23 So in essence, if someone is leaving  
24 the club, they're opening the first door.  
25 They're going to the right, walking around a V-

1 shaped hallway. That first door closes. They  
2 open the secondary door. The secondary door,  
3 they go through there. Then they open the two  
4 doors that lead to going outside.

5 MR. KLINE: Okay. Operationally, so  
6 is the theory here that if there are no  
7 continuous open doors from the inside to the  
8 outside that that will mitigate sound? Is that  
9 the theory here?

10 MR. MARMARAS: Yes, sir.

11 MR. KLINE: Okay. So operationally,  
12 how do you ensure -- how will you ensure that at  
13 least one of the doors to the outside is closed  
14 when people are entering or exiting?

15 MR. MARMARAS: Well, we have -- right  
16 when you come in from the original double doors,  
17 we have a security personnel there. And then  
18 when you go -- when they go through the hallway,  
19 there's another security person that's stationed.  
20 You'll see to the right there's a main bar.

21 So there'll be another security guy  
22 stationed right there, close to where that trash  
23 can is to make sure that that door is closed.  
24 Now with that said, if there's an emergency or  
25 something and that happens, obviously we have to



1 open up those doors, all the doors. But the  
2 theory is that if we can keep that door -- if  
3 those doors are shut while someone else is  
4 leaving, hopefully the sound is not going to  
5 escape.

6 MR. KLINE: Okay. And when was this  
7 finished?

8 MR. MARMARAS: Well, this was finished  
9 last week. So the past weekend we just had was  
10 the first night that we had it. But mind you,  
11 though, in the inside where the hallway is, those  
12 are -- and the other set of doors, those are the  
13 doors that we're waiting for to arrive.

14 It just got delayed in shipment. They  
15 didn't come with the other ones. I believe they  
16 were special ordered. That's why. And I was  
17 told that hopefully they'll be in this week,  
18 maybe even today. Once they come in, we can  
19 installed the door. It's easy to install it  
20 because the frame is already there.

21 MR. KLINE: Ms. Yohannes, show us  
22 please Exhibit 20A. What are we -- is that 20A?  
23 Okay. There we go. What are we looking at  
24 there?

25 MR. MARMARAS: So that's when you're

1 going around the V-shaped hallway. What you're  
2 looking directly is that door that you can see in  
3 the previous picture that was on the left side,  
4 that's the door that always remains shut unless  
5 there's an emergency obviously. So whatever  
6 sound coming from inside cannot escape from that  
7 door. That's a solid core door.

8 Then you can't see it from the  
9 picture. You might be able to see it on top  
10 because there's a frame there. Right after that  
11 gray wall is where the double doors are to the  
12 right to go outside.

13 MR. KLINE: Okay. So this is the  
14 opposite side of the door --

15 MR. MARMARAS: I believe where that  
16 picture was taken, I believe it's maybe about a  
17 foot in front of the frame of the door that we're  
18 waiting to install. So that would be the other  
19 door that would be right there.

20 MR. KLINE: All right. Just so we're  
21 clear, this is the opposite side of the door on  
22 the left that we saw in Exhibit 19?

23 MR. MARMARAS: Yes, sir. Yes, sir.  
24 That's the opposite side, yes.

25 MR. KLINE: Okay. Ms. Yohannes, 20B,

1 please. What do we see in this picture?

2 MR. MARMARAS: I think that's wrapping  
3 around the hallway, I believe, going towards the  
4 main floor door.

5 MR. KLINE: Okay. And then --

6 MR. MARMARAS: Do you see that frame?  
7 You can see that frame over there.

8 MR. KLINE: Where?

9 MR. MARMARAS: Right there. You can  
10 see the frame on the wall. That's where the  
11 other door will be installed, I believe.

12 MR. KLINE: Ms. Yohannes, 20C, please.  
13 What do we see here?

14 MR. MARMARAS: That's when you walk in  
15 and you wrap around the V-shaped hallway. Those  
16 are the double sided doors that lead to the  
17 actual main floor of the club.

18 MR. KLINE: Okay. So walk in the  
19 front door. Walk us through and tell us where  
20 these are.

21 MR. MARMARAS: So if you're -- so if  
22 you're outside, you go through two original  
23 doors. Then you go -- you turn left. You go  
24 through one door, then you go wrap around the  
25 hallway. And then you go through that door.

1           MR. KLINE: And is there any music on  
2 the outside of this door?

3           MR. MARMARAS: There's no speakers  
4 installed in there. The only thing we have  
5 installed there, lights and exit signs.

6           MR. KLINE: Okay. So this work that  
7 you're doing, what's the goal? What are we  
8 trying to do?

9           MR. MARMARAS: The goal is to mitigate  
10 the sound that the neighbors are saying they can  
11 hear and to make the neighbors happy.

12          MR. KLINE: If this does not work,  
13 what are you going to do?

14          MR. MARMARAS: Call in a sound  
15 engineer maybe to help us out. I mean, I'm  
16 hoping that -- I'm hoping that's going to work.  
17 I'm hoping.

18                 Now I'll be honest with you. When I  
19 saw Ashley, she came by on Saturday night just to  
20 say hello. It was really cold outside so it was  
21 a quick conversation. And she just came to say  
22 hello.

23                 And I actually asked her because I  
24 couldn't hear sound coming out. And I asked her.  
25 I'm, like, Ashley, what do you think now? Do you

1 think it's better?

2 And she honestly -- she told me.  
3 She's, like, listen, I can still hear it in my  
4 room. Now I couldn't hear it outside. Maybe  
5 when that third door gets installed, I'm hoping  
6 that's going to help. I'm hoping. But it didn't  
7 sound like to me. Now, sound travels. I'm not  
8 sure. But outside we were probably -- we were on  
9 the sidewalk in front of the club, so I couldn't  
10 hear anything.

11 I'll be honest with you. I couldn't  
12 hear. But Ashley did say that she could hear --  
13 you know, she could still hear something in her  
14 room.

15 MR. KLINE: Okay.

16 MR. MARMARAS: Now I know that third  
17 door hasn't been installed yet. So I'm hoping  
18 that third door is going to -- it's going to be  
19 huge once that third door comes because then  
20 essentially the other doors close while people  
21 are leaving.

22 MR. KLINE: So am I hearing that  
23 you're committed to resolving this problem?

24 MR. KLINE: Oh, 100 percent. This has  
25 been there for 16 years. The neighbors are --

1 the neighbors are nice to me. They're not -- you  
2 know, obviously, I spend most of my time outside,  
3 you know, keeping an eye and make sure there's  
4 not cars out there making too much noise or there  
5 are not people outside singing happy birthday.

6 And I spend a lot of time doing that  
7 outside. But honestly, the neighbors, Ashley and  
8 I, I believe, have a great relationship. She's  
9 very kind to me. She's very nice to me.

10 I haven't had any issues with any of  
11 the neighbors. You know, every time they  
12 approach me, they're very polite. They're nice  
13 people and, you know, we're nice. I mean, you  
14 know, we have a great relationship.

15 She calls me for texts me if there's  
16 an issue and we address it. And even in the text  
17 messages, you can see she thanks me all the time.  
18 And I try to help out.

19 And we have a good relationship. It's  
20 an honest relationship. He honestly tells me  
21 when there's sound coming out there. I honestly  
22 try to fix it. There are other times that, you  
23 know, I'm there to help her. I've told her  
24 anytime she needs anything.

25 I remember one time there was an event

1 next door to us, a restaurant I believe had an  
2 event there. There was a lot of sound coming out  
3 that event. And she went over there to talk with  
4 them, and they were very rude to her. And I  
5 actually had to send my security there to make  
6 sure that whatever promoter was talking to her  
7 that was disrespecting her, make sure he wouldn't  
8 do anything to her.

9 You know, there are other times. One  
10 time she needed for an event our stands. I gave  
11 it to her because I like her. She's a great --  
12 she's a great person. I don't have an issue with  
13 the neighbors. So I want to fix the problem.

14 MR. KLINE: I got it. Okay. So let's  
15 move on and let's move on to another area. We  
16 talked about security. What are you -- what  
17 generally -- and we'll have your director of  
18 security on briefly later. What do you do about  
19 security at the establishment?

20 MR. MARMARAS: Once it's inside or  
21 outside? You're talking about outside, correct?

22 MR. KLINE: Let's talk about outside.

23 MR. MARMARAS: Okay. Well, outside,  
24 we have any given night depending on the weather  
25 obviously, I like to have at least ten security

1 guards out there. Their responsibilities range  
2 from checking IDs, padding people down, and  
3 wandling people down, securing the lines, make  
4 sure nobody tries to sneak in without getting  
5 their IDs checked. Going up and down the line to  
6 make sure we try to a single file line.

7 They go up and down the line to see if  
8 anybody is drinking in line. We make sure we  
9 don't let that person in line inside the club. I  
10 have security outside that sometimes go to  
11 vehicles.

12 I ask them to go to vehicles and tell  
13 them to ask the person in the vehicle to lower  
14 their music. And if that doesn't work, I send  
15 the RDO. Most of the time, everyone is  
16 compliant. Now, there are a lot of times where  
17 there's loud music.

18 MR. KLINE: Magic words. Let's talk  
19 about that.

20 MR. MARMARAS: Yes, sir. We we've  
21 always had RDO when we were allowed to have it.  
22 We've had it for years. Well over ten years  
23 we've had -- or as long as was available. Even  
24 before, I think it was something that was  
25 reimbursed with ABRA, I believe.



1                   We had RDO before that as well. So  
2 we've always -- I like to have police officers  
3 out there. It makes my life a lot easier. I  
4 love it. I love having officers out there.

5                   But lately, I guess there's been a  
6 shortage of officers. We're supposed to have two  
7 officers every Friday and Saturday night.  
8 They're supposed to come in at 11:30 p.m. and  
9 work until 3:30 a.m.

10                  I would say -- I would say in the last  
11 -- maybe in the last, like, three, four months,  
12 we've been lucky if 75 percent of the time we've  
13 only received one officer. And then there's been  
14 at least a half a dozen times in the last two,  
15 three months where we haven't received any  
16 officers. Actually, this week, I just got an  
17 email saying that we may not have officers this  
18 week because there's a shortage in getting  
19 officers. But I love them when I have them  
20 there.

21                  MR. KLINE: Okay. So you said you're  
22 supposed to have RDO Friday and Saturday night.  
23 Is there any --

24                  MR. MARMARAS: Well, actually --  
25 actually, we're not -- actually, we're not

1 supposed to have RDO. We want to have RDO and  
2 that's why we have it. But we haven't been  
3 required to have RDO.

4 MR. KLINE: That's what I wanted to  
5 clarify. That's something -- a decision that  
6 your establishment made and you've done it  
7 voluntarily, correct?

8 MR. MARMARAS: That's correct, yeah.

9 MR. KLINE: Last question, has this  
10 establishment which has been -- you said it's  
11 been open since April of 2006. Is that correct?

12 MR. MARMARAS: April 1st, 2006, on  
13 April Fool's Day.

14 MR. KLINE: Okay. Have you ever had  
15 an ABRA violation?

16 MR. MARMARAS: No, we haven't. We  
17 have had zero ABRA violations.

18 MR. KLINE: Not one?

19 MR. MARMARAS: Not one.

20 MR. KLINE: No further questions.

21 Thank you.

22 CHAIRPERSON ANDERSON: Ms. Yohannes,  
23 please close the screen. Ms. Steinberg?

24 MS. STEINBERG: Hi. Hi, everyone.

25 Hi, Jimmy.

1 MR. MARMARAS: Hey, Ashley.

2 MS. STEINBERG: Thank you for the kind  
3 words and the feeling is very much mutual.

4 MR. MARMARAS: It's true. It's not a  
5 lie. It's true.

6 MS. STEINBERG: So just a few  
7 questions. It sounds like you agree with us that  
8 we shouldn't be hearing club noise in our  
9 apartment, whether it's music or crowd noise,  
10 right?

11 MR. MARMARAS: Yeah, I don't have any  
12 disagreement with that. Of course.

13 MS. STEINBERG: So if ABRA issues an  
14 order and says, you guys need to do the things  
15 that you say you're going to do which is get this  
16 extra sound engineer guy continue working on all  
17 these mitigating measures and enforce your  
18 security plan, you wouldn't object because you  
19 believe that that's what you're supposed to be  
20 doing anyways?

21 MR. MARMARAS: Yeah, a lot of the  
22 things were -- you know, we're already doing a  
23 lot of those things. I'm not objecting to doing  
24 some of the things that we talked about in the  
25 mediation. There's no objection to that.

1 MS. STEINBERG: So yeah, just to be  
2 clear, if ABRA tells you, like, at the end of  
3 this hearing, we want you to continue with the  
4 sound mitigation and adhere to that rule and hire  
5 the independent sound engineer and take whatever  
6 measures so that there's no noise heard in the  
7 residences and separately that you adhere to the  
8 protocols of either your current or updated  
9 security plan, you'd have no problem with that?

10 MR. MARMARAS: I have no problem with  
11 that because we already adhere to our security  
12 plan.

13 MR. KLINE: Objection, objection. In  
14 terms of adhering to a security plan, I think  
15 that complied anyway if it's involved with ABRA.  
16 So I'm not even sure what --

17 CHAIRPERSON ANDERSON: Mr. Kline,  
18 what's the nature of your objection, sir?

19 MR. KLINE: Number one, it's a  
20 compound question. And the second, in terms of  
21 objection to complying with a security plan, if  
22 you saw it with your agency, they're obligated to  
23 comply. That's the law.

24 CHAIRPERSON ANDERSON: Mr. Kline,  
25 she's asking your client a question. I mean, of

1 course, there are security plans, settlement  
2 agreement that folks haven't complied with. So  
3 she's asking him if ABRA orders, will he comply.  
4 I mean, I think he could surprise us both and say  
5 he's not going to comply. So I'm going overrule  
6 the objection and allow the question.

7 MR. KLINE: Fine.

8 MR. MARMARAS: Yeah, definitely comply  
9 with it. We've been complying for 16 years and  
10 God willing another 16 years. So I mean, of  
11 course we're going to comply with it.

12 MS. STEINBERG: Okay. We'll be  
13 presenting some rebuttal evidence later about  
14 compliance with the security plan. But I want to  
15 focus on this continued line. Okay. So you're  
16 aware that ABRA Investigator John Fiorentine  
17 visited our units back in August of 2021 after  
18 you requested that we set up that ABRA visit,  
19 right? Or are aware that that happened?

20 MR. MARMARAS: I am aware. Yeah, I'm  
21 aware now since the mediation when I was told at  
22 the mediation hearing.

23 MS. STEINBERG: So -- sorry.

24 MR. MARMARAS: At the mediation  
25 hearing, that's when I became aware of it. I

1 wasn't told when he was over there. He never  
2 came to us. He never --

3 MS. STEINBERG: Oh.

4 MR. MARMARAS: He never came to  
5 Ultrabar. He never introduced himself. I did  
6 not even have any idea that he was inside there  
7 at your -- at your home.

8 MS. STEINBERG: Oh, so you weren't  
9 aware that counsel told us that as a condition of  
10 negotiating with you, we had to ABRA --

11 MR. KLINE: Objection.

12 MR. MARMARAS: I was aware of that. I  
13 was aware of that. But I wasn't aware that he  
14 actually paid a visit.

15 CHAIRPERSON ANDERSON: Hold on. Hold  
16 on. Hold on. Hold on.

17 MR. KLINE: Mr. Marmaras, when I  
18 object, you stop talking. So the objection is  
19 we're in the settlement discussion. So that's  
20 where we are. Counsel told us in connection with  
21 settlement discussions.

22 CHAIRPERSON ANDERSON: But Mr. Kline,  
23 I'm not sure if that was the question that was  
24 asked. I think that -- I think your client  
25 responded I wasn't aware until this happened in

1 mediation. So she wasn't asking him about what -  
2 - I don't take the question as her asking him  
3 about what happened in mediation.

4 Maybe you need to tell your client  
5 that he needs to be more mindful in his answers.  
6 Well, not now. But I'm going to overrule the  
7 objection. Go ahead, Ms. Steinberg.

8 MS. STEINBERG: Thank you.

9 CHAIRPERSON ANDERSON: But hold on. I  
10 just want to just remind both parties the Board -  
11 - mediation -- what happens in mediation,  
12 conversations that were made in mediation,  
13 agreements that were reached in mediation, these  
14 are confidential agreements. Clearly the parties  
15 did not sign a settlement agreement. That is one  
16 of the reasons why we're here today.

17 I do not want any questions to be  
18 asked about what happened in mediation, and  
19 neither do I want, intentionally or  
20 intentionally, any answers to state that I was at  
21 a settlement agreement and this is what they  
22 asked for and this what I do. Okay? Clearly,  
23 this matter was not settled.

24 We're at a hearing today. And so  
25 whatever happens, whatever positions were taken

1 by each side at mediation or settlement  
2 conference, it is not relevant to this Board and  
3 the Board will not listen or consider that.

4 Okay. Let's move on. Ask your question.

5 MS. STEINBERG: Yeah, understood. And  
6 just to be clear, I'm not asking in any way about  
7 the content of settlement negotiations or what  
8 was said in mediation. I'm asking about the  
9 pattern of engagement between the parties. And  
10 so Jimmy, I'll ask the next question which is,  
11 are you aware that over the past several months  
12 we've been trying to reach out to you through  
13 your counsel to discuss mitigation measures,  
14 like, can we meet, can we talk, can we discuss  
15 options? Are you aware of all of that outreach?

16 MR. KLINE: Objection. Mr. Chairman,  
17 same thing. I mean, she's reaching out through  
18 counsel presumably to discuss settlement. And  
19 we're tipped -- excuse me, Ms. Steinberg. Please  
20 let me finish.

21 We're tipped off by the PIF and  
22 frankly had drafted a motion to strike and didn't  
23 file it that has a lot of discussion about their  
24 frustration with settlement talks with which we  
25 don't agree. But it's not relevant. So in terms



1 of, oh, we tried to engage with your counsel, ask  
2 him about his availability. I mean, he's  
3 testified pretty clearly that he was available  
4 and they had a very --

5 MS. STEINBERG: Now counsel is  
6 testifying.

7 CHAIRPERSON ANDERSON: Hold on, Ms.  
8 Steinberg. Hold on.

9 MR. KLINE: They had a very continuous  
10 text relationship. And it seems to me if that's  
11 what's appropriate, not what she may or may not  
12 have asked counsel or what counsel may or may not  
13 have said. It's just not appropriate.

14 CHAIRPERSON ANDERSON: Mr. Kline, I'm  
15 going to overrule the objection. All the  
16 question is that are you aware that we have been  
17 trying to reach you? That's all she's asking.

18 I mean, he can say, yes, he's aware or  
19 not aware. That's all she's asking. She's  
20 asking a question, and I'm going to overrule the  
21 objection. Answer the question if he can answer  
22 the question, please.

23 MR. MARMARAS: So what's the question  
24 again?

25 CHAIRPERSON ANDERSON: Are you aware -

1 - go ahead, ma'am.

2 MS. STEINBERG: Are you aware that  
3 over the past several months we've been trying to  
4 reach out to you?

5 MR. MARMARAS: I'm aware you've been  
6 trying to reach to me personally or through my  
7 lawyer?

8 MS. STEINBERG: Well, to Ultrabar, the  
9 establishment.

10 MR. MARMARAS: I know you've been in  
11 correspondence with my lawyer. I haven't  
12 received other than when you sent me a text  
13 message about it's noisy outside. I haven't  
14 received any -- you haven't contacted me  
15 personally.

16 MS. STEINBERG: Okay. We'll just keep  
17 on moving on since this is such a contentious  
18 topic. It sounds like based on your testimony  
19 that you just gave that you really -- you feel  
20 for our situation. You're trying to take steps  
21 to mitigate, to reduce the noise, right?

22 MR. MARMARAS: Correct.

23 MS. STEINBERG: So you'll see that the  
24 earliest text message in Exhibit -- well, we  
25 don't need it up. But in the exhibit that I

1 presented was 2016. I'm wondering why a majority  
2 of the work that seems to have been done was in  
3 the last two weeks despite the years of continued  
4 text messages between us about the noise.

5 MR. MARMARAS: Well, worked started in  
6 really 2019. But a lot of the text messages that  
7 I was getting was about people outside and  
8 vehicles. A lot of the text messages were people  
9 outside being loud, vehicles being loud outside.

10 MS. STEINBERG: You don't know how  
11 many text messages or I assume you don't know off  
12 the top of your head how many text messages I  
13 sent you asking if you could turn down the noise  
14 -- if you could turn down the music or turn down  
15 the bass. Do you recall those text messages too?

16 MR. MARMARAS: Not off the top of my  
17 head, no. But I know you've sent text messages  
18 about that. And we would make sure that  
19 hopefully the doors would be closed or, you know,  
20 we would do something. I would physically go  
21 lower the volume a little bit on the main floor.

22 MS. STEINBERG: Yeah. No, and that  
23 was very much appreciated. And as the point  
24 person for our building, I would reach out to you  
25 when either me or any of my neighbors were having

1 issues with the noise. My question is, do you  
2 think that this was a good system that in real  
3 time we text you when we hear the noise and you  
4 run around having to deal with it? Like, do you  
5 think that this is a good way of doing things?

6 MR. MARMARAS: It's a hands on system.  
7 It shows that I'm there to listen to you. But I  
8 would prefer that I wouldn't be getting those  
9 text messages.

10 MS. STEINBERG: So would we, exactly.  
11 You would prefer, right, that there's just no  
12 noise to begin with. And then you don't need to  
13 deal with this at 3:00 a.m.?

14 MR. MARMARAS: Is that a question?

15 MS. STEINBERG: Yeah.

16 MR. MARMARAS: Oh, I mean, would  
17 anyone want to deal with it?

18 MS. STEINBERG: Right, exactly,  
19 exactly. That's what I was asking. But it does  
20 feel like a lot of what's happened recently -- a  
21 lot of the steps that had been taken recently, it  
22 just started because -- give me one second. What  
23 is there to suggest that there is anything other  
24 than the fact that this ABRA protest was looming  
25 that Ultrabar finally decided to take these

1 steps? Because we've been complaining for years  
2 and nothing was done.

3 MR. KLINE: Objection as to relevance.

4 MS. STEINBERG: It's the point -- oh,  
5 sorry. Am I allowed to respond yet?

6 CHAIRPERSON ANDERSON: You're  
7 responding to me, ma'am.

8 MS. STEINBERG: Sorry. Ultrabar's  
9 motivation for undertaking these steps matters  
10 because what we're asking ABRA to do is issue an  
11 order requiring them to do so. After the  
12 protesting hearing is over, there's nothing  
13 incentivizing them to continue to do this because  
14 unless you tell them to. That's really the  
15 argument that we're making, that we need your  
16 help in enforcing what they say they're going to  
17 do. So I think the timing of the implementation  
18 of these measures matters a lot.

19 CHAIRPERSON ANDERSON: I'm going to  
20 overrule the objection. Answer the question,  
21 sir, if you can.

22 MR. MARMARAS: I mean, the  
23 implementation began in 2019.

24 MS. STEINBERG: Well, what's the  
25 evidence that these steps work then, I guess? Or

1 actually, let me rephrase that. Is your goal to  
2 get to place where we're not experiencing any  
3 noise?

4 MR. MARMARAS: My goal is to make  
5 everyone happy. That's my goal.

6 MS. STEINBERG: I know that, Jimmy.

7 MR. MARMARAS: I want to make everyone  
8 happy. Okay?

9 MS. STEINBERG: I know.

10 MR. MARMARAS: And I want to make you  
11 happy. I want to make everyone happy. I want to  
12 make myself happy.

13 MS. STEINBERG: So it sounds like you  
14 are willing to keep on surging ahead and  
15 undertaking more of these measures until we get  
16 to a place where the residents are texting you a  
17 billion times a night?

18 MR. MARMARAS: A hundred percent. And  
19 even if there's -- and I'm confident even if we  
20 do find an answer where there's absolutely zero  
21 sound coming out, in every evolving business, I'm  
22 sure that we always evolve. We always change  
23 things. We always fix things to make it better.

24 So I'm sure there's always going to be  
25 things that we'll see that we think that we can

1 improve on our end as well. So it's not  
2 something that even if we do mitigate this and  
3 there isn't sound coming out, it doesn't mean  
4 that I'm going to stop from trying to, you know,  
5 improve, make it even better. Obviously, that's  
6 what we do. That's why we've been there for 16  
7 years.

8 MS. STEINBERG: So it sounds like --  
9 okay. Let's talk a little bit about the work  
10 that you said that was done prior to COVID. So  
11 John Fiorentine -- Supervisory Investigator John  
12 Fiorentine visited in August of 2021. What work  
13 had been done -- and documented quite clearly  
14 that he experienced the noise from inside of Mr.  
15 Spooner's unit.

16 MR. MARMARAS: And the doors were open  
17 when he experienced the noise, correct?

18 MS. STEINBERG: So that's -- one of us  
19 later will testify. Mr. Shankle and Mr. Spooner  
20 will testify that's somewhat of an incomplete  
21 sentence because the noise --

22 MR. KLINE: Let them testify later and  
23 let's not have Ms. Steinberg testify now.

24 MR. MARMARAS: Okay.

25 MS. STEINBERG: No problem. I was

1 just clarifying. So the nature of my question  
2 then -- and actually, I was responding to what  
3 your client said. So anyways, what I was going  
4 to ask was given that Mr. Fiorentine experienced  
5 the noise in August 2021 after some measures had  
6 been taken, those measures were insufficient  
7 because he could still hear the noise, correct?

8 MR. MARMARAS: Are you asking me that  
9 question?

10 MS. STEINBERG: Yeah, yeah. Like --

11 MR. MARMARAS: According -- according  
12 --

13 MS. STEINBERG: -- were those measures  
14 sufficient?

15 MR. MARMARAS: Yeah, according --  
16 according to him, yes, he said he could hear the  
17 noise.

18 MS. STEINBERG: Right. So is the plan  
19 then to get a sound engineer -- what guarantee  
20 after this protest hearing is open if ABRA  
21 doesn't condition -- if ABRA doesn't condition  
22 the renewal of the license with these conditions  
23 attached that we're asking for, what guarantee is  
24 it that you'll continue moving forward with  
25 getting a sound engineer?



1           MR. MARMARAS: Our intention is to get  
2 a sound engineer. I have no problem getting a  
3 sound engineer. My word is that we're going to  
4 get a sound engineer. If it makes you happy to  
5 get a sound engineer, I'll be happy to get a  
6 sound engineer.

7           You know, we have an open  
8 relationship. I think you know that when I say  
9 that if you complain about something, I'm trying  
10 to fix it, it gets fixed and I'm there for you.  
11 But to bring a sound engineer in there is not a  
12 problem. We're not contesting that. That's not  
13 an issue. We can do that.

14          MS. STEINBERG: So great, that's good  
15 to know.

16          MR. MARMARAS: We can do that.

17          MS. STEINBERG: Great. We'd love that  
18 to be enforceable. So I have a question about  
19 doors and I have a question about the sound  
20 person that you hired or the resume that was  
21 submitted as Exhibit -- give me a second --  
22 Exhibit 2, John Furito from Miami.

23          MR. KLINE: Is there a question?

24          MS. STEINBERG: Yeah. Is that --  
25 that's the sound -- I'm confirming with your

1 client. Was that the sound person that you're  
2 talking about hiring? Or is this somebody you've  
3 already hired?

4 MR. MARMARAS: No, no, no. That's not  
5 the sound engineer we hired.

6 MR. KLINE: Objection. Objection.  
7 The fact that we included an exhibit which we  
8 have not introduced and it's not referenced does  
9 not make it relevant at this point. And I don't  
10 think this is listed as an exhibit.

11 CHAIRPERSON ANDERSON: All right. I  
12 always like looking at the documents because I do  
13 see in the PIF although the PIF is not in the  
14 record as yet. But I just want to remind you,  
15 Ms. Steinberg, I need you to spend most of your  
16 time on direct for your case rather than cross  
17 exam. I need you to vigorously cross exam the  
18 witness. But remember you also have an hour to  
19 present your case.

20 MS. STEINBERG: Yeah.

21 CHAIRPERSON ANDERSON: And you might  
22 be eating up a lot of your time in cross  
23 examination.

24 MS. STEINBERG: Okay.

25 (Simultaneous speaking.)

1 MS. STEINBERG: Oh, sorry.

2 CHAIRPERSON ANDERSON: But I see in  
3 the PIF -- that's what I was also looking at. I  
4 do see the name and also the resume. But I'm not  
5 sure if that's something that you want to raise  
6 at this point if they call that person.

7 MS. STEINBERG: Well, I just wanted to  
8 ask if Jimmy was friends with him because it  
9 looks like that person worked at 911 F Street  
10 back in the 2000s. And so I wanted to know if  
11 Jimmy had a prior relationship with that person  
12 that they were going to hire. That was my  
13 question to Jimmy.

14 MR. KLINE: Relevance of that is?

15 MS. STEINBERG: Indication of bias.

16 CHAIRPERSON ANDERSON: I'm going to  
17 sustain the objection, ma'am. I mean, it's -- so  
18 you said indication of bias. I mean, people know  
19 people. But why don't you -- I think if the  
20 person testifies if his resume said that he is,  
21 then you can ask that person if they testify.

22 MS. STEINBERG: Okay. Sorry for not  
23 understanding the process. I take your point  
24 that we should preserve more of our time. And so  
25 I think it sounds like we're all in agreement

1 that things should be fixed. So we have no  
2 further questions.

3 CHAIRPERSON ANDERSON: Any questions  
4 of this witness by the Board?

5 MEMBER SHORT: Yeah, I have a  
6 question.

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

9 MEMBER SHORT: Good afternoon, sir.

10 MR. MARMARAS: Good afternoon, sir.

11 MEMBER SHORT: Great. Just for the  
12 record also, the name of that club used to be the  
13 Vault. That was the first club that was in your  
14 building years ago.

15 MR. MARMARAS: Yes, sir. It was the  
16 Vault, Babylon, Home Nightclub. And I believe  
17 the first one, the first incarnation of a  
18 nightclub. It was called Casbar (phonetic). I  
19 believe at that time the owner actually had a --  
20 was living on the upstairs floor was his -- it  
21 was his condo up there as well.

22 MEMBER SHORT: Well, okay, I'm glad  
23 your memory is great and thank you for that. And  
24 what is the capacity of your club?

25 MR. MARMARAS: 739 people.

1                   MEMBER SHORT: 739. Now with all the  
2 new construction you've done for sound mitigation  
3 and all at the front door and all at the back  
4 door, were all of those plans approved by the  
5 fire marshal's office or the building code or  
6 DCRA?

7                   MR. MARMARAS: For the soundproofing?

8                   MEMBER SHORT: For all the work you've  
9 done on the exit doors, egress, coming and going  
10 with 730 people in your club, did you get  
11 building permits to do that work?

12                  MR. MARMARAS: We filed for building  
13 permits, yes. But in that --

14                  (Simultaneous speaking.)

15                  MEMBER SHORT: Let me finish my  
16 question, please. You filed for building  
17 permits. Were they approved for 730 people  
18 coming and going out of your club?

19                  MR. MARMARAS: I believe so.

20                  MEMBER SHORT: No further questions.  
21 No further questions. I got what I needed on the  
22 record. Thank you very much. That's all I need.  
23 Thank you, Mr. Chair.

24                  CHAIRPERSON ANDERSON: Any other  
25 questions by any of the Board members?

1 Ms. Steinberg, any questions directly  
2 related to the questions asked by Mr. Short?

3 Thank you. Mr. Kline, any questions  
4 directly related to the questions asked by Mr.  
5 Short? Mr. Kline?

6 MR. KLINE: Yes. Mr. Marmaras, do you  
7 have a certificate of occupancy, correct?

8 MR. MARMARAS: Yes, sir. Correct.

9 MR. KLINE: And what's the number on  
10 that certificate of occupancy?

11 MR. MARMARAS: 739.

12 MR. KLINE: And any building permits  
13 that would've been filed for would've been with  
14 respect to that use of that premises, correct?

15 MR. MARMARAS: Correct.

16 MR. KLINE: Nothing further.

17 CHAIRPERSON ANDERSON: Thank you. All  
18 right. Do you have another witness, Mr. Kline?  
19 And I'm going to be a little bit liberal with the  
20 time with both sides.

21 MEMBER SHORT: Mr. Chair? Mr. Chair?

22 CHAIRPERSON ANDERSON: Yes, Mr. Short.

23 MEMBER SHORT: Thank you very much.

24 I'd just like to clarify for the record -- I  
25 would like to clarify for the record --

1                   CHAIRPERSON ANDERSON: Mr. Short, hold  
2 on. Hold on, Mr. Short. We're not in a question  
3 period. So I'm trying to figure out what it is  
4 you're trying to clarify.

5                   MEMBER SHORT: Can I tell you what it  
6 is?

7                   CHAIRPERSON ANDERSON: What is it that  
8 you're trying to ask, sir?

9                   MEMBER SHORT: Thank you. The  
10 question asked was since the new construction has  
11 been done on all those doors, were there building  
12 permits done and were they approved by the city?  
13 Just for the record. If anything ever happens, I  
14 want it on the record that someone from the city  
15 did ask were those improvements made and were  
16 they certified by the building code. That's all  
17 I wanted to certify. Thank you, Mr. Chair.  
18 Thank you for letting me get that in.

19                   CHAIRPERSON ANDERSON: All right.  
20 Thank you, Mr. Kline. Mr. Kline, there's -- all  
21 right. Do you have -- as I said before, I'm  
22 going to -- I've not been holding people  
23 specifically to an hour because an hour might not  
24 be. But you did spend a significant amount of  
25 time with the first witness. How many more --

1 MR. KLINE: One, possibly two.

2 CHAIRPERSON ANDERSON: All right. So  
3 just want to remind you of your time limits and  
4 how much time you've utilized. And you've used a  
5 significant -- you've used two-thirds of your  
6 time so far. But I'll be somewhat liberal with  
7 both sides with their time. But just wanted to  
8 folks know that to be mindful of the time. Who's  
9 your next witness, sir?

10 MR. KLINE: Mr. Galen Epps.

11 CHAIRPERSON ANDERSON: Mr. who?

12 MR. KLINE: Galen Epps.

13 CHAIRPERSON ANDERSON: Is Mr. Epps, is  
14 he on the line? Do we need to -- I've not heard  
15 that name before. So is there someone that we  
16 need to elevate his rights? Because I --

17 MR. KLINE: Yeah, we didn't --

18 CHAIRPERSON ANDERSON: -- I did not  
19 hear his name earlier.

20 MR. KLINE: We didn't elevate him.

21 CHAIRPERSON ANDERSON: Is Mr. Epps  
22 waiting to be elevated? Is he in the queue?  
23 I'll ask Ms. Fashbaugh. Do you see Mr. Epps?  
24 You said his names is, Mr. Kline, Galen Epps?  
25 Ms. Fashbaugh, do you see a Mr. Epps waiting to



1 be elevated?

2 MR. EPPS: Hello?

3 CHAIRPERSON ANDERSON: I'm sorry. Is  
4 that you, Mr. Epps? I don't --

5 MR. EPPS: Yes, I'm Mr. Epps. I'm  
6 present.

7 CHAIRPERSON ANDERSON: All right. Mr.  
8 Epps, do you have a camera because I can't see  
9 you? I don't see your name?

10 MR. EPPS: I do have a camera. But I  
11 believe I'm having the same issues that Mr.  
12 Marmaras was having.

13 CHAIRPERSON ANDERSON: All right.  
14 Well, Mr. Epps, can you raise your right hand,  
15 please?

16 MR. EPPS: Yes, sir.

17 CHAIRPERSON ANDERSON: Do you swear or  
18 affirm to tell the truth and nothing but the  
19 truth?

20 MR. EPPS: Yes, I do.

21 CHAIRPERSON ANDERSON: Thank you. And  
22 Mr. Kline, can you please ask him to spell his  
23 name for the record, please?

24 MR. KLINE: Yes, Mr. Epps. Spell your  
25 name for the record, please.

1                   CHAIRPERSON ANDERSON: Sure. It's G-  
2 A-L-E-N, first name. Last name, Epps, E-P-P-S.

3                   MR. KLINE: And what is your relation  
4 to Ultrabar Chrome?

5                   MR. EPPS: I'm the head of security of  
6 Ultrabar.

7                   MR. KLINE: How long have you been  
8 head of security?

9                   MR. EPPS: I've been head of security  
10 for four years.

11                  MR. KLINE: And did you work for the  
12 establishment prior to that?

13                  MR. EPPS: Yes, I did. I've been an  
14 employee at Ultrabar since 2014.

15                  MR. KLINE: And what were you employed  
16 as previously prior to being head of security?

17                  MR. EPPS: I came on in 2014 as  
18 security and work in security until I was  
19 promoted.

20                  MR. KLINE: And what are your duties  
21 as head of security?

22                  MR. EPPS: As head of security, I do  
23 all the scheduling, most of the hiring. I  
24 prepare all the police incident reports for our  
25 onsite detail. I also am one of the ABRA

1 managers for the establishment. So I engage with  
2 ABRA investigators or anyone who has any  
3 questions when they make their visits. I  
4 obviously run the security and do all the  
5 paperwork and security plans, stuff like that.

6 MR. KLINE: Have you had any training  
7 (audio interference).

8 CHAIRPERSON ANDERSON: Hold on a  
9 minute, please. Hold on a minute, please. Mr.  
10 Epps, are you in the same location as another  
11 witness testifying here? Because I'm hearing  
12 some conflicts between -- that says that you  
13 might be in the same location as someone who has  
14 an open line.

15 MR. EPPS: No, sir. I'm in my own  
16 house. Somebody may have their line unmuted.

17 CHAIRPERSON ANDERSON: All right. So  
18 I'll ask. The only two people -- the only people  
19 who should have their lines muted are Mr. Epps --  
20 I'm sorry, unmuted are Mr. Epps and Mr. Kline.  
21 All right. Go ahead, Mr. Epps, and answer the  
22 question. I apologize, sir.

23 MR. EPPS: Yes. Mr. Kline, can you  
24 repeat the question, please?

25 MR. KLINE: Yes, the question is

1 whether you've had any specific training with  
2 respect to security.

3 MR. EPPS: Yes, sir. As far as  
4 specific training, I took Mr. Robert Smith's  
5 nightclub security consultant class actually  
6 twice. I took it once as a regular security and  
7 then I took it again as a security manager. Mr.  
8 Robert Smith is recognized across the country as  
9 an individual who's created certification that's  
10 recognized by most nightclubs, concert venues,  
11 hotels. Anyone that has any type of crowd  
12 control, he's recognized and that certification  
13 is recognized.

14 MR. KLINE: And you said you took the  
15 course twice. Is that right?

16 MR. EPPS: Yes, sir. I took the  
17 course prior when I was promoted to security  
18 manager as regular security which was very  
19 helpful to me. And I thank Ultrabar management  
20 for their investments in me and my security staff  
21 when we came back from COVID. Of course, not all  
22 the employees came back, so we thought it was  
23 proper to have everyone trained again. And I was  
24 trained again as a security manager.

25 MR. KLINE: And what, if you know, is

1 Mr. Smith's qualifications for training?

2 MR. EPPS: Well, to my knowledge, he's  
3 recognized nationally. He is a former law  
4 enforcement and he has countless hours and hours.  
5 I think the course that I took was 16 hours. And  
6 he's always open for me to reach out to him with  
7 any questions that I may have. As much as my  
8 experience has, I always like to reach out to  
9 people who have more experience for any  
10 recommendations. And he's always been very  
11 helpful to me.

12 MR. KLINE: All right. In terms of  
13 Ultrabar, what staffing do you have with respect  
14 to security in front of the establishment?

15 MR. EPPS: Sure. So in front of the  
16 establishment, we like to keep about ten security  
17 on site with all different responsibilities, four  
18 to six guys who are going to be searching,  
19 wanding. I have a couple guys who check the  
20 lines. I have ID checkers. And of course, I do  
21 not include myself in that number. I'm mostly  
22 just observing.

23 MR. KLINE: And do they or you take  
24 any responsibility for noise in front of the  
25 establishment?

1           MR. EPPS: Yes, sir. Yes, sir. So I  
2 ask my security to ask our patrons, customers who  
3 have entered or who are waiting to enter if they  
4 noticed that they're being unruly or raising  
5 their voices at any time to just approach them in  
6 a professional manner. I know that it's  
7 obviously in a person's well right to raise their  
8 voice as loud as they want to on the street.

9           But, you know, our approach is always  
10 polite and professional. And most of the time,  
11 it's effective. We can ask the cars to turn  
12 their music down.

13           We can ask anyone in line, anyone who  
14 may step out of the establishment for any reason.  
15 Of course, you know, people are coming out to the  
16 nightclub to celebrate. And so if someone wants  
17 to come out and scream happy birthday because  
18 it's the day of their birth, you know, we just  
19 have to -- we wish them a happy birthday as well.  
20 We just ask them to keep it down and be polite.

21           Of course, you know, there's always a  
22 random person who wants to, you know, say, you  
23 can't say that to me. And I always tell my guys  
24 just continue to kill them with kindness. Be  
25 professional and be polite.

1                   And I said nine times out of ten, 99  
2 times out of 100 it works. I mean, people really  
3 are not -- they don't want to be aggressive by  
4 nature. So if you can tap into that person and  
5 have them understand that we do have neighbors.  
6 Could you imagine living across and someone is  
7 screaming outside your door? They kind of get  
8 the point.

9                   MR. KLINE: And the people that are  
10 out there, they're in line to get into the  
11 establishment typically?

12                  MR. EPPS: It depends. You know,  
13 there's foot traffic. We are two streets down  
14 from Capital One Arena. So on occasion, you  
15 know, there is concerts. There's sports. You  
16 know, there's people that we ask to keep it down  
17 that are not there for our establishment, just  
18 out of consideration for our neighbors. But  
19 yeah, I mean, later in the night the majority of  
20 people that are on the block are there for us,  
21 you know.

22                  MR. KLINE: And with respect to those  
23 people that are waiting to get in, do you have a  
24 specific carrot that you're able to use to try to  
25 get them to --

1                   MR. EPPS: Yeah. I mean, obviously,  
2 those people want to get into your establishment.  
3 So you can leverage that as something to get them  
4 to keep their tone down. I also have the guys  
5 that are walking up and down the line check to  
6 make sure that people are not littering in front  
7 of our other establishments.

8                   And so they take the trash cans up and  
9 down if anybody has trash because we do not allow  
10 food or drink in our establishment. So my  
11 security will go up and down the line with their  
12 trash cans, collect the trash and dispose of it.  
13 But for the majority of the time, you can just  
14 say, hey, man. You guys want to get in, just  
15 keep it down, and most people will comply.

16                  MR. KLINE: What hours are you there?

17                  MR. EPPS: So I get to the club around  
18 7:30 p.m. and I do not leave until everyone is  
19 out. And that's usually between 4:30 and 5:00  
20 a.m. That's just a cleanup crew that's there  
21 after, you know. 3:15, the majority of the  
22 people are out of the club. By 3:15, we have  
23 cleared the club. But from 3:15 to about 4:30,  
24 the cleanup crew is there.

25                  MR. KLINE: Okay. And what does the



1 cleanup crew do?

2 MR. EPPS: They cleanup majority  
3 inside the club. And then once they're finished  
4 inside the club, they come outside and they send  
5 two guys -- two to three guys outside. They  
6 clean up our side of the block as well as across  
7 the street, whatever is left over.

8 And I'm sure some of it is not even  
9 trash from our customers. But, you know, our  
10 name is on the street sign, you know. So we try  
11 to take ownership of that and try to make it look  
12 clean. I mean, it's D.C. and, you know, we have  
13 lots of people there visiting, tourists. And,  
14 you know, if it's a Saturday and Monday morning  
15 you want the tourists to come out there and D.C.  
16 look nice, so you know.

17 MR. KLINE: So that's done every  
18 morning after closing?

19 MR. EPPS: Oh, yeah. Every time we  
20 open, we have someone that comes out after the  
21 street is clear. And they make sure that they're  
22 clearing up -- cleaning up. And that is from 9th  
23 Street to 10th Street on both sides.

24 MR. KLINE: So you do both sides of  
25 the street the entire block?

1 MR. EPPS: That's correct.

2 MR. KLINE: In terms of noise from the  
3 establishment, have you experienced the issues  
4 that we've heard described today with respect to  
5 the establishment?

6 MR. EPPS: I would say previous to our  
7 COVID shutdown, I believe that it could be  
8 understandable that a little bit of bass was  
9 making its way out of the establishment bass  
10 levels. I know that since we've gotten back,  
11 started since June 11th, 2021, there's been  
12 considerable changes. I've seen considerable  
13 changes inside the venue as far as the amount of  
14 work that's been done.

15 And I've noticed a change myself. I  
16 like to do the sound checks when the DJs get  
17 started on the main floor. I like to do sound  
18 checks when I open up each floor just to make  
19 sure. I will step out into the yellow line in  
20 the middle of the street just as a guideline to  
21 see if I'm feeling or hearing any music. And I  
22 myself have noticed a considerable change in a  
23 positive direction since those changes were made.

24 MR. KLINE: And when did you start  
25 noticing that change.

1                   MR. EPPS: Since we came back from  
2 COVID. And a lot more of the soundproofing has  
3 went up. I mean, there were a little bit of  
4 changes once we started putting the soundproofing  
5 up. But I think the majority of the noise as far  
6 as the music was concerned was aimed towards the  
7 doors being open. And so the new construction  
8 that we put in last week to my knowledge and the  
9 tests we've done in my opinion have been a great,  
10 great improvement.

11                   MR. KLINE: All right. I have no  
12 further questions.

13                   CHAIRPERSON ANDERSON: Ms. Steinberg?

14                   MS. STEINBERG: My neighbor, Yanev, is  
15 going to ask the questions this time if that's  
16 all right.

17                   CHAIRPERSON ANDERSON: That is fine.  
18 Mr. -- I'm sorry. What's your last name again,  
19 sir?

20                   MR. EPPS: Epps.

21                   MR. SUISSA: Thank you, Chairman  
22 Donovan. Suissa like the cheese with an A at the  
23 end.

24                   CHAIRPERSON ANDERSON: Mr. Suissa, go  
25 ahead, sir.

1 MR. SUISSA: Okay. Thank you. And so  
2 I forgot your last name, sir, because it didn't  
3 appear on my screen. Can you just -- Mr. Epps,  
4 right?

5 MR. EPPS: That's correct.

6 MR. SUISSA: Mr. Epps, so your  
7 security team is particularly well trained,  
8 right, because of these courses that you say that  
9 you've had in training them and that they've  
10 taken, right?

11 MR. EPPS: Yes, sir.

12 MR. SUISSA: And so -- and they're  
13 supposed to document any incidents in reports for  
14 your security plan. Is that correct?

15 MR. EPPS: That's correct.

16 MR. SUISSA: And if they were not  
17 documented, that would really concern you, right?

18 MR. EPPS: Yes.

19 MR. SUISSA: And if there were  
20 evidence that they were not documented that may  
21 be presented to ABRA, that would concern you as  
22 well, right?

23 MR. EPPS: That's correct.

24 MR. SUISSA: And if there were photos  
25 in evidence of less than ten people outside on

1 your security team, you would be concerned that  
2 your security wasn't showing up or had failed to  
3 do their job that you had prescribed, correct?

4 MR. EPPS: I wouldn't say that was  
5 correct. The pieces of my security team are  
6 interchangeable. And most times, you know, I  
7 have to have a certain amount of security  
8 attentive. So if there's an issue inside that  
9 will require more security, security may step  
10 inside for a moment. And the picture that is  
11 taken of me having two or three security outside  
12 may depict a different story of how many people  
13 were out there.

14 MR. SUISSA: Oh, right. Yes,  
15 certainly in isolated events I'd understand that.  
16 But if there were many, many photos on many, many  
17 days, that would be a concern, right?

18 MR. EPPS: Again, it's all  
19 circumstantial to the type of party we have, how  
20 many people we have inside.

21 MR. SUISSA: I'm asking about the  
22 circumstance. But I get it. I'll move on.

23 CHAIRPERSON ANDERSON: No, no. That's  
24 not what I was saying. That's not what I was  
25 saying, sir. I was just saying that we have a

1 court reporter recording and transcribing. So we  
2 can't have two people speaking at the same time.  
3 That's all I was trying to say.

4 MR. SUISSA: Okay. I appreciate it,  
5 Chairman Donovan -- Chairman Anderson. And so  
6 yeah, Mr. Epps, I'll move on from that. I think  
7 we get the point. Also the Capital One Arena  
8 that you spoke about, are you aware if they close  
9 before 2:00 a.m.?

10 MR. EPPS: I'm not aware of their  
11 hours, no.

12 MR. SUISSA: Or even before 1:00 a.m.  
13 Would it surprise you if that were the case?

14 MR. EPPS: Not really. I've been to  
15 games and concerts there.

16 MR. SUISSA: But certainly at 3:00  
17 a.m. and 4:00 a.m., the Capital One Arena  
18 wouldn't be the ones causing the noise unless  
19 they hung around for four hours on the street,  
20 right?

21 MR. EPPS: Again, it's circumstantial.  
22 I can't say -- speak to who goes in the Capital  
23 One Arena and what they do afterwards.

24 MR. SUISSA: Okay, sure. We get it.  
25 And the staff monitors for alcohol and

1 drunkenness, right?

2 MR. EPPS: That's correct.

3 MR. SUISSA: So people walking out and  
4 vomiting in front of your security guards,  
5 literally in front of their feet, would be a  
6 concern, right?

7 MR. EPPS: It's a concern medically  
8 for us, yes.

9 MR. SUISSA: Yes, so you'd call  
10 someone and you'd get help, right?

11 MR. EPPS: That's correct.

12 MR. SUISSA: And especially if they  
13 did that on another establishment like The Smith  
14 or Succotash right next to you, right?

15 MR. EPPS: That's correct. We also  
16 have an EMT on staff who does assessments.

17 MR. SUISSA: Oh, really? Oh, that's  
18 great. And if there were evidence of these  
19 incidents happening where your staff didn't do  
20 anything in front of their faces, that would be a  
21 big concern, right?

22 MR. EPPS: Yes, sir.

23 MR. SUISSA: Including a collapsed  
24 customer in front of your security team, right?

25 MR. EPPS: Yes, sir.

1           MR. SUISSA: And if there were a call  
2 for an ambulance or police and they were  
3 disoriented or disabled people because they  
4 couldn't move or walk, you'd have to report that.  
5 That would be in your incident reports and you'd  
6 call the police, right?

7           MR. EPPS: That's correct. We call  
8 the police for most medical emergencies.

9           MR. SUISSA: And you talked about  
10 screaming. You said your staff asks for quiet,  
11 right? If they were screaming, that's what they  
12 would be doing, right, because that's part of the  
13 plan that you mentioned, right?

14          MR. EPPS: That's correct. It's part  
15 of my proactive section in my plan.

16          MR. SUISSA: Right. And if there were  
17 evidence of people screaming with your staff not  
18 going up to them, that would be a concern, right?

19          MR. EPPS: Yeah, it would be a concern  
20 --

21          MR. SUISSA: I think so too.

22          MR. EPPS: -- unless I had advised  
23 them not to.

24          MR. SUISSA: Okay. And for crowd  
25 control, you talked about crowd control. If you



1 saw tons of people walking in the middle of the  
2 street, right out your door into the middle of  
3 the street screaming, fighting with one another,  
4 that would be a concern for your ability to  
5 manage the crowd, right? Your security wouldn't  
6 be doing their job in that case, right?

7 MR. EPPS: It's circumstantial.  
8 You're creating -- you're creating something --  
9 you're creating something. I'd have to be there  
10 to see.

11 MR. SUISSA: Oh, I'll present evidence  
12 later which is why I'm asking you. If that  
13 circumstance occurred, would that be a concern?  
14 You could say -- I mean, you could say --

15 MR. EPPS: I don't know.

16 MR. SUISSA: -- I've never seen that  
17 circumstance.

18 MR. EPPS: I don't know.

19 MR. SUISSA: But if that existed, you  
20 don't know that if your clients running into the  
21 street screaming and fighting with one another in  
22 what you could declare havoc, you don't think  
23 that would be a concern with crowd control --

24 MR. KLINE: Objection.

25 MR. SUISSA: -- failing?

1                   MR. KLINE: I've let it go, Mr.  
2 Chairman. But there's a lot of facts that are  
3 not in evidence, also speculation. If there's  
4 going to be testimony later, let there be  
5 testimony. But I think this line of questioning  
6 is improper.

7                   MR. SUISSA: I'm comfortable moving  
8 on. I was just trying to question if his  
9 security team was, in fact, in control and if he  
10 really did have understanding and knowledge of  
11 their performance. Okay. And my last question  
12 would be, you think that all the thing I  
13 mentioned and all the security things you talked  
14 about should be enforced, right, so that there  
15 shouldn't be drunkenness, there shouldn't be  
16 screaming, there shouldn't be sick people  
17 vomiting everywhere. You agree with all of that,  
18 right?

19                   MR. EPPS: I don't agree that there  
20 shouldn't be. I agree that in a perfect world,  
21 we would have everyone go home safe and happy and  
22 healthy.

23                   MR. SUISSA: So you don't believe that  
24 your security team should be helping people who  
25 vomit at their feet?

1 MR. KLINE: Objection.

2 MR. EPPS: That was not the question.

3 CHAIRPERSON ANDERSON: Hold on.

4 What's the objection?

5 MR. KLINE: It's argumentative.

6 MR. SUISSA: Mr. Donovan, I think I  
7 made my point. We can move on. It's good. We  
8 can move on.

9 CHAIRPERSON ANDERSON: All right.

10 Thank you. All right.

11 MR. SUISSA: And that's the end of my  
12 questions. Thank you very much.

13 CHAIRPERSON ANDERSON: All right.

14 Thanks. Any questions by any Board members of  
15 the witness?

16 All right. Hearing none, any  
17 redirect, Mr. Kline?

18 MR. KLINE: No.

19 CHAIRPERSON ANDERSON: All right.

20 Thank you, sir. Do you have anymore witnesses?

21 MR. KLINE: Just one very briefly,  
22 Antonios Karagounis.

23 CHAIRPERSON ANDERSON: All right. Mr.  
24 Karagounis, I know that you were on camera  
25 earlier. So okay. Can you raise your right

1 hand, please? Can you raise your right hand,  
2 please? Do you swear or affirm to tell the truth  
3 and nothing but the truth?

4 MR. KARAGOUNIS: I swear.

5 CHAIRPERSON ANDERSON: Your witness,  
6 Mr. Kline.

7 MR. KLINE: Mr. Karagounis, what's  
8 your connection to Ultrabar?

9 MR. KARAGOUNIS: I'm one of the two  
10 owners.

11 MR. KLINE: Right. And have you been  
12 an owner since the beginning?

13 MR. KARAGOUNIS: Since 2006 and  
14 actually in the venue since the '90s promoting  
15 different nights.

16 MR. KLINE: All right. And do you  
17 have other experience in the business? You  
18 mentioned promoting.

19 MR. KARAGOUNIS: Yeah, we I start  
20 promoting back in 1994. And I've owned several  
21 businesses in the District since 2006, more than  
22 ten. So I don't know if you want me to list  
23 them, but yes.

24 MR. KLINE: And do you have a  
25 philosophy about how it is that you run your

1 businesses and how it is to deal with your  
2 clientele and adjacent neighbors?

3 MR. KARAGOUNIS: We always try to keep  
4 a tight ship. We always have somebody in charge  
5 of the business. Although I'm connected with the  
6 different various businesses, at the end of the  
7 day, the managing partner makes the day-to-day  
8 decisions.

9 I'm always available to consult. I  
10 always go to the different venues to make sure  
11 that everything is okay. But I'm mostly involved  
12 with the marketing and promotion of the  
13 businesses. So these different businesses have a  
14 joint marketing team that produces all the  
15 branding and advertising materials. That's my  
16 expertise in a sense, marketing and branding.

17 MR. KLINE: You were here for the  
18 investigator's testimony, correct? Were you on  
19 Zoom?

20 MR. KARAGOUNIS: Yes.

21 MR. KLINE: Okay. And there was a  
22 discussion about calls for service to the  
23 establishment. Did you hear that testimony?

24 MR. KARAGOUNIS: Yes. Through the  
25 past three years or something. I don't remember

1 the date exactly. But there were various calls,  
2 yes.

3 MR. KLINE: Okay. And what is, if  
4 any, your philosophy with respect to calls for  
5 service, MPD, ambulance, what have you to the  
6 establishment?

7 MR. KARAGOUNIS: Well, MPD, I'm not  
8 sure if there's many calls for MPD. I didn't get  
9 the number. We always have the RDO outside. So  
10 they would be the first ones to respond.

11 As far as the ambulance goes, I have  
12 personally been in meetings for the past 15  
13 years. And the philosophy of ABRA for all the  
14 licensed establishments is if there's an incident  
15 that to the best of our knowledge might require  
16 medical attention to always call. Get the RDO  
17 and call an ambulance.

18 MR. KLINE: Okay. And is that  
19 something that you enforce in your establishment?

20 MR. KARAGOUNIS: Absolutely.

21 MR. KLINE: And so is it that you  
22 don't hesitate if there's any question in terms  
23 of someone's safety to call an ambulance?

24 MR. KARAGOUNIS: One hundred percent.  
25 Actually, I own another venue in the past,

1 Echostage. And it had even more than that  
2 because the venue was larger than Ultrabar. So  
3 it's the nature of the business. There's a lot  
4 of people inside and outside. Sometimes we have  
5 to call ambulance for incidents outside for  
6 people that are not even in the establishment.

7 MR. KLINE: Okay, great. I have no  
8 further questions for the witness.

9 CHAIRPERSON ANDERSON: Ms. Steinberg,  
10 any questions? You're on mute, ma'am. Ms. --

11 MS. STEINBERG: I'm sorry.

12 CHAIRPERSON ANDERSON: -- Steinberg,  
13 you're on mute.

14 MS. STEINBERG: I'm so sorry. Just  
15 one quick question. Mr. Karagounis -- if I  
16 pronounce that correctly, sorry if I haven't --  
17 do you believe that Ultrabar and other nightclubs  
18 that are similarly situated have an obligation to  
19 comply with noise, litter, peace, order  
20 provisions.

21 MR. KARAGOUNIS: One hundred percent.

22 MR. KLINE: Objection. Objection. I  
23 don't know what provisions we're talking about.  
24 If we can get a specific cite.

25 MS. STEINBERG: D.C. Official Code

1 25.725 and 726.

2 MR. KARAGOUNIS: I don't know the  
3 code. But --

4 MS. STEINBERG: Are you --

5 MR. KARAGOUNIS: -- whatever the rules  
6 are, absolutely. Whatever the rules for the  
7 operation of nightclubs and restaurants,  
8 absolutely.

9 MS. STEINBERG: Thank you. That's all  
10 I wanted to ask.

11 MR. KARAGOUNIS: Yes.

12 CHAIRPERSON ANDERSON: Thank you, Ms.  
13 Steinberg. Any questions by any Board members?

14 MEMBER SHORT: Yes, Mr. Chair. I just  
15 have one question of the gentleman.

16 CHAIRPERSON ANDERSON: Yes, Mr. Short.

17 MEMBER SHORT: There was testimony  
18 earlier today that since RDO isn't available,  
19 there has not been RDO there for several months.  
20 So the question to this gentleman is when the RDO  
21 isn't there and you can't have them help you call  
22 for an ambulance, who then calls for any public  
23 safety assistance?

24 MR. KARAGOUNIS: Most of the times, we  
25 do.



1                   MEMBER SHORT: Is there a log kept as  
2 to how many times you've done it since you  
3 haven't had RDO?

4                   MR. KARAGOUNIS: I couldn't tell you,  
5 sir.

6                   MEMBER SHORT: Well, let me ask you  
7 this. I know your clubs and I know your work  
8 that you've done at all the clubs. Keeping a  
9 logbook of incidents of violence or people  
10 getting injured is protection for all the owners,  
11 isn't it?

12                  MR. KARAGOUNIS: Yes.

13                  MEMBER SHORT: So is there a log at  
14 this particular place at this establishment?

15                  MR. KARAGOUNIS: Is there a log? Yes.  
16 We have an incident report, yes.

17                  MEMBER SHORT: Would it be possible  
18 that log could be shared with ABRA?

19                  MR. KARAGOUNIS: Yeah, of course.  
20 It's always ABRA investigators come all the time  
21 for camera footage, even for instances that you  
22 have violence like theft outside. We always  
23 share everything. There's a log, yes.

24                  MEMBER SHORT: I'm always glad to hear  
25 good news and glad to hear good providers

1 providing what we ask for. Thank you very much.  
2 That's all I have, Mr. Chair.

3 MR. KARAGOUNIS: Thank you.

4 CHAIRPERSON ANDERSON: Any other  
5 questions for any of the Board members?

6 All right. Ms. Steinberg, any recross  
7 based on the questions that were asked by Mr.  
8 Short? And Mr. Kline, any redirect?

9 MR. KLINE: No, Mr. Chair.

10 CHAIRPERSON ANDERSON: Mr. Kline, do  
11 you rest?

12 MR. KLINE: I would move Exhibit 17,  
13 18, 19, 20A, B, and C.

14 CHAIRPERSON ANDERSON: 17, 18, 19, 20?

15 MR. KLINE: 20A, 20B, and 20C.

16 CHAIRPERSON ANDERSON: I'm sorry. 20B  
17 and 20 what?

18 MR. KLINE: 20A, 20B, 20C.

19 CHAIRPERSON ANDERSON: 20A, 20B? Any  
20 objection to No. 17, Ms. Steinberg?

21 MS. STEINBERG: I'm sorry. I'm still  
22 playing catchup on the exhibits. But --

23 CHAIRPERSON ANDERSON: No. 17.

24 MS. STEINBERG: Sorry. It's just  
25 taking a second to load. Can you remind me which

1 one that was verbally? And hopefully --

2 CHAIRPERSON ANDERSON: No. 17.

3 MS. STEINBERG: Right, right. But --

4 CHAIRPERSON ANDERSON: No. 17 I think  
5 is the original door, I believe.

6 MS. STEINBERG: Oh, yeah. No  
7 objection to that.

8 MR. KLINE: They're all the exhibits  
9 that were identified.

10 CHAIRPERSON ANDERSON: Well, No. 17, I  
11 just want to remind her.

12 MS. STEINBERG: No objection --

13 CHAIRPERSON ANDERSON: What about --

14 MS. STEINBERG: -- to 17.

15 CHAIRPERSON ANDERSON: What about No.  
16 18?

17 MS. STEINBERG: No objection to 18.

18 CHAIRPERSON ANDERSON: 19?

19 MS. STEINBERG: No objection.

20 CHAIRPERSON ANDERSON: 20A?

21 MS. STEINBERG: No.

22 CHAIRPERSON ANDERSON: 20B?

23 MS. STEINBERG: No objection.

24 CHAIRPERSON ANDERSON: All right.

25 Without objection, so Exhibit 17, 18, 19, 20A and

1 20B are moved into evidence.

2 (Whereupon, the above-referenced to  
3 documents were received into evidence  
4 as Licensee Exhibit Nos. 17 through  
5 19, 20A, 20B.)

6 CHAIRPERSON ANDERSON: Okay. Thank  
7 you. So you rest, Mr. Kline?

8 MR. KLINE: With that, I rest. Yes,  
9 thank you.

10 CHAIRPERSON ANDERSON: All right.  
11 Thank you. All right. Ms. Steinberg, we can  
12 take a ten-minute break or you can start your  
13 case. What's your preference?

14 MS. STEINBERG: We'd like to just keep  
15 going if that works for everyone else.

16 CHAIRPERSON ANDERSON: All right. But  
17 I'm going to take probably in about half an hour  
18 or something take another break. Okay? I try to  
19 take a break every two hours.

20 MS. STEINBERG: Yeah.

21 CHAIRPERSON ANDERSON: And so it's an  
22 hour and a half ago we took a break. All right.  
23 So how many witnesses do you have, ma'am?

24 MS. STEINBERG: Just three. And we'll  
25 be very fast. So --

1 CHAIRPERSON ANDERSON: Who's your  
2 first witness, please?

3 MS. STEINBERG: Our first witness is  
4 Yanev Suissa. But I don't see him on the screen.  
5 He had to -- he got kicked off and then is trying  
6 to get back in.

7 CHAIRPERSON ANDERSON: He got --

8 MS. STEINBERG: Could he be elevated?

9 CHAIRPERSON ANDERSON: -- kicked off?  
10 He got kicked off again? All right. Ms. --

11 MS. STEINBERG: Oh, he's there.

12 CHAIRPERSON ANDERSON: I see him.

13 MS. STEINBERG: You got him.

14 CHAIRPERSON ANDERSON: Okay.

15 MS. STEINBERG: We got him, great.

16 CHAIRPERSON ANDERSON: Mr. Suissa, are  
17 you there?

18 MR. SUISSA: Only kicked off once. I  
19 heard you, though. I'm here.

20 CHAIRPERSON ANDERSON: Can you raise  
21 your right hand, please? Do you swear or affirm  
22 to tell the truth and nothing but the truth?

23 MR. SUISSA: I do, yes.

24 CHAIRPERSON ANDERSON: All right.  
25 Your witness then.

1 MS. STEINBERG: Great. Hi. First  
2 question, when did you move into the building?

3 MR. SUISSA: 2015.

4 MS. STEINBERG: Were you aware of any  
5 Ultrabar issues or conversations with the  
6 building prior to 2015 or in 2015?

7 MR. SUISSA: Yeah, when I moved into  
8 the building, I had in 2015 started to experience  
9 issues with the noise which I know we'll get  
10 into. And I reported to our condo board about it  
11 when I went to our first condo meeting. And they  
12 had just come from a meeting with Ultrabar and  
13 reported what the conversations were, that they  
14 had done that a few times. Then we actually  
15 tried to have another meeting with them that I  
16 actually was that. So the issues have been  
17 pretty ongoing with very little progress which is  
18 what led to the protest.

19 MS. STEINBERG: And are you aware of  
20 the letter that we submitted as Exhibit 3 from  
21 Del Galloway, the former president of HOA at  
22 Ventana?

23 MR. SUISSA: Yes, he had been trying  
24 to resolve the Ultra issue for many years.

25 MS. STEINBERG: Thanks. So what have

1 you experienced in your time living in the  
2 Ventana?

3 MR. SUISSA: Yeah, it's pretty  
4 terrible with the noise and it's not just on  
5 Saturdays and Fridays. So for context, I work  
6 and I have much better things to do than fight  
7 with a bar across the street. But I'm unable to  
8 sleep.

9 And the reason is I actually go to  
10 sleep -- I bought a noise dampening thing that I  
11 put on its full volume and I wear Bose noise  
12 canceling headphones and I can still hear the  
13 bass, the music. It helps with the screaming  
14 when I have all those things on which you can  
15 hear when you don't have all those things on.  
16 But I can still hear the bass.

17 There's kids who have visited me from  
18 my family and whatnot and stayed with me.  
19 They're unable to sleep, unable to do work. I  
20 see the vomiting. I see the people. I see the  
21 people getting hurt. I see the trash. There's  
22 sirens all day long. So it's really a nightmare.

23 MS. STEINBERG: So I noticed that you  
24 submitted -- I noticed that you were responsible  
25 for some of the FOIA requests where we learned

1 about all of the calls that had been made to the  
2 Unified service. Are you introducing those as  
3 evidence of the facts of those issues themselves  
4 or rather that creates noise and sirens  
5 generally? I just wanted you to give some  
6 context to everything.

7 MR. SUISSA: I've been trying to  
8 report this for a long time. And we've been  
9 given different feedback on how to report. I was  
10 obviously around for the other testimony about  
11 suggesting that we hadn't told anyone.

12 When we reported way back when, way,  
13 way, way back when to the ANC, Captain Donough of  
14 the police force told us that we should be  
15 calling 911. And he had experience with Ultrabar  
16 and testified to this at the ANC. And so we had  
17 been calling 911 instead of ABRA directly because  
18 we didn't know we were supposed to do that.

19 Also had spoken to the cops who had  
20 been outside. Also obviously reported to  
21 Ultrabar like you had testified you were doing  
22 with texts. And then eventually when we found  
23 out that there was -- that we could protest the  
24 situation since no progress was being made, like,  
25 five years later -- four or five years later, we



1 then realized we were supposed to be telling ABRA  
2 as well.

3 And so we were putting it to ABRA. My  
4 understanding is that the police report to ABRA  
5 when there's a situation with a bar. But I can't  
6 validate that or not.

7 MS. STEINBERG: Okay. So did you hear  
8 the testimony of the previous witnesses?

9 MR. SUISSA: Yes.

10 MS. STEINBERG: What do you know that  
11 -- and you can sort of go witness by witness or  
12 issue by issue, however you prefer. But what do  
13 you know that conflicts with the testimony that  
14 we've heard so far?

15 MR. SUISSA: Well, the testimony that  
16 I liked was the fact that everyone thinks all the  
17 problems we're bringing up should not be  
18 problems, which is hardening. The fact that  
19 they're not problems is the part I have an issue  
20 with. The noise is unbearable.

21 You can hear it when the doors are  
22 closed at the bar. Usually, they keep the doors  
23 open, not for egress and ingress, which we know  
24 are the rules that ABRA applies. You can hear  
25 the music coming through the doors, out the

1 doors, et cetera.

2 There's lines around the block. I  
3 heard the ABRA investigator who seemed to make  
4 quite a bit effort, her and Investigator  
5 Fiorentine before her, talking about the lines.  
6 The lines are literally the entire length of the  
7 block wrapping around the corners.

8 These are -- I was shocked when I  
9 heard that 740-something was the occupancy  
10 because you can count the people in the photos.  
11 There's probably more than that in the photos.  
12 There was talk about mitigation, none of which we  
13 ever saw happen.

14 In fact, I know that I changed their  
15 security system in -- their own sound system in  
16 2019. And it actually got worse from a sound  
17 engineer who had looked at it and told them they  
18 needed to do other things that they wouldn't do.  
19 The Capital One Arena is just a ton of hoo-ha  
20 that's not -- we know when Capital One comes out,  
21 they're all in red shirts, as everyone in D.C.  
22 knows. And it all happens at once, and it's  
23 never at 3:00 in the morning.

24 The police officers -- some of their  
25 police officers have validated the sound in some

1 of the videos I submitted. And by the way, I've  
2 got better things to do than take videos. I'm  
3 rarely around.

4 And so the fact that there's, like, 50  
5 days' worth of evidence just from me suggests  
6 that this is, like, a 10 times X that problem  
7 because I travel a lot for work. So I'm not  
8 always there. And then have they ever had an  
9 ABRA violation?

10 My understanding of the rules is doors  
11 are only supposed to be open for egress and  
12 ingress. You're only supposed to hear the noise  
13 -- you're not supposed to hear the noise outside  
14 the establishment at certain decibels within a  
15 certain range. You're supposed to be doing these  
16 incident reports. You're supposed to call when  
17 someone is drunk.

18 You're probably supposed -- I don't  
19 know for sure. But I imagine you're supposed to  
20 monitor when people are insanely drunk and not  
21 let them get there. So these are some things  
22 that I've seen and have evidence of that were not  
23 true from my opinion.

24 MS. STEINBERG: And would you  
25 characterize the efforts the Ventana residents a

1 group of just citizens who live in the  
2 neighborhood and then studios around the corner.  
3 Would you characterize those efforts as good  
4 faith and intentional and -- or how would you  
5 characterize those efforts to really try to work  
6 with Ultrabar to get a solution and also to alert  
7 other authorities and to try to get a solution?

8 MR. SUISSA: We tried for years. This  
9 is 2019 and I told you I've been there since  
10 2015. This was happening before me. We tried  
11 for years to talk through things to work with  
12 folks, but it's all lip service, right?

13 It'll happen for, like, five minutes  
14 or a day or half an hour. And then it reverts  
15 immediately back. And there's no way to police  
16 it or manage it.

17 I love bars. I go out all the time.  
18 I have no problem being in a commercial  
19 neighborhood that also has residential. Like, we  
20 like going out, I think, a lot of us were younger  
21 and that's fine. But you have to -- I heard a  
22 lot of talk about managing -- this is the nature  
23 of the business.

24 The nature of the business also  
25 requires the ability to manage it. And that

1 includes following rules and regulations and  
2 safety and noise requirements that are part of  
3 being an effective manager and running that kind  
4 of business. I'm perfectly happy. I don't want  
5 them to shut down.

6 I don't think that's the right thing.  
7 But I do think that they have to stop the  
8 problems. And most importantly, my ask of ABRA  
9 would be that they have to enforce it.

10 MS. STEINBERG: So you keep talking  
11 about videos. Can you show me a video of --  
12 because it sounds like I think there are 169 that  
13 we submitted on the PIF. But can you pick one  
14 that's a typical noise and line issue?

15 MR. SUISSA: Yeah, I could show you a  
16 few quick ones. Can I share my screen if that's  
17 possible if someone gives me that ability?

18 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
19 can you allow Mr. Suissa to share his screen,  
20 please?

21 MR. SUISSA: And I'm sorry. It'll be  
22 fast. But I just have to go from one screen to  
23 another just to be able to show you them. So if  
24 you can see my screen, I'm pulling up a video.

25 MS. STEINBERG: Yes.

1 CHAIRPERSON ANDERSON: We can see your  
2 screen.

3 (Video played.)

4 MS. STEINBERG: There's no volume,  
5 though. Oh, there.

6 MR. SUISSA: Could you heard the --  
7 you can hear it or couldn't hear it, Ashley?

8 MS. STEINBERG: I only heard a little  
9 part of it.

10 MR. SUISSA: Okay. I'll keep going a  
11 little bit. It gives you a sense, I think.

12 MS. STEINBERG: So that's after the  
13 club is closed.

14 MR. SUISSA: This video was taken,  
15 yes, after the club is -- when they're letting  
16 out, right? And I hope you could've heard the  
17 screaming and whatnot and the noise and the lack  
18 of crowd regulation and et cetera. I'll show you  
19 another one in case the sound for that wasn't as  
20 strong. But these are all different days.

21 (Video played.)

22 CHAIRPERSON ANDERSON: I'm not hearing  
23 volume. So if there's volume, I'm not hearing  
24 anything.

25 MR. SUISSA: My volume is on full

1 blast. I don't know how to show it otherwise.  
2 Ashley, are you able to show it if you look it  
3 up? Is it a technical thing or is it --

4 MS. STEINBERG: I think it might be a  
5 technical thing. But how about we phrase it this  
6 way. Are you an honest person?

7 MR. SUISSA: I don't think that's much  
8 the point. Let me give a few things for the --  
9 (Simultaneous speaking.)

10 MS. STEINBERG: No, but wait, can I  
11 just point out one thing?

12 MR. SUISSA: Yeah, yeah. I don't need  
13 to be. Let me clarify.

14 (Simultaneous speaking.)

15 CHAIRPERSON ANDERSON: Hold on,  
16 please. Do you have an objection, Mr. Kline?

17 MR. KLINE: Yeah. Are you an honest  
18 person? I mean, if he --

19 MR. SUISSA: I agree. We don't need  
20 that question. We're good. I don't need to be  
21 honest one way or another. These are videos and  
22 photos, right, with sound. So if I can just put  
23 in the record some highlighted videos so that  
24 ABRA can go to them during their deliberations  
25 since it sounds like the sound is not coming

1 through on the share screen. That might help  
2 illuminate things.

3 So what I did want to share that is in  
4 evidence in your files that we submitted, the  
5 videos I would point your attention to, there's  
6 one that is No. 1804. It's IMG\_1804. That's the  
7 one I showed you first with an -- these are just  
8 examples by the way.

9 There's two videos with the numbers  
10 1219 and 1220. All of these are after 2:00 a.m.  
11 There are two videos from 7-13-19, also around  
12 3:00 a.m. of the extensive noise. There's a  
13 video on Wednesday, 4-4-18. That can show you  
14 that this happens on Wednesday. I heard some of  
15 that testimony. There's many examples of  
16 Tuesdays, Wednesdays, Sundays, Thursdays all  
17 throughout the evidence dates.

18 And then the other thing for sound, at  
19 least, is a photo that has the number 1373. The  
20 funny thing about it is I personally believe that  
21 they keep the line open there to make people come  
22 more because the second it rains, five minutes  
23 later, that whole entire street is in the bar by  
24 some miracle whereas they're out there for, you  
25 know, endless hours four hours a day when it's



1 not raining. But when it runs, then they got to  
2 get them in so they don't leave. They're in, in  
3 five minutes. And so there's a video --

4 (Simultaneous speaking.)

5 MR. KLINE: Mr. Chair, Mr. Chair, Mr.  
6 Chair.

7 MR. SUISSA: -- that shows that.

8 CHAIRPERSON ANDERSON: Mr. Kline, do  
9 you have an objection?

10 MR. KLINE: Yes, there's no question  
11 pending. We're just having a -- I don't know  
12 what we're having. We're having a narrative.

13 MS. STEINBERG: I'm happy to ask a  
14 question.

15 MR. KLINE: Great, thanks.

16 CHAIRPERSON ANDERSON: Ask a question,  
17 Ms. Steinberg.

18 MS. STEINBERG: Yanev, would you like  
19 to tell us more about what you experienced and  
20 what you witnessed from your windows at 3:00  
21 a.m.?

22 MR. SUISSA: When -- you just heard it  
23 all. So I can repeat it. Or if you look at  
24 these cases as examples, it'll show you what I  
25 see. It's insane amounts of noise and screaming

1 at 2:00 a.m., at 3:00 a.m., at 1:00 a.m., at  
2 midnight, you name it.

3 And most of these videos are from  
4 inside my windows so that you can see the kind of  
5 noise we really experience. They're on all days  
6 of the week, not just Friday and Saturday. It's  
7 worse sometimes on Friday and Saturday, but it's  
8 just as bad on days like Wednesday, like, 4-4-18  
9 as an example.

10 And I've also noticed that when they  
11 want to get people into that bar because it  
12 rains, they get them in, in five minutes. I  
13 think they're keeping a line out there on  
14 purpose. That's my impression. And I think some  
15 of the videos also show that. Examples would be  
16 video 1373, the videos on 7-13-19, and then Video  
17 No. 1804 and 1219 as just some examples.

18 MS. STEINBERG: Yanev, do you think  
19 that anybody watching these videos would be fair  
20 for them to feel like they should have to try to  
21 sleep through this?

22 MR. SUISSA: Yeah, I mean, you don't  
23 have to -- you cannot sleep through it. I've  
24 gone to, like, insane measures. And really the  
25 only -- we don't have a problem with the people

1 at Ultrabar or Ultrabar. We just want to sleep.  
2 That's all we want. We just want to sleep.

3 I want to get one night of restful  
4 sleep so that I can do my real job rather than  
5 bother ABRA, bother then, bother anyone. I  
6 shouldn't have to call the police for this. I  
7 shouldn't have to call people for this. People  
8 have better things to do with their time.

9 Just lower the bass. Close the doors.  
10 Manage the situation. I mean, there's many  
11 videos with the doors open, like, which are ABRA  
12 violation, like, with the noise coming with the  
13 doors there, with the doors closed, with the  
14 doors open. It's endless.

15 MS. STEINBERG: So would you -- is it  
16 fair to say that you have tried your absolute  
17 best to alert ABRA to what are potential  
18 violations but that you don't have control over  
19 what happens with the process after that happens?

20 MR. SUISSA: Yes, I think that's the  
21 issue. You know, there's -- we try to alert  
22 folks. But then they don't -- like, I tried one.  
23 There was this investigator who tried to come and  
24 gave me his -- not the one who presented so far.

25 But he gave me his phone number and

1 his texting. And I texted back. He said, when  
2 you hear the noise, text. So he came at, like,  
3 9:00-something. And then I texted him as the  
4 music was there and invited him up. And he never  
5 came back.

6 That's documented, I think, in some of  
7 the evidence too. We've texted Jimmy. I think  
8 you had testified to this. But I've done it in  
9 the past, I think, also.

10 You know, if you look at 6-17-18  
11 video, texted him to say the door is open. It's  
12 sitting open. There's no one coming in and out.  
13 You can hear the music.

14 You can hear the music on 5-3-18 in  
15 the 5-3-18 video. And they don't close it. I've  
16 texted them to say the noise is unbearable, 10-  
17 28. You know, the traffic, it's unbelievable.

18 And nothing gets done. Nothing gets  
19 done. And I think it's just lip service. And my  
20 big kind of takeaway from this hearing today  
21 actually is they claim they are doing all these  
22 things.

23 They claim there shouldn't be noise.  
24 They claim the new soundproofing and stuff is  
25 going to solve the problem, that it will keep the

1 noise away, that it will do all these things,  
2 that they clean up the trash, that they call the  
3 police when there's an incident. So all I'm  
4 asking -- I mean, I'm not the only one here  
5 obviously.

6 All I'm asking they have just  
7 presented to ABRA their confidence in meeting all  
8 of these requirements and standards that ABRA  
9 requires and that a community should expect and  
10 that they admit the community should expect. So  
11 if that's the case, then just put together some  
12 kind of law or edict as ABRA does that says, hey,  
13 you're going to do these things. And if you  
14 violate them and someone presents concrete  
15 evidence through an investigator, a video, a  
16 photo that they violated the things they say  
17 they're not violating that they'll be penalized  
18 in some way, whether that's a reduction of -- not  
19 closed -- whether that's a reduction of hours,  
20 not letting in 21 -- whatever it is.

21 Like, there's a lot of mechanisms.  
22 They say they're doing it. So there should be no  
23 issue making them prove that and that they'll get  
24 penalties if they don't. And that's all we're  
25 asking.

1                   And if it's endless penalties then  
2 that's a different story. But hopefully they'll  
3 follow the rules that ABRA puts forward. And  
4 hopefully ABRA will help us enforce this because  
5 it's forever. It's, like, five, six years  
6 already. It's unbelievable.

7                   MS. STEINBERG: Thank you so much.

8                   MR. SUISSA: I wish you could hear the  
9 volume. I don't know how to present it on here.  
10 But hopefully you'll go to the video numbers and  
11 view the evidence.

12                   MS. STEINBERG: Well, Yanev, are you  
13 aware of invitations being made to Ultrabar  
14 leadership to invite them into our apartments to  
15 hear the volume for themselves?

16                   MR. SUISSA: Yes. Endlessly no  
17 responses. They don't come. Or what they do  
18 which I love is they say, we're coming now. And  
19 you hear the volume go down. And then they go  
20 back out and then the volume is back up 15  
21 minutes later. I get it. I would play the game  
22 too. But enough games. Like, enough.

23                   MS. STEINBERG: I was actually asking  
24 whether or not you're aware that invitations to  
25 Ultrabar ownership to our units has been extended

1 and whether or not -- yeah.

2 MR. SUISSA: Yes, I know that that's  
3 happened. I don't think they've come to my  
4 knowledge.

5 MS. STEINBERG: A final question, is  
6 there any video that doesn't really have to do  
7 with sound but that has, like -- that will show  
8 visually what we're talking about that you could  
9 share as a closing note, maybe the one about the  
10 doors?

11 MR. SUISSA: Yeah, sure. There's one  
12 that has both music and open doors.

13 MS. STEINBERG: Can you put it on  
14 right now?

15 (Simultaneous speaking.)

16 MR. SUISSA: -- that will visual  
17 rather than sound related. Yeah, give me --

18 MS. STEINBERG: Yeah, let's just --

19 MR. SUISSA: -- a moment to pull it  
20 up.

21 MS. STEINBERG: I just want to give  
22 everyone the flavor of what we're talking about  
23 here so that they can see for themselves even  
24 though they can't hear the noise in the videos  
25 right now.

1                   MR. SUISSA: Okay, yeah. Let me see  
2 if this one does it. A lot of them are, like,  
3 joint, because there's a few of them. But let me  
4 see if this one does it. Hold on. I'll pull it  
5 up. Let me share the screen.

6                   MS. STEINBERG: Sure. And Chairman  
7 Anderson, forgive the ignorance on my part. I'm  
8 just not sure how it works in terms of building a  
9 record. So the reason I want to make sure that  
10 these videos are shown to you all is that  
11 they're, like, a part of the record. But again,  
12 you know, I've never done this before.

13                  MR. SUISSA: Okay. I'm going to share  
14 my screen and tell me if you can see this one. I  
15 think this one has some -- it has the really loud  
16 music which you can't hear as well. But this is  
17 me walking by the establishment one of the  
18 evenings.

19                   And you could hear the music, like,  
20 blaring and you can see the door is just standing  
21 open the whole time. No one is going in and out.  
22 The doors -- I'll get closer I think as it goes  
23 forward.

24                   Yeah, they set up -- they set up also  
25 the food trucks there for the patrons as well.



1 See, you can see that there's no movement of a  
2 door. People are coming in and out. The one  
3 person who came in and out over the course of  
4 this video, and there's music blaring which I  
5 don't know if you can hear.

6 MS. STEINBERG: And Yanev, is it  
7 accurate that you have dozens of these kinds of  
8 videos that we submitted into -- on our PIF form?

9 MR. SUISSA: Yeah, they're in the -- I  
10 can show you another one. But they're in all of  
11 the -- they're in the record. I think I  
12 mentioned most of them. But I'll show you this  
13 one also.

14 This one is of some of the parking  
15 situation. And you can see the lines which are  
16 apparently tiny. You can see all the cars parked  
17 in the middle of the street, the police officer  
18 sitting in front of a car parked in the middle of  
19 the street.

20 I don't know if you can hear the  
21 noise, but it's there. There are also videos  
22 where you can hear the music with the door closed  
23 from my 9th floor apartment behind the glass.  
24 This gives you a sense.

25 MS. STEINBERG: Thank you. And I

1 guess my final question is, do you have better  
2 things to do than take 169 photos and videos in  
3 your spare time?

4 MR. SUISSA: Yeah. Like, look, this  
5 just got to a level that it's, like, I can't hear  
6 people telling me this isn't happening anymore.  
7 There's nothing we can do but protest this  
8 because no one is going to believe me. We have  
9 heard -- we're very appreciative of the time --  
10 but that ABRA tends to be very business friendly  
11 and that we'd have to really prove it and that.

12 And so I was, like, we need actual  
13 stuff where you don't have to trust me to the  
14 opposing counsel's objection. You don't need to  
15 trust me. You can listen to just the few videos  
16 or the 100 and something videos we submitted and  
17 you can see what we deal with on many, many  
18 different dates all the time.

19 And hopefully, it'll compel some kind  
20 of enforcement that if they do what they say  
21 they're going to do and they do that and ABRA --  
22 and it's things that everyone accepts they should  
23 be doing with some kind of penalty for concrete  
24 evidence, not trusting me or the hundreds of  
25 other residents who complained, actual concrete

1 evidence from an investigator or a video or  
2 something, then they should be penalized. I  
3 don't think it's controversial. And the reason  
4 we had to do this was so that we could get it  
5 done because it just doesn't happen any other  
6 way.

7 MS. STEINBERG: Thank you so much.  
8 I'm finished.

9 MR. SUISSA: Thank you. Okay.  
10 Thanks, Ashley. Oh, I got to wait for cross,  
11 yeah.

12 CHAIRPERSON ANDERSON: Yes, sir.  
13 You've got to wait for cross. And then you have  
14 to wait to see if the Board has any questions of  
15 you, sir.

16 MR. SUISSA: Gotcha.

17 CHAIRPERSON ANDERSON: Mr. Kline, do  
18 you have any questions of this witness?

19 MR. KLINE: Yeah, a few. Good  
20 afternoon, Mr. Suissa.

21 MR. SUISSA: Hi there.

22 MR. KLINE: Ultrabar was there when  
23 you moved into your apartment. Is that correct?

24 MR. SUISSA: Correct.

25 MR. KLINE: And are you aware that you

1 live in a commercial zone?

2 MR. SUISSA: Yeah, there's both  
3 commercial and residential, yes.

4 MR. KLINE: Okay. But from a zoning  
5 standpoint, are you aware that you live in a  
6 commercial zone?

7 MR. SUISSA: Yeah, I think so. I  
8 don't know. I don't know the zoning specifics.  
9 But I know there's commercial establishments  
10 where we live, yes.

11 MR. KLINE: Okay. And are you aware  
12 that there is a different rule under the ABC  
13 statute for differences in commercial zones as  
14 opposed to residences in residential zones?

15 MR. SUISSA: I don't know the details  
16 of that. I would assume there was. But yeah, I  
17 don't know that affects the ABRA regulation  
18 scheme. But I don't know the details. But I can  
19 imagine there might be.

20 MR. KLINE: Okay. So if there's a  
21 difference and you moved into a commercial zone,  
22 then you moved into that zone under rules which  
23 might not protect you, correct?

24 MR. SUISSA: Well, not necessarily.  
25 Commercial companies are given rules like sound

1 regulation, like not calling the police when an  
2 incident happens, like managing their businesses  
3 so that there's no issues with the surrounding  
4 businesses and neighbors. Those things would  
5 protect me.

6 MR. KLINE: Right.

7 MR. SUISSA: I'm asking you to protect  
8 me with those things that exist.

9 MR. KLINE: Right.

10 MR. SUISSA: And you seem willing to  
11 do that.

12 MR. KLINE: D.C. Code Section 25-725  
13 says that a licensee shall not produce noise, and  
14 I'm going to paraphrase, that's heard in a  
15 residence.

16 MR. SUISSA: Yes.

17 MR. KLINE: The residence is located  
18 within a commercial or a manufacturing zone.  
19 Were you aware of that?

20 MR. SUISSA: I don't -- I've not read  
21 these regulations, no.

22 MR. KLINE: Okay. If that's true,  
23 would you agree that you're not entitled to the  
24 protections of 25-725 of the D.C. Code?

25 MR. SUISSA: My understanding from

1 reading the ABRA regulations is that any bar or  
2 establishment licensed by ABRA has to do certain  
3 things. If that varies by different zone, then  
4 I'm not aware of that. But I was pretty -- my  
5 understanding was that there was specific  
6 regulations, including if you present a security  
7 plan to ABRA, you must follow it. You must  
8 review -- you must make sure that there's a  
9 decibel rule also. I read this all at one point.  
10 But if there's different regulations, then I  
11 don't know the details.

12 MR. KLINE: That's not responsive to  
13 my question. My question to you is if 25-725  
14 says that the restriction against noise being  
15 heard in one's residence is not applicable to a  
16 premises zoned commercial or manufacturing and  
17 you're in a commercial zone, then you wouldn't be  
18 entitled to that protection.

19 MS. STEINBERG: Objection.

20 CHAIRPERSON ANDERSON: But what's the  
21 nature of the objection, Ms. Steinberg?

22 MS. STEINBERG: The nature of the  
23 objection is he's asking Mr. Suissa to make a  
24 legal judgment on a very narrow area of law that  
25 has nothing to do with Mr. Suissa's, A,

1 experience, and B, understanding of what rules do  
2 apply to him. He's asking him to be a lawyer --  
3 a niche, like, D.C. official code lawyer. That's  
4 not what Mr. Suissa's testimony was offered for.

5 MR. KLINE: Well --

6 CHAIRPERSON ANDERSON: Ms. Steinberg -  
7 - hold on. The question is that Mr. Kline is  
8 asking if he is familiar with the regulations  
9 that applies to noise in his particular --

10 MS. STEINBERG: But he's assuming --

11 CHAIRPERSON ANDERSON: -- area.

12 MS. STEINBERG: -- that Mr. Suissa has  
13 an understanding of what those regulations are  
14 and what the nuances are and he doesn't. How can  
15 he?

16 MR. SUISSA: I got it. I got it. I  
17 have not read the code or the details of all of  
18 the code or how you presented it in completion.  
19 So I can't opine. I don't know.

20 MR. KLINE: Okay. But that wasn't my  
21 question. My question to you is if that's what  
22 it says -- and I'm not asking you to agree that's  
23 what it says. But if that's what it says, would  
24 you agree that you wouldn't be entitled to  
25 protection under that section?

1                   MR. SUISSA: If that is what it says  
2 and that is the only rule and only caveat and  
3 only governing sentence, then yes.

4                   MR. KLINE: Okay. And you testified  
5 of all the problems that you've observed and all  
6 the things that you've seen. Have those occurred  
7 over the last couple of months?

8                   MR. SUISSA: Yes.

9                   MR. KLINE: Okay.

10                  MR. SUISSA: Not during COVID but  
11 recently, yes.

12                  MR. KLINE: Within the last 50 days?

13                  MR. SUISSA: Yes.

14                  MR. KLINE: Okay. Were you here for  
15 Investigator Glasgow's testimony?

16                  MR. SUISSA: I heard it, yes, some of  
17 it. Not all, I missed the very beginning. But I  
18 heard most of it and I read it in the filing.

19                  MR. KLINE: Did you hear her testimony  
20 that she made 11 visits to the establishment and  
21 found nothing to substantiate an adverse impact  
22 on peace, order, and quiet? Did you hear that  
23 testimony?

24                  MR. SUISSA: Yeah, I think we talked  
25 about -- I think she talked about --



1 MR. KLINE: My question is did you  
2 hear the testimony. My question --

3 MR. SUISSA: I heard that part of her  
4 testimony, yes.

5 MR. KLINE: Do you think that  
6 Investigator Glasgow is a liar?

7 MR. SUISSA: No, but I don't think she  
8 -- I don't think she said exactly what you said.  
9 She said she came 11 times and she seen the line  
10 and she seen this. And hopefully she'd seen the  
11 videos that we presented as well.

12 MR. KLINE: All right. And you told  
13 me you read her report, correct?

14 MR. SUISSA: In one of the filings,  
15 there was, like, a paragraph on what she would  
16 testify to. That's what I read.

17 MR. KLINE: Okay. So may I have the  
18 Board's indulgence.

19 MR. SUISSA: It was, like, the  
20 overview that included, like, the Protestants --  
21 the protesters --

22 MR. KLINE: No question pending. No  
23 question pending.

24 CHAIRPERSON ANDERSON: Hold on, Mr.  
25 Suissa. There's no question. So he'll ask you -

1 -

2 MR. SUISSA: Okay.

3 CHAIRPERSON ANDERSON: -- a question,  
4 sir.

5 MR. KLINE: So reading from the  
6 report, Investigator Glasgow monitored Ultrabar  
7 Chrome located at 911 F Street, Northwest 11  
8 separate occasions. During the period,  
9 Investigator Glasgow could not substantiate any  
10 issues with peace, order, or quiet in relation to  
11 Ultrabar. And she testified to that. Did you  
12 hear her say that?

13 MR. SUISSA: No, I heard her say some  
14 variation of that. She said that in some cases  
15 she saw that. But she also saw when there were  
16 longer lines. And she also said that there were  
17 more noise. She said that. But as a general  
18 matter, she did say she came those 11 times and  
19 didn't see those violations, correct.

20 MR. KLINE: She goes on to say that on  
21 some visits while patrons were lined up to enter  
22 the establishment she heard loud chattering but  
23 not to an egregious extent. Do you see that in  
24 the report?

25 MR. SUISSA: Yes, I have which is why

1 we submitted all the videos.

2 MR. KLINE: So you saw that in her  
3 report. So are you suggesting --

4 MR. SUISSA: I did.

5 MR. KLINE: -- what she observed on  
6 her 11 visits to the establishment are not what  
7 she saw?

8 MR. SUISSA: What I am contending is  
9 that the hundreds of videos and evidence of  
10 visits from us across the street are true. If  
11 she was there a day and didn't see something or  
12 if they knew she was there and changed the  
13 regulation or if she came on a night that was  
14 blocked off like she mentioned or not busy or  
15 didn't have the same number of people, she may  
16 have observed something different. But what I'm  
17 saying -- so I'm not questioning her veracity.

18 She seems like a very trustworthy,  
19 diligent woman. But we're also trustworthy and  
20 diligent. So what I'm saying question-wise is --  
21 I'm not even questioning. I'm saying, okay, that  
22 particular 11. I've shown you 300 --

23 MR. KLINE: You pointed --

24 MR. SUISSA: -- that she wasn't there  
25 for, right?

1                   MR. KLINE: You pointed out that there  
2 were food trucks parked on the establishment that  
3 night. Do you have any evidence that the  
4 establishment was in any way responsible for the  
5 food truck being there?

6                   MR. SUISSA: No, but that's not part  
7 of the big thing. That was in the photo. That's  
8 why I mentioned it when we said it. But I don't  
9 -- that's not a key thing. They may have been.  
10 They may have not been. Certainly, the people  
11 were eating. But I don't know.

12                   MR. KLINE: Aren't the bulk of your  
13 videos from 2018?

14                   MR. SUISSA: No, there's '17, '18,  
15 '19, '20. There's photos as well. And since --  
16 and I think there's testimony from me right now  
17 and presumably from other residents what we've  
18 heard since the updates that happened a week ago.

19                   MR. KLINE: I have no further  
20 questions for the witness.

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

23                   MEMBER GRANDIS: Mr. Chairman?

24                   CHAIRPERSON ANDERSON: Yes, Mr.  
25 Grandis.

1                   MEMBER GRANDIS: Thank you. Mr.  
2                   Suissa, I want to thank you for your testimony  
3                   today.

4                   MR. SUISSA: Thank you.

5                   MEMBER GRANDIS: I actually perked up  
6                   a bit when I heard the food trucks. I have a  
7                   little history. I was called the foot truck  
8                   policeman at one point years ago.

9                   But seriously, it's my understanding  
10                  the regulations encourage that when facilities  
11                  empty out at 2:00 or 3:00 a.m. that they're  
12                  encouraged to not have their patrons promoting or  
13                  standing on the sidewalk. They should disperse  
14                  and go home or whatever they want to do. So you  
15                  brought up the thing about food trucks. Is that  
16                  a regular activity, like, on weekends or certain  
17                  nights? Or was that just random once in a while?

18                  MR. SUISSA: Yeah, so I'll break it  
19                  up. I think the food truck thing only happened a  
20                  few times. And per the counsel's question, I'm  
21                  not sure if Ultrabar was involved in it  
22                  specifically.

23                  The second part of your question about  
24                  the, like, dispersement issue, we did relay to  
25                  Ultrabar that issue very early on. And for about

1 a week, they did help disperse people and it got  
2 a little bit better. But again, for a week which  
3 is why we're asking -- and you'll see the videos  
4 if you review them of the literally hundreds of  
5 people just sitting there throwing up, hanging  
6 out, screaming, not moving anywhere with no  
7 effort to move them along.

8 And that's why we're asking for  
9 enforcement because it doesn't last for more than  
10 a day or two. It's just lip service. And we've  
11 got to have it stop, you know.

12 MEMBER GRANDIS: So I'm going to beat  
13 it to death, okay, on this food truck thing.

14 MR. SUISSA: Sure.

15 MEMBER GRANDIS: Because from the  
16 video, it may only have been one. But it looks  
17 like people are not dispersed. And I want people  
18 to have a good time. I think we all want people  
19 to enjoy themselves inside.

20 But at 2:00 and 3:00 o'clock in the  
21 morning, I think it actually hinders a licensee  
22 to disperse people if there's a food truck  
23 literally right in front of their facility,  
24 particularly a nightclub that doesn't serve food.  
25 I think all of us want to see people who've been

1 drinking to get consuming food. So on the one  
2 hand, food being available is a great thing. But  
3 should it be right there?

4 So just really from your -- you've  
5 been there a number of years. Is that something  
6 that was just -- you said one or two times? Or  
7 do you think is that's something that maybe is a  
8 seasonal thing?

9 MR. SUISSA: I think there was --  
10 there was a stretch where it happened a bit  
11 regularly around that time frame. I don't  
12 remember what time frame it was. And then  
13 stretches where it doesn't.

14 But again, I wouldn't call it, like,  
15 the biggest of the problems. Like, it probably  
16 happened a few times. Whether they were involved  
17 or not, I don't know. But it certainly didn't  
18 help, yeah.

19 MEMBER GRANDIS: And I'm not putting  
20 it on them, but you brought it up. And I think  
21 it's a concern. As a Board member, I am about  
22 helping our licensees disperse people at  
23 appropriate times.

24 And at the same time, I want people to  
25 be able to buy something that helps them if

1 they're going to be driving. So put it down the  
2 street somewhere. But anyway, we hit that one.  
3 And thank you for enlightening me on that.

4 The other one is something you may not  
5 have also be the person to talk about it. But  
6 heard that somebody was concerned about the  
7 lighting -- the blue lighting on the building.  
8 Do you know anything about that?

9 MR. SUISSA: I am not -- I don't have  
10 -- myself, I don't have issues with the lighting.  
11 So that wasn't me. So I'm not sure who it was.

12 MEMBER GRANDIS: And I love South  
13 Beach and places like that. There's a lot of  
14 lighting. And I actually thought the lighting we  
15 saw in the picture was actually inviting.

16 But I would be concerned as a Board  
17 member if that lighting was intruding into  
18 apartment windows accidentally or whatever.  
19 Because to me, like noise, lighting could keep  
20 you awake as well or the flashing or whatever.  
21 So I didn't hear testimony that it's in any  
22 particular apartment, but that was something I  
23 just was trying to investigate more if you had  
24 more knowledge.

25 MR. SUISSA: No, I have shades and I



1 wear an eye patch. So I never -- the lighting  
2 doesn't apply to me, yeah.

3 MEMBER GRANDIS: Right, right. Okay.  
4 Well, Mr. Chairman, I just wanted to explore  
5 those issues and thank you very much.

6 MR. SUISSA: Thank you.

7 CHAIRPERSON ANDERSON: Thank you, Mr.  
8 Grandis. Mr. Suissa, where is your apartment in  
9 comparison to where the club is -- the nightclub  
10 is located?

11 MR. SUISSA: So my apartment is  
12 stories 7, 8, 9, 10, and 11 of the building.  
13 It's a rather large apartment. It faces the  
14 street. So it's across the street from Ultrabar.  
15 I am more like right across from Succotash.

16 So, like, the corner of my apartment  
17 is maybe about where Ultrabar is, right? But  
18 I'm, like, more straight across from Succotash  
19 which is that kind of bank looking building. If  
20 you look at my videos, like, if you're looking at  
21 the entry to Ultrabar, it's to the left of the  
22 entry. I'm probably perfectly across from that  
23 and on a little bit of an angle, like, pretty  
24 close to the entrance of Ultrabar, but across the  
25 street -- across four streets and everything,

1 across four lanes and multiple -- yeah.

2 CHAIRPERSON ANDERSON: Did you say  
3 your apartment is five levels?

4 MR. SUISSA: Yeah, it's weird. It's a  
5 unique apartment in D.C. I know, yeah. But yes,  
6 and you can hear it on every level for the  
7 record.

8 CHAIRPERSON ANDERSON: Any other  
9 questions by any other Board members?

10 MEMBER GRANDIS: Mr. Chairman,  
11 actually now that you brought that up, I'd like  
12 to explore that for a moment.

13 CHAIRPERSON ANDERSON: Yes, Mr.  
14 Grandis. Go ahead.

15 MEMBER GRANDIS: And you're not an  
16 expert. You're not a realtor, but you own five  
17 floors of a building and you bought it in 2016.  
18 Has your apartment increased in value?

19 MR. SUISSA: I bought it for a little  
20 too expensive. So I think the value is about the  
21 same to be honest. But I don't -- I certainly  
22 will tell you when I've tried to sell it in the  
23 past and people have come -- I haven't now. But  
24 when people have come like a few years ago pre-  
25 COVID, they asked to come back in the evenings.

1                   And then they hear the noise and I  
2                   don't sell it. So it's -- you know. But I don't  
3                   know that it impacts the specific value of the  
4                   real estate. It certainly impacts the  
5                   experience. It makes me not happy to be there on  
6                   weekends.

7                   MEMBER GRANDIS: Thank you very much.

8                   CHAIRPERSON ANDERSON: Any other  
9                   questions by any of the Board members?

10                  All right. Mr. Kline, any questions  
11                  based on the questions that the Board asked?

12                  MR. KLINE: No, Mr. Chairman.

13                  CHAIRPERSON ANDERSON: Ms. Steinberg,  
14                  any redirect?

15                  MR. KLINE: No, thank you.

16                  MR. SUISSA: Okay. Thank you.

17                  CHAIRPERSON ANDERSON: I apologize.  
18                  I'm being -- all right. I apologize. All right.  
19                  Thank you. All right. Let me see. We're going  
20                  to take another break. You have two more  
21                  witnesses, right?

22                  MS. STEINBERG: Yes, we have Mr.  
23                  Shankle who will be next and then Mr. Spooner.

24                  CHAIRPERSON ANDERSON: All right.  
25                  It's 6:01. Let's take a ten-minute break. We'll

1 be back and I'm hoping this is the last break  
2 we'll take before we close.

3 MS. STEINBERG: We'll keep it very  
4 brief.

5 CHAIRPERSON ANDERSON: I'm not trying  
6 to rush you. But I'm trying to be --

7 MS. STEINBERG: We understand.

8 CHAIRPERSON ANDERSON: I'm trying to  
9 be mindful of everyone by taking structured  
10 breaks. So we'll take -- it's 6:01. We'll come  
11 back online at 6:11. All right. Thank you.

12 (Whereupon, the above-entitled matter  
13 went off the record at 6:02 p.m. and resumed at  
14 6:11 p.m.)

15 CHAIRPERSON ANDERSON: I'm waiting for  
16 all the board members to log on. I want to make  
17 sure all the board members are back.

18 Okay, all right. Do you have another  
19 witness, ma'am, you wish to call? You're on  
20 mute, you're on mute, ma'am.

21 MS. STEINBERG: I have done that so  
22 many times, I'm so sorry.

23 CHAIRPERSON ANDERSON: That's one of  
24 the reasons why I do not put myself on mute,  
25 okay. Just because I know I always have to

1 speak, and I will tend to speak without realizing  
2 I'm on mute. So --

3 MS. STEINBERG: I'm sure that my best  
4 stuff that I said was on mute and we missed it  
5 all. Anyways, apologies.

6 We'd like to call Commissioner Michael  
7 Shankle.

8 CHAIRPERSON ANDERSON: Mr. Shankle.

9 MR. SHANKLE: Yes.

10 CHAIRPERSON ANDERSON: Can you raise  
11 you right hand please. Do you swear or affirm to  
12 tell the truth and nothing but the truth?

13 MR. SHANKLE: I swear to tell the  
14 truth, nothing but the truth.

15 CHAIRPERSON ANDERSON: Your witness,  
16 ma'am, thank you.

17 MR. SHANKLE: Great. Hi, Commissioner  
18 Shankle. You have an interest here for two  
19 reasons, right? The first is, can you tells us  
20 about your capacity as an elected representative?

21 MR. SHANKLE: Sure. I am the ANC  
22 Commissioner representing 2C01, which includes  
23 both the establishment and the residential  
24 building.

25 And secondly, I am a resident of the

1 Mather's -- Mather Studios Loft Condominiums,  
2 which is located at 916 G Street, which is  
3 directly across the alleyway from the  
4 establishment.

5 MS. STEINBERG: So you're here in your  
6 capacity both because you are a resident, but  
7 also because you represent -- you're an elected  
8 official, right? You represent the constituents  
9 of this neighborhood.

10 MR. SHANKLE: That's correct.

11 MS. STEINBERG: Right. So a few  
12 questions then. Can you tell us a little bit  
13 about the -- in your capacity as ANC  
14 Commissioner, your engagement with Ultrabar.

15 MR. SHANKLE: Sure. So I was elected  
16 and started serving my term in January of 2020 --  
17 2019. And shortly after that, as I was meeting  
18 with residents, residents of the Ventana  
19 approached me about the situation with Ultrabar.

20 At the time, Kevin Wilsey was the  
21 chair of the Commission. And the residents of  
22 Ventana were expressing their concern regarding  
23 noise related to the establishment. I did meet  
24 with them.

25 I also met Commissioner Wilsey and

1 spoke about the situation and was informed that  
2 this was an ongoing issue that had attempted to  
3 be resolved on several occasions.

4 MS. STEINBERG: And so --

5 MR. SHANKLE: That was prior to 2019.  
6 And in July of 2019, I was aware that Ultrabar's  
7 license was coming due for renewal. And I  
8 reached out to both the residents and Antonios  
9 about meeting to discuss the concerns that we  
10 were -- that were being expressed by Ventana.

11 I did have a meeting with him on July  
12 25 of 2019 in which we talked about the concerns.  
13 And I talked about potential remedies to address  
14 this.

15 And I had indicated at that time that  
16 we were moving forward -- we would be moving  
17 forward with a protest, that we'd be bringing a  
18 protest to the ANC when their license was  
19 renewing and hoped that we could find an  
20 establishment -- a settlement agreement prior to  
21 that happening.

22 And I encouraged him to get together  
23 with the residents of Ventana and begin  
24 discussing those situations.

25 MS. STEINBERG: What was Mr. -- what

1 was Ultrabar's attitude during these meetings?  
2 Did they express a desire to work with the  
3 community, did they say that they would be doing  
4 anything? Or what was the reaction during this  
5 meeting?

6 MR. SHANKLE: The reaction was -- was  
7 quite surprising to me as a new commissioner. I  
8 was told that we are going to spend a lot of  
9 money trying to stop a protest from occurring.  
10 And that they were ultimately going to be  
11 victorious in this process. And that they don't  
12 feel like they need to do anything to resolve  
13 these issues.

14 MS. STEINBERG: Wow. So then what did  
15 you do?

16 MR. SHANKLE: From that point, we met  
17 several times, we met several times with both  
18 Ventana and the establishment. And actually on  
19 August 3 of 20 -- I'm sorry, correction. We, in  
20 August, we did a base study on one evening,  
21 August of 2019.

22 We did a base study in which, in my  
23 building, the concern happened, it appeared later  
24 in the evening, post-midnight, in which we would  
25 feel and hear base penetrating our establishment



1 -- our building, our residences.

2 And at that time, I was given I assume  
3 Jimmy's text number in which I could text if I  
4 heard a -- if we heard sounds and volume. And on  
5 that particular evening as floors opened, they  
6 were attempting to adjust music on different  
7 floors, to no avail.

8 MS. STEINBERG: Do you think that  
9 texting the proprietor of the club in real time  
10 is a good solution to noise problems?

11 MR. SHANKLE: I think having an open  
12 relationship with a establishment owner is a  
13 great option to address very acute micro kind of  
14 issues that occur, but chronic conditions, no.

15 MS. STEINBERG: Thanks. So as an  
16 elected representative, you don't want your  
17 constituents to have to go through this every  
18 Friday, Saturday, and assorted other nights for  
19 years on end in order to be able to sleep.

20 MR. SHANKLE: Your -- well, I don't an  
21 establishment to have to address challenges from  
22 community. And I don't want community members  
23 having to address this. This is the  
24 responsibility of our government organizations to  
25 come to play in a process like this.

1                   Hence, on November 12th of 2019 at the  
2                   Wilson Building, that's where meetings were being  
3                   held at. We --

4                   MS. STEINBERG: What meetings? Sorry,  
5                   can you -- do you mean the ANC?

6                   MR. SHANKLE: Oh, the ANC meetings,  
7                   the ANC meetings. We had an open discussion  
8                   during that meeting in which we discussed the  
9                   protests. There were representatives from both  
10                  Mather Studios, representatives from Ventana, and  
11                  there were representatives there from Ultrabar as  
12                  well.

13                  MS. STEINBERG: And what happened  
14                  after that meeting? Or during that, sorry.

15                  MR. SHANKLE: During the meeting, just  
16                  reviewing, going back to the minutes of the  
17                  meeting, there was significant discussion and  
18                  proposals that were recommended to the  
19                  establishment as possible things to explore. We  
20                  had asked the establishment what tactics they had  
21                  already taken at that time.

22                  And they -- they listed a number of  
23                  tactics that they had done or were doing. There  
24                  were recommendations that were made about putting  
25                  up signs, for example, in the queuing line asking

1 people to be cognizant that there are residents  
2 around. Having people monitor the line.

3 All of those were -- were --we were  
4 told they could not do those for a number of  
5 reasons. We asked about the police that were --  
6 that were at the establishment and security to  
7 monitor the line, and we were told that it was  
8 not the responsibility of the establishment to  
9 monitor the line.

10 That they had no -- the -- the  
11 policemen that are assigned there are not allowed  
12 to do that. Or intercede in anything unless it  
13 becomes something physical. Which makes no sense  
14 to me at all.

15 We also discussed some of the problems  
16 that have been discussed earlier around exit of  
17 the establishment. And creating a node was one  
18 suggestion that was proposed at that time. They  
19 had no interest in doing that. They had no  
20 interest in doing it.

21 We asked them if they could encourage  
22 their patrons to leave, because as the board  
23 member that was questioning before had indicated,  
24 a mob of people collect on the street as the club  
25 lets out. And they stand there, and it creates a

1 whole disruption in the neighborhood at 3 a.m.

2 We did launch the protest, and we had  
3 been working with Ultrabar's counsel, not  
4 Counselor Klein, but one of his associates, to  
5 attempt to reach a settlement agreement.

6 We had not been in touch with anyone  
7 at the establishment as an ANC because we were in  
8 touch with the counsel who was representing the  
9 establishment, who we would propose things and  
10 things would go silent for months on end. And  
11 that's what eventually brought us to this  
12 situation today.

13 When the establishment did close  
14 because of COVID, we really couldn't move forward  
15 with the hearing, because at that point, there  
16 was discussion that they were going to hire a  
17 sound engineer, and that was back in early 2020.

18 And I believe that that occurred on  
19 March 6, in which residents and the ANC visited  
20 the establishment and took a tour of the  
21 establishment, identifying the need that the foam  
22 in the windows was falling out.

23 That we identified that the walls in  
24 the back, there -- what apparently had been  
25 windows had been covered in the back. Had what

1       sounded to be nothing behind them, empty, hollow  
2       walls. I am not a sound person at all.

3                There was a hole in the ceiling that  
4       was a skylight area. And one of our  
5       recommendations was that maybe that should be  
6       covered, that maybe that's where the sound may be  
7       escaping and penetrating the apartments.

8                And then of course we went on  
9       lockdown. Actually it was January 16 of 2020 is  
10       when we visited the establishment. We were on --  
11       we went on lockdown in March. And we asked for  
12       the stay in December to move forward with the  
13       process. And we've offered several opportunities  
14       to come together for resolution.

15               We have been in touch periodically  
16       with Counsel, but again, not the establishment.

17               MS. STEINBERG: Thanks. You were  
18       there for Inspector -- for Supervisor Inspector  
19       Flourentine's visit to Mr. Spooner's unit,  
20       weren't you?

21               MR. SHANKLE: I was. I was invited to  
22       attend that -- that session, which happened in  
23       early August of 2020, I believe.

24               MS. STEINBERG: 2021.

25               MR. SHANKLE: 2021, 2021, correction.

1 The --

2 CHAIRPERSON ANDERSON: Hold on, hold  
3 on, Mr. Shankle. Ms. Steinberg, you can't  
4 correct him in --

5 MS. STEINBERG: Sorry, sorry, sorry.

6 CHAIRPERSON ANDERSON: You have to ask  
7 the question, allow him to answer. And if you  
8 want to -- if he doesn't give the right answer,  
9 if you want to ask a follow-up question to point  
10 him to when that was, okay?

11 MS. STEINBERG: I'm so, sorry, I'm so  
12 sorry. Commissioner Shankle, are you sure it  
13 wasn't 2021?

14 MR. SHANKLE: It was 2021, yes,  
15 absolutely.

16 MS. STEINBERG: What happened during  
17 that visit?

18 MR. SHANKLE: During that visit, we  
19 visited the fifth floor apartment. And we were -  
20 - we could hear in the living room area, not  
21 right up against the windows, we could hear music  
22 from the club. We went over to the windows. We  
23 of course observed down on the streetscape, and  
24 observed that you definitely could hear. The  
25 windows were closed.

1           We -- there was cars pulling up and  
2           revving their engines, blaring their -- their  
3           radios in front. There was also a whole slew of  
4           all-terrain vehicles that pulled up and parked in  
5           front of the club, socializing apparently.

6           None of the security or the police did  
7           anything about any of these disruptions that was  
8           happening right in front of their club.

9           MS. STEINBERG: So despite -- oh,  
10          sorry, can I just ask a quick question. Despite  
11          the security plan that you read in the report  
12          submitted by Ms. Glasgow, you did not see the  
13          security protocols being implemented.

14          MR. SHANKLE: No, no. In fact --

15          MS. STEINBERG: Is that true for  
16          others times as well?

17          MR. SHANKLE: Yes. I have -- I  
18          commonly walk my dog around the block on the last  
19          walk of the evening for him. And commonly walk  
20          past the establishment, and the lines are very  
21          long. Post-COVID, the lines definitely have been  
22          shorter than they had been previously, but they  
23          still are very long.

24          There were people that are commonly  
25          consuming alcoholic beverages in line. There

1 were very commonly, from what I was able to  
2 observe, people that appeared to be impaired.  
3 There was little -- like security guards were not  
4 monitoring the line at all.

5 And there was no signage that was up  
6 telling people to be quiet. Just recently, signs  
7 have been put up, in the last two weeks.

8 MS. STEINBERG: When, yeah, I was just  
9 going to ask when were those signs up, based on  
10 your own knowledge?

11 MR. SHANKLE: They were -- they were  
12 put up in the last two weeks on the front of the  
13 building, and which is a good start for that.  
14 But the idea was to alert people in line that  
15 there is an issue with residents in the area.

16 And having a sign stuck to the  
17 building, they don't see that until they enter  
18 the establishment.

19 MS. STEINBERG: When Mr. Fiorentine  
20 visited Mr. Spooner's unit, was a protest -- were  
21 the proceedings ongoing, or were they suspended?

22 MR. SHANKLE: They -- we were in a --

23 MS. STEINBERG: I should have said  
24 continued.

25 MR. SHANKLE: No, I -- I believe that



1 we were still in the stay period, but we were  
2 still working with Counsel to attempt to address  
3 and come up with some solutions to the problem.

4 MS. STEINBERG: So the -- but there  
5 was no official proceeding happening at the time  
6 when Mr. Florentine visited because those  
7 proceedings were suspended because of COVID, is  
8 that accurate?

9 MR. SHANKLE: Yes, I believe that is  
10 the case. I can't remember exactly when the --  
11 we asked that the stay be lifted. But we wanted  
12 to have several months of operation after they  
13 reopened to allow -- to see if any mitigation  
14 strategies had happened in the establishment,  
15 which we had asked about.

16 And we were told by Counsel at the  
17 time that they had not done mitigation strategies  
18 or that she was not aware of any mitigation  
19 strategies that were being done because the club  
20 was closed and they were concerned financially  
21 if, like every other business, on whether they  
22 were going to come back or not.

23 So it appears that for that period of  
24 time that they were closed, nothing had happened,  
25 is what I got the sense of from them.

1 MS. STEINBERG: And when Ms. Glasgow  
2 visited, there was a protest hearing pending, is  
3 that accurate?

4 MR. SHANKLE: Yes.

5 MS. STEINBERG: So when there was --

6 MR. SHANKLE: If she -- if she visited  
7 -- if she visited in April, as her report says,  
8 or April, you know, March/April, then yes, that  
9 was the case.

10 MS. STEINBERG: Thank you. I wanted  
11 to ask you a bit about zoning, because it was  
12 implied earlier by Mr. Kline, when he was asking  
13 Mr. Suissa some questions, that somebody living  
14 in a commercial zone has no entitlement to ABRA  
15 protection from noise. Is that accurate?

16 MR. SHANKLE: This area is actually  
17 zoned --

18 MR. KLINE: Objection, calls for a  
19 legal conclusion. The exact objection that was  
20 made to a question which what I asked that they  
21 didn't ask.

22 CHAIRPERSON ANDERSON: Ms. Steinberg?

23 MS. STEINBERG: Yes, I'm asking Mr.  
24 Shankle whether or not he has knowledge based on  
25 his elected officialdom, about the zoning of his

1 own neighborhood, the one that he oversees.

2 CHAIRPERSON ANDERSON: I'm going to  
3 overrule the objection. He's the ANC  
4 Commissioner, and I would -- I would hope --  
5 well, he's the ANC Commission. I believe that to  
6 extent that he can answer the question. I'm  
7 going to allow him to answer the question.

8 Go ahead, sir.

9 MR. SHANKLE: This area, the area that  
10 Ultrabar is in, is actually a D-7 area. The  
11 residence across the street is a D-6R, with a  
12 housing priority area. The -- yes, I'm sorry.  
13 Could you ask the rest of your question? Was  
14 that the question?

15 MS. STEINBERG: I just wanted to know  
16 whether or not your constituents are entitled to  
17 ABRA's protection against unreasonable noise or,  
18 you know, threats to peace and order of their  
19 neighborhood.

20 MR. SHANKLE: Yes, and when you refer  
21 back to -- to the -- the areas regarding -- the  
22 sections regarding noise in our city, one of the  
23 first items in the noise section is that every  
24 person living in the District of Columbia is  
25 entitled to reasonable levels that do not

1 threaten life, health, or the enjoyment of their  
2 property.

3           It is my belief that regardless of  
4 where one lives, and when we're living downtown,  
5 I hear all the time complaints from mixed-use  
6 areas with residents and commercial properties  
7 that there are challenges that occur. I  
8 understand that, and I usually say this is a, you  
9 know, you're living downtown in a commercial  
10 area.

11           However, this is what I would describe  
12 as excessive and not -- the establishment has, in  
13 my opinion, has not been operating in good faith  
14 to find a solution for this.

15           MS. STEINBERG: Thank you so much. Is  
16 there anything else you'd like to add?

17           MR. SHANKLE: No, I don't believe so.  
18 I think that I always hope that a settlement  
19 agreement can be reached. And I always, you  
20 know, work to try to solidify that. But if that  
21 is not -- does not happen, I do not believe that  
22 the establishment will continue any of the steps  
23 beyond this -- this hearing date.

24           MS. STEINBERG: So you're -- so -- is  
25 this accurate, you're asking ABRA to issue an

1 order to require them to take noise and other  
2 mitigation measures because you do not believe  
3 they will do it without that order?

4 MR. KLINE: Objection. Leading.

5 MS. STEINBERG: Sustained. Ma'am, you  
6 can ask the question, but ask in a different --  
7 ask in a different way.

8 MS. STEINBERG: Sure. Commissioner  
9 Shankle, do you believe that absent an ABRA  
10 order, Ultrabar will undertake mitigation  
11 measures?

12 MR. SHANKLE: No. I believe that this  
13 will end as soon as an order is delivered by the  
14 ABRA board. That they would not be interested or  
15 work toward addressing the community concerns.

16 And regardless of being in a  
17 commercial zone or not, it is good business and  
18 good community neighbors that come together to  
19 make the community what it is. So I do not  
20 believe that they will do that, no.

21 MS. STEINBERG: Thank you. I have no  
22 further questions.

23 CHAIRPERSON ANDERSON: Mr. Kline.

24 MR. KLINE: Mr. Shankle, there were  
25 mitigation efforts made to the building, correct?

1 MR. SHANKLE: To -- to Ultrabar?

2 MR. KLINE: Yeah.

3 MR. SHANKLE: Not that I'm aware of.

4 I have been -- I have been told numerous  
5 different things. I have been told that -- that  
6 they have done some things, and then I've been  
7 told that other things haven't been done.

8 I saw in the report that was offered  
9 that the hole in the ceiling was closed or  
10 appeared to be closed. I'm not an expert on  
11 that, I don't know.

12 MR. KLINE: So were you here earlier  
13 for Mr. Marmaras' testimony?

14 MR. SHANKLE: I was.

15 MR. KLINE: And you heard the steps  
16 that he described that had been taken?

17 MR. SHANKLE: I heard steps that were  
18 taken in the last week or two, because this  
19 hearing is coming, yes.

20 MR. KLINE: Right, well, what about  
21 the other steps that were taken with respect to  
22 the foam product that was put on the wall and the  
23 closing of the skylight? That wasn't done in the  
24 last couple of weeks, was it?

25 MR. SHANKLE: I don't know that. We

1 have -- I'm sorry, but we have asked questions  
2 about this, and we have never been provided with  
3 any response from Counsel what has happened.

4 MR. KLINE: Okay, did you hear Mr.  
5 Marmaras' testimony?

6 MR. SHANKLE: I did hear his  
7 testimony.

8 MR. KLINE: Do you think he's lying  
9 about what was done?

10 MR. SHANKLE: I -- I have little faith  
11 that this has been done in a manner that would  
12 mitigate sound, yes.

13 MR. KLINE: Okay, that was not my  
14 question. My question to you was do you  
15 disbelieve Mr. Marmaras' testimony of what  
16 essentially is --

17 (Simultaneous speaking.)

18 MR. KLINE: Let me finish, please --  
19 about he says was done to mitigate noise from the  
20 establishment?

21 MR. SHANKLE: I believe they probably  
22 put foam on the walls, yes.

23 MR. KLINE: And there was no ABRA  
24 order for them to do that, correct?

25 MR. SHANKLE: No.

1                   MR. KLINE: You said that you  
2 recommended that signs be put up. There are  
3 signs up there now, aren't there?

4                   MR. SHANKLE: In the last two weeks,  
5 yes.

6                   MR. KLINE: Is there any board order  
7 that required them to do that?

8                   MR. SHANKLE: There was not.

9                   MR. KLINE: Okay, so you're suggesting  
10 that they won't do anything absent a board order  
11 is not correct, is it?

12                   MR. SHANKLE: That's a tough question  
13 to answer, Mr. Kline. Do you want me to answer  
14 the question, or do you want me to answer it with  
15 a yes or no?

16                   MR. KLINE: Yes or no.

17                   MR. SHANKLE: They did it without a  
18 board order, yes.

19                   MR. KLINE: Okay. And you said that  
20 someone said that they couldn't intercede or deal  
21 with line outside the premises, I think was your  
22 testimony.

23                   MR. SHANKLE: That's correct, that has  
24 been said numerous times to us, by numerous  
25 people at the establishment.



1 MR. KLINE: Were you also here for the  
2 testimony of Mr. Epps?

3 MR. SHANKLE: Did I hear what they  
4 were doing?

5 MR. KLINE: Mr. Epps' testimony, did  
6 you hear his testimony?

7 MR. SHANKLE: Yes, I heard that.

8 MR. KLINE: Did you hear what he says,  
9 the efforts are made to control noise from  
10 patrons on the sidewalk?

11 MR. SHANKLE: I heard what he said,  
12 yes.

13 MR. KLINE: Thank you. Do you dispute  
14 that what he says is true?

15 MR. SHANKLE: Yes, I do not believe  
16 that it is being implemented to address the sound  
17 mitigation issues. It's being implemented  
18 because we are moving toward a protest hearing.  
19 That's why it's being implemented.

20 And as soon as this is done, if they  
21 ABRA board were to rule in favor of the  
22 establishment, none of these measures will  
23 continue.

24 MR. KLINE: And you base that upon  
25 what exactly?

1 MR. SHANKLE: I based that upon my  
2 experience with negotiating with Counsel and the  
3 establishment and with repeated requests since  
4 2019 to address some of the issues, yes.

5 MR. KLINE: Do you deny that you told  
6 Mr. Karagounis that the noise that was disturbing  
7 your residents in the Mather Studios had been  
8 abated?

9 MR. SHANKLE: I said it has gotten  
10 better.

11 MR. KLINE: Oh, well, how did it get  
12 better if no steps were taken?

13 MR. SHANKLE: I don't know, we weren't  
14 informed.

15 MR. KLINE: Okay, but you say it did  
16 get better for the Mather Studios.

17 MR. SHANKLE: Yes.

18 MR. KLINE: And in fact, you don't  
19 hear noise in the Mather Studios anymore, do you?

20 MR. SHANKLE: No, I actually do hear  
21 noise, I heard noise this past weekend.

22 MR. KLINE: But it's better, and there  
23 was no board order requiring that steps be taken,  
24 was there?

25 MR. SHANKLE: I don't know what was

1 taken, actually. I know what was said was taken,  
2 but I don't know if that was actually done.

3 MR. KLINE: Well, that wasn't the  
4 question. The question was it's gotten better  
5 even though that there was no board order  
6 requiring anything was done, is that correct?

7 MR. SHANKLE: That is correct.

8 MR. KLINE: All right. And if -- and  
9 if the board does not require anything as a  
10 result of this hearing, then in the fall, there's  
11 another renewal, isn't?

12 MR. SHANKLE: There is.

13 MR. KLINE: And there's another  
14 opportunity to protest, isn't there?

15 MR. SHANKLE: There is. We--

16 MR. KLINE: And you admit that, or you  
17 assert that the threat of protest has caused the  
18 establishment to react to these things, correct?

19 MR. SHANKLE: No. I came to the  
20 establishment attempting to find a solution to  
21 this matter, a solution that we could all agree  
22 on. And I said -- I laid out the process for  
23 both the residents of Ventana and the  
24 establishment that these are the options that we  
25 need to address.

1                   What I have found as an ANC  
2 Commissioner is that if the ANC Commission is not  
3 involved in a settlement agreement, this is  
4 really bad news for the establishment as they  
5 grow or move on.

6                   Because it's very hard to change a  
7 settlement agreement. So as an ANC, it is my  
8 priority that want to make sure that we are there  
9 in part of these discussions representing the  
10 community.

11                  MR. KLINE: Well, your position is the  
12 only way an operator can be a good operator and  
13 not disturb the community is have a settlement  
14 agreement?

15                  MR. SHANKLE: No, I think if people  
16 operate in good faith and they make efforts to  
17 address an issue, they are a very good operator.  
18 I've had other establishments that we have  
19 approached and say, hey, we're having this  
20 problem from the -- from the neighbors.

21                  And they go, oh my gosh, we're so  
22 sorry. Let us come -- let's find some solutions  
23 with this. This doesn't happen with Ultrabar.  
24 It does not happen with Ultrabar.

25                  MR. KLINE: Isn't Ultrabar always

1 responsive?

2 MR. SHANKLE: No.

3 MR. KLINE: No?

4 MR. SHANKLE: No. Absolutely no.

5 MR. KLINE: Have you seen the text  
6 messages that have been -- that were filed with  
7 the PIF (phonetic) that go on for pages and pages  
8 and pages?

9 MR. SHANKLE: Absolutely, absolutely.  
10 Responsive --

11 MR. KLINE: There's a court reporter.  
12 You may not talk over me or the court reporter  
13 will not be able to take your testimony.

14 CHAIRPERSON ANDERSON: Mr. Kline, Mr.  
15 Kline, he's respond -- please give the witness an  
16 opportunity to fully respond to your question,  
17 which is that he -- you're the one who's -- he  
18 was not done answering the question, sir, before  
19 you interrupted him.

20 So let him finish and then ask another  
21 question, sir.

22 MR. SHANKLE: I don't even remember  
23 what the question was.

24 CHAIRPERSON ANDERSON: All right, so,  
25 do you have another question, Mr. Kline?

1                   MR. KLINE: Yeah, so you were talking  
2 about ATVs. Do you believe security has  
3 authority over people on ATVs on the streets of  
4 Washington?

5                   MR. SHANKLE: I believe that a police  
6 officer that is detailed to that location that is  
7 standing there against the wall smoking a cigar  
8 on his phone would approach this group and say,  
9 hey, guys, you can't be here, in front of this  
10 establishment. Yes, I would expect that as an  
11 officer of the District of Columbia.

12                  MR. KLINE: Okay, have you taken that  
13 up with MPD?

14                  MR. SHANKLE: I have, and they have  
15 told me that police officers are fully allowed,  
16 they are fully allowed to intervene in those  
17 matters like that. Because that's a --

18                  MR. KLINE: Are you -- are you aware  
19 that reimbursable detailed officers are not under  
20 the direction of the establishment or the  
21 establishment's security?

22                  MR. SHANKLE: I am aware of that, I am  
23 aware of that.

24                  MR. KLINE: So if there was a failure  
25 with respect to action that could be taken on the

1 street, that's not attributable to the  
2 establishment, is it?

3 MR. SHANKLE: Well, their security is  
4 there. What is their security supposed to be  
5 doing?

6 MR. KLINE: So again, I'll ask you the  
7 same question I asked before. What authority is  
8 it that you think a business' security has over  
9 people on the public street?

10 MR. SHANKLE: When they are -- they  
11 are intersecting with their establishment and  
12 their patrons that are entering the  
13 establishment, there is responsibility that  
14 happens there, responsibility for the safety of  
15 everyone involved.

16 Those security folks could easily say,  
17 hey, you need to move on. And if MPD needs to be  
18 involved, the MPD officer who is standing there,  
19 I'm not sure doing what, can certainly come over  
20 and help intervene in that.

21 MR. KLINE: So you've completely  
22 skewed Mr. Epps' description of how he runs  
23 security in front of this establishment.

24 MR. SHANKLE: I do, I do. It is not  
25 -- it is not the historical perspective over the

1 last year, two years, three years, it is what was  
2 testified to is not implemented consistently  
3 across the board, it's not. Look at the videos.

4 MR. KLINE: So do you dispute that the  
5 establishment responds whenever there's a  
6 complaint via text or some otherwise, do you  
7 dispute that?

8 MR. SHANKLE: I -- they -- no. When  
9 I have texted, when I have personally texted, I  
10 have gotten a response back, usually I will take  
11 care of it. And nothing happens. The same -- I  
12 don't hear any change, any mitigation, nothing.  
13 It seems to be placated, placating people.  
14 That's what I -- that's what I feel.

15 MR. KLINE: So, as I said before, the  
16 pages and pages of texts that have been presented  
17 by the protestants where there's responses from  
18 management, you're suggesting that all of the  
19 things that management says in response to the  
20 texts are being done, is all a fiction?

21 MR. SHANKLE: I think they, by and  
22 large, I think they are just trying to appease  
23 folks. That they are not taking proactive  
24 efforts to find a solution to the problem. And  
25 it changes week to week. It does, it is not



1 consistently operating. I have no other  
2 establishment in my entire ANC that is like this.  
3 None.

4 MR. KLINE: Do other establishments in  
5 your ANC have zero ABC violations over a 16-year  
6 period, is that pretty common within your --

7 MR. SHANKLE: There are people that  
8 have no -- no violations, yeah, absolutely.

9 MR. KLINE: I asked if it was common,  
10 not whether there were --

11 MR. SHANKLE: Oh, if it was common?  
12 Yeah.

13 MR. KLINE: All right, I have no  
14 further questions.

15 MR. SHANKLE: Sure.

16 CHAIRPERSON ANDERSON: Thank you, Mr.  
17 Kline. Any questions by the board members?

18 All right. Mr. Shankle, I just want  
19 to get some clarification. You said when they  
20 talk about the zone issue, you said that the club  
21 was in a -- I'm sorry, they're in a --

22 MR. SHANKLE: The club is a D-7.

23 CHAIRPERSON ANDERSON: And you're  
24 saying that the residence across the street was  
25 in a different zone?

1 MR. SHANKLE: It's in D-6R.

2 CHAIRPERSON ANDERSON: So what's a, if  
3 you know, what's a D-6R, if you know?

4 MR. SHANKLE: The R stands for it  
5 being zoned for -- for a housing priority area.  
6 So for housing development. So you'll have  
7 residents there. Or having buildings converting.  
8 And we're going to have more buildings converting  
9 in areas downtown. So the R is about  
10 residential.

11 CHAIRPERSON ANDERSON: But is it still  
12 -- but is it -- do you know whether or not it's  
13 still commercial, if it's still -- if it's still  
14 a commercial area if it is? Or I'm just asking -  
15 -

16 MR. SHANKLE: Well, the current  
17 legislation that was referred to previously says  
18 zone C-1, C-2, C-3, C-4, which is not what is  
19 zoned on the zoning maps. It is zone D-6R for  
20 that area. So I don't know where a C-1, a C-2  
21 area is. All I know is it's zoned D-6R.

22 CHAIRPERSON ANDERSON: Thank you, sir.  
23 Any other questions by any other board members?

24 Mr. Kline, any questions of the  
25 witness based on the questions that were asked by

1 the board?

2 MR. KLINE: No.

3 CHAIRPERSON ANDERSON: Ms. Steinberg,  
4 any redirect?

5 MS. STEINBERG: No, thank you.

6 CHAIRPERSON ANDERSON: All right,  
7 thank you, Mr. Shankle, for your testimony.

8 MR. SHANKLE: Thank you.

9 CHAIRPERSON ANDERSON: All right, any  
10 other -- any other witnesses, ma'am?

11 MS. STEINBERG: Yes, we have one final  
12 witness, another resident of a building, a Mr.  
13 Spooner.

14 MR. SPOONER: Yes, I am.

15 CHAIRPERSON ANDERSON: Mr. Spooner,  
16 can you please raise your right hand, please.

17 MR. SPOONER: Yes, sir.

18 CHAIRPERSON ANDERSON: Do you swear or  
19 affirm to tell the truth and nothing but the  
20 truth?

21 MR. SPOONER: I swear to tell the  
22 truth.

23 CHAIRPERSON ANDERSON: Thank you. Go  
24 ahead, your witness, ma'am.

25 MS. STEINBERG: Would it be possible

1 for me to have rights to share the screen?

2 Because I'm going to ask --

3 CHAIRPERSON ANDERSON: Did you have it  
4 previously?

5 MS. STEINBERG: No, my share button is  
6 -- oh, now it looks -- now it looks like it  
7 works.

8 Mr. Spooner, I want to show you a  
9 video and ask you to comment, if you don't mind.  
10 Our hope is that the Webex will work, so just  
11 bear with us. Give me a second.

12 MS. FASHBAUGH: Mr. Spooner needs to  
13 be sworn in.

14 CHAIRPERSON ANDERSON: I did. Mr.  
15 Spooner, I did swear him in. Thank you, though.

16 MR. SPOONER: That is correct, sir,  
17 thank you.

18 MS. STEINBERG: Okay, let's see if  
19 this works. Can you guys see my screen?

20 CHAIRPERSON ANDERSON: I see it, yes,  
21 we can see it, ma'am. Go ahead.

22 MS. STEINBERG: Let's see if the sound  
23 works this time.

24 CHAIRPERSON ANDERSON: Yes, ma'am. At  
25 least in the beginning there was some.

1 (Video played.)

2 MS. STEINBERG: Sorry. Hi, Brett, can  
3 you hear me now again?

4 MR. SPOONER: Absolutely, I can hear  
5 you.

6 MS. STEINBERG: Okay. Apologies, I  
7 just need to expand my screen one more time. Is  
8 it -- sorry, all, is it still screen sharing?

9 MR. SPOONER: It appears to be yes.

10 CHAIRPERSON ANDERSON: You still have  
11 access, yes.

12 MS. STEINBERG: Okay. There were go,  
13 okay. Thanks.

14 That was a video that was taken by  
15 your neighbor. Does that video seem familiar to  
16 you as -- is that video representative of your  
17 experience?

18 MR. SPOONER: It is 100%  
19 representative of almost given night. I would  
20 say it's a little quiet.

21 MS. STEINBERG: I see. So what do you  
22 experience living in the Ventana? Actually,  
23 first can you tell us where your apartment is?

24 MR. SPOONER: Absolutely. So I moved  
25 to this apartment sight unseen from Seoul, South

1 Korea, having researched the area looking for a  
2 place to be somewhat commercial because of coming  
3 from Seoul, Korea, which is much louder and much  
4 more raucous. In fact, I used to live on a 20-  
5 lane street in Seoul, a major intersection, and I  
6 slept much better there than I do here.

7 But I've been here for over three and  
8 a half years, living on the fifth floor. I have  
9 an apartment in my -- in the front of my unit  
10 which was made specifically for a bedroom.

11 I found after the fact from other  
12 neighbors who knew the residents before. Scones  
13 on the wall, made to be a bedroom that I cannot  
14 currently use a bedroom. It was intended to be  
15 the bedroom for my eight-year-old son. He now  
16 has to sleep in a room deeper into the house,  
17 essentially in a small office because nobody can  
18 sleep in the front room.

19 So that is the -- the short history of  
20 my experience here in the Ventana. Currently, I  
21 sleep with -- on the weekends I change my entire  
22 routine, sleep with headphones, or excuse me,  
23 earplugs in and my iPad playing as loud as it can  
24 possibly play.

25 MS. STEINBERG: And what -- so you got

1 involved in the protest when you first learned  
2 that -- or how did you get involved in the  
3 protest?

4 MR. SPOONER: I was, again, coming  
5 from out of the country I didn't know any  
6 residents. I didn't know any of the people in  
7 the building, so but I was obviously observing  
8 this. Very quickly realized I had made a likely  
9 a terrible mistake.

10 Because I did do research on the  
11 street, I did notice and look at it, you know, I  
12 saw the sign that said Ultrabar and figured it  
13 was a bar and not a super late night club. And  
14 slowly over time I found out about these  
15 proceedings.

16 But I would say to the ABRA board and  
17 to clearly the line of questioning that somehow  
18 texting the club manager is a solution that is  
19 viable, for well over a year I had no idea that  
20 anybody in our building had any issues with this.  
21 That there was some magical text number that I  
22 was supposed to send to quiet down the club.

23 Or more importantly, that I could even  
24 call an ABRA agent, and that an ABRA agent would  
25 come out. So all of these things were just, you

1 know, a part of my new life living in this  
2 building.

3 MS. STEINBERG: Do you think that as  
4 a resident, it should be your responsibility to  
5 call the club every single time there's a noise  
6 violation?

7 MR. SPOONER: No, I -- for, you know,  
8 again, for a year I would just wake up in the  
9 middle of the night, not knowing what to do, not  
10 having any -- any solution for the problem.  
11 Because it's not -- it's not like there are signs  
12 outside that say, hey, call ABRA, or here's our -  
13 - here's our personal phone number to the  
14 manager.

15 Or you know, my experience with clubs,  
16 especially clubs that are acting in this manner,  
17 is that they're flaunting the law. They act this  
18 way, and they're, you know, they're not --  
19 they're not going to be responsive in any way.  
20 But a magical text message is -- was never in my  
21 thought process.

22 MS. STEINBERG: But do you think  
23 that's a good system going forward, or do you  
24 want to see something else happen?

25 MR. SPOONER: Well, yes, and sorry.



1 To answer your question, no. I mean, what you're  
2 asking me to do as a taxpayer in this city is  
3 that in the middle of the night I should be  
4 interrupted from my sleep, I should pick up my  
5 phone, and I should have a conversation with the  
6 club owner to ask him to turn it down.

7 And I would also say the official  
8 response in which I should call ABRA and hope  
9 that someone is going to come out and check with  
10 ABRA is also foolhardy. It's -- I mean, by the  
11 time you complete that, you're done, you're  
12 awake, and your entire night has been ruined.

13 So you're talking two sevenths of my  
14 week every week is destroyed with a process in  
15 which I'm supposed to text a random manager that  
16 I've never met or shaken hands with that I'm  
17 supposed to have known through this secret  
18 handshake of neighbors to get the text message  
19 number from?

20 No, it's not a process going forward  
21 that would ever make any sense.

22 MS. STEINBERG: And Brett, once you  
23 found out that, you know, that residents had been  
24 in contact with Ultrabar's management in real  
25 time, is it accurate to say that you would text

1 me and have me text Jimmy so as to avoid -- so as  
2 to streamline the communication?

3 MR. SPOONER: Absolutely. I mean, I  
4 also many times was embarrassed to even engage  
5 you because I'm, now I'm adding a second person  
6 into the equation. Because I have no connection  
7 with this person. I have never met him on the  
8 street. And I'm just trying to find some type of  
9 peace and quiet for my son.

10 I mean, every Saturday and Sunday my  
11 weekends are waking up my son to go to some  
12 activity and asking him if he slept okay and did  
13 the club wake him up. Because, unlike Yanev, my  
14 son can't wear Bose headphones and blast music  
15 and do all the things that an adult can possibly  
16 power through.

17 He's eight years old and he doesn't  
18 have a bedroom, and he's woken up every weekend  
19 by the chaos that you've heard described for  
20 several hours now. And I apologize for being  
21 long-winded.

22 MS. STEINBERG: And what happened --  
23 so Mr. Fiorentine visited your unit and Mr.  
24 Shankle was there and I FaceTimed in because I  
25 had been traveling. Can you just tell us a

1 little bit about that visit?

2 MR. SPOONER: Absolutely. I think it  
3 was very indicative of a weekend night. On cue,  
4 you know, these are not traffic issues, but I  
5 think what -- what Yanev and -- and Michael and  
6 everyone is trying to -- has been trying to  
7 convey is that the club is creating an  
8 environment, like many clubs do, outside of its  
9 space.

10 And with that environment comes an  
11 element that grows beyond the club. And if there  
12 are any mitigation issues, it gets to a point  
13 where what they both saw, we have ATVs doing  
14 donuts down the street and showing off because  
15 there's five and six hundred people on the street  
16 as an audience.

17 It becomes a street festival every  
18 weekend. It's an underage club. The kids can  
19 show up, which is what we saw and you saw it in  
20 his report. There's underage kids that show up,  
21 park their car, and just hang out, they don't  
22 even go inside.

23 And their friends can come and go and  
24 reenter as they need. They can go back to their  
25 car and drink, they can go into our alleys and

1 drink and litter.

2           They can do all these things, which is  
3 everything that they saw on that night is -- it's  
4 just a -- it's just a complete spectacle that  
5 could be avoided in many ways that we've tried.  
6 And as you've heard of through these proceedings,  
7 well before I ever arrived four years ago.

8           MS. STEINBERG: Can I show you one  
9 more video?

10          MR. SPOONER: Absolutely.

11          (Video played.)

12          MS. STEINBERG: Is that representative  
13 of what you experience regularly?

14          MR. SPOONER: Absolutely. And the 911  
15 calls, you know, represent that. What is there,  
16 I don't know the exact number, but I think 450-  
17 something over two years.

18                 Well, you average that out and then  
19 you consider that there are only at -- by every  
20 witness' admission, they're only open twice a  
21 week, three times a week max. If you do the  
22 math, that's a 911 call almost every single night  
23 for two years.

24          MS. STEINBERG: So what do you want --  
25 so what do you want to see happen?

1                   MR. SPOONER: I would like for the  
2 things that have been discussed and brought about  
3 for years, well before I showed up, to be  
4 implemented. They need to find a way. They're -  
5 - I feel for them. They are unfortunately, as  
6 has been established in this call, they're in a  
7 building from the 1800s with a single ingress and  
8 egress.

9                   But they have to find a way. They've  
10 just admitted they have 739, you know, legally  
11 are allowed to put 739 people through those doors  
12 in a five and a half hours. So even if they go  
13 in once and come out once, that's like someone  
14 coming in -- that's like four and a half openings  
15 every minute.

16                   It's simple math. It's like there has  
17 to be a way that they mitigate that. The second  
18 is they have to find a way to mitigate the street  
19 scene. They can make the sound go away all they  
20 want, but as the security has admitted and as the  
21 manager has admitted, those people are on the  
22 street for the club.

23                   And so as a result, we can't live  
24 because they can't mitigate what's going on on  
25 the street. We've asked for simple measures.

1 Change the location of where Uber pickups are.

2 That's a simple, easy pick. Move the line.

3 They move the line every night to  
4 separate Succotash. Hundred, it's like 100 yards  
5 across the entire distance of Succotash. They  
6 separate that while Succotash is open. Why can't  
7 they just do that and move the line to 9th  
8 Street? It's barely -- it's not even twice the  
9 distance.

10 They could completely change the  
11 entire environment by just moving it to a busy  
12 street, having drop-offs on a busy street. Ninth  
13 Street is a three-lane road with parking on both  
14 sides. These are simple, easy steps, but they  
15 choose not to. They have made no effort.

16 And the last two weeks that they've  
17 tried to make an effort is laughable. It's  
18 amazing that they spent \$20 on two signs outside  
19 of their establishment two weeks before this  
20 hearing. It shows a pattern and a history of not  
21 caring, except for this meeting.

22 MR. KLINE: I'm going to move to  
23 strike this as unresponsive and describes facts  
24 that are not in evidence.

25 CHAIRPERSON ANDERSON: You're moving

1 to strike his testimony?

2 MR. KLINE: Just the response to that  
3 question. It was unresponsive to the question.  
4 And \$20, I don't know what he's talking about.  
5 We haven't heard any testimony about that or any  
6 of the evidence about that.

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

9 MS. STEINBERG: No, I just wanted to  
10 respond to the objection, but.

11 CHAIRPERSON ANDERSON: I said go  
12 ahead.

13 MS. STEINBERG: Oh, the question was  
14 what do you want to see happen, and the witness  
15 was appropriately describing the measures that he  
16 wants to see taken.

17 MR. KLINE: Until he got sidetracked  
18 at the end.

19 MS. STEINBERG: You want to get rid of  
20 the last three words, fine.

21 CHAIRPERSON ANDERSON: Well, the -- so  
22 you're agree that to strike from the record the  
23 \$20 that was -- the statement that \$20 was spent  
24 to I guess create a sign, is that the part --

25 MS. STEINBERG: Sure, how about remove

1 -- how about remove the phrase \$20, because he  
2 doesn't know the exact cost, that was just an  
3 estimate of how much it cost. So we're happy to  
4 remove the number \$20, but the signage, those are  
5 -- that's facts in evidence.

6 MR. KLINE: Yeah, I mean, there was a  
7 response about what they -- the question was  
8 about what he'd like to see done. And there was  
9 less of open-ended testimony about characterizing  
10 the efforts that had previously been made. But  
11 that's completely unresponsive to the question  
12 that was asked.

13 MS. STEINBERG: This is bullying the  
14 witness. He's just trying to --

15 CHAIRPERSON ANDERSON: Ms. -- I'm  
16 going to -- I'm going to overrule the objection.  
17 Let's move on.

18 MS. STEINBERG: I actually have no  
19 further questions. I just wanted to make sure  
20 that the board had a flavor for what another  
21 resident was experiencing.

22 CHAIRPERSON ANDERSON: Okay, Ms.  
23 Steinberg. Mr. Kline, your -- your opportunity,  
24 sir.

25 MR. KLINE: Yes, good evening, Mr.



1 Spooner.

2                   You testified that you believe that  
3 they're flaunting the law, I think were the words  
4 that you used. Is that what you said?

5                   MR. SPOONER: I don't remember. If  
6 you'd like to read it back to me, I can verify  
7 that. I said quite a bit.

8                   MR. KLINE: I wrote it down when you  
9 said it.

10                   So, what laws do you believe it is  
11 that they're violating?

12                   MR. SPOONER: I believe they're  
13 violating the basic law that how -- what Mr.  
14 Shankle provided. I mean, I'm a resident of the  
15 city and I'm a taxpayer, and I'm afforded peace.  
16 That's the law they're flaunting. Plain and  
17 simple.

18                   MR. KLINE: That's the law?

19                   MR. SPOONER: My son can't sleep in  
20 his own house. There is a law that says that.  
21 I've read it. We there -- we should -- we are  
22 afforded, as citizens of this city, the right to  
23 have peace.

24                   MR. KLINE: So, you're, have you been  
25 here for the whole hearing?

1 MR. SPOONER: Yes, I have, sir.

2 MR. KLINE: Okay. And you know that  
3 there were numerous complaints that were made  
4 concerning this license hearing?

5 MR. SPOONER: Numerous complaints?  
6 Can you speak up a little bit?

7 MR. KLINE: Of noise.

8 MR. SPOONER: There were numerous  
9 complaints about noise?

10 MR. KLINE: Yeah, that were made to  
11 ABRA.

12 MR. SPOONER: Yes. Many.

13 MR. KLINE: And, and are you aware,  
14 did you hear the testimony that not a single one  
15 of those complaints was substantiated?

16 MR. SPOONER: I understand that. When  
17 the complaint was made and the supervisor was in  
18 my house that he substantiated it. And he is a  
19 supervisor, and he was in my house for many, many  
20 minutes, maybe over an hour. And he  
21 substantiated it.

22 What happens out on that street, I  
23 have no idea what an ABRA representative does on  
24 the street because we get no feedback from that.  
25 I have no idea.

1                   And I can tell you as a resident that  
2 I stopped making calls because I get no feedback  
3 and I have no faith in that anything is going to  
4 happen.

5                   MR. KLINE: Did you make any calls to  
6 911 concerning this establishment?

7                   MR. SPOONER: I did not. I only made  
8 calls to ABRA. I was not, historically, I was  
9 not in the era of ever knowing that I should call  
10 911. And as a, as a, as a person of the U.S. I -  
11 - and, you know, growing up here I don't call 911  
12 unless in it's in a real emergency.

13                  MR. KLINE: You heard Mr. Suissa talk  
14 about his calls to 911?

15                  MR. SPOONER: I believe I did, yes.

16                  MR. KLINE: All right. So, the total  
17 that you mentioned includes calls to 911 which  
18 were made by Mr. Suissa and, potentially, made by  
19 other residents; correct?

20                  MR. SPOONER: I am not aware of the  
21 nature of the 911 calls. I would have to look at  
22 the call list and see the percentage of calls  
23 that were made by individuals and calls that were  
24 made by other reasons or by the club.

25                  My history with those, I have seen the

1 records in general, and I have seen that many of  
2 them are made by the club due to issues inside.  
3 And I've seen many that were made by people in  
4 and around the club because of issues that were  
5 happening outside the club.

6 But I can't speak to what the number  
7 is or if those related to the calls he's talking  
8 about.

9 MR. KLINE: Let me ask you this: what  
10 would you do if you lived across the street from  
11 a fire station?

12 MR. SPOONER: From a fire station?

13 MR. KLINE: Yes.

14 MR. SPOONER: I don't live across the  
15 street from a fire station. I can't, I can't  
16 speak to something. And I, if I was going to  
17 decide to move to a place, it wouldn't be across  
18 the street from the fire station. I'd do  
19 research.

20 Typically, fire stations aren't  
21 directly across from a house.

22 MR. KLINE: Okay. But you decided to  
23 move directly across the street from a nightclub;  
24 correct?

25 MR. SPOONER: That is not correct.

1       What I did was move into a commercial zone rated  
2       as D-6-R, which gives me the right to peace.

3               MR. KLINE:   A D-6-R gives you the  
4       right to peace?

5               MR. SPOONER:   That according to Mr.  
6       Shankle.   And, yes, according to the overarching  
7       D.C. law, I am afforded the right to peace, yes.

8               I'm not quoting exactly.   I don't mean  
9       peace in -- I'm not saying that says exactly  
10      peace in there, but the letter of the -- or the  
11      intent of the law is that I'm able to sleep in my  
12      house and be able to have a normal life.

13              MR. KLINE:   And that's because Mr.  
14      Shankle said so in this testimony?

15              MR. SPOONER:   No.   That's because --

16              MS. STEINBERG:   Objections.

17              I'm sorry.   Continue.   I withdraw.

18              MR. SPOONER:   Am I supposed to answer?

19              MS. STEINBERG:   Yeah, yeah.

20              MR. SPOONER:   I believe that Mr.  
21      Shankle understands D-6-R.   I have looked at many  
22      of these things over time trying to find an  
23      answer to my son's peace.   And I can tell you  
24      that the one thing that I do find is that as a  
25      resident and a taxpayer in this city, I should be

1 able to sleep soundly at 3:00 in the morning, at  
2 2:00 in the morning, at 1:00 in the morning, at  
3 midnight.

4 There is a, there is an obligation  
5 that they have as an establishment that everyone  
6 else meets that they don't. And Mr. Shankle made  
7 that clear. He's an ANC commissioner. He  
8 brought up clearly that he tried to operate on  
9 both sides.

10 I've never heard any of that testimony  
11 until right now just a few minutes ago. But that  
12 seems pretty cut and clear that he made attempts  
13 and your establishment did not.

14 MR. KLINE: Did you hear the testimony  
15 from Mr. Marmaras in terms of the steps that have  
16 been taken to mitigate noise? Did you hear that?

17 MR. SPOONER: I heard him say that he  
18 hoped that things would work, and that he was  
19 attempting to do things, and that he was trying  
20 his best. Yes.

21 MR. KLINE: Did you hear him say that  
22 he spent \$40,000 on noise mitigation?

23 MR. SPOONER: I heard him say that.  
24 I have not seen the receipt that verifies that.

25 MR. KLINE: So, you, you think he's a

1 liar?

2 MR. SPOONER: That's not what I said.  
3 I said, I have -- I heard him say that. But I  
4 have not seen any receipt that would verify that.

5 MR. KLINE: Mr. Spooner, you have an  
6 18 -- an 8-year-old son. Do I need to see his  
7 birth certificate to believe that you have an 8-  
8 year-old son?

9 MR. SPOONER: I've only met a person  
10 once. You're questioning me on my belief of  
11 someone else, and I'm explaining that it's not  
12 about belief. He's -- I'm agreeing that he said  
13 that. But I have never seen the value of the  
14 installation.

15 MR. KLINE: You heard him describe  
16 what the installations were; correct?

17 MR. SPOONER: I know that an  
18 installation was provided in the report. And I  
19 know that there was not a monetary value attached  
20 to it. That's all I know.

21 MR. KLINE: And you saw the photos of  
22 the doors that were installed. Did you see them?

23 MR. SPOONER: I saw that those, there  
24 were photos installed. But I'm an engineer by  
25 trade of 20 years. I worked at Raytheon. I

1 worked in an anechoic chamber, and I know how  
2 sound mitigation works. And you can't just hope  
3 for it, especially at the levels that a club is  
4 operating at.

5 And, again, I will say I am not a  
6 professional, but I am an engineer and I do know  
7 that you can't hope to mitigate the thumping of a  
8 club with hope.

9 MR. KLINE: Okay. So, you admit you  
10 don't have any expertise in this particular area.

11 MR. SPOONER: No. I admitted that I  
12 was an engineer that worked in an anechoic  
13 chamber and I understand how sound works.

14 MR. KLINE: Okay. All right. I have  
15 no further questions at this time.

16 CHAIRPERSON ANDERSON: Any questions  
17 by any board members?

18 Mr. Spooner, thank you very much for  
19 your testimony today.

20 MR. SPOONER: Thank you, sir. Thank  
21 you, everyone from ABRA.

22 CHAIRPERSON ANDERSON: Thank you. Do  
23 you have another witness, ma'am?

24 MS. STEINBERG: No, thank you.

25 CHAIRPERSON ANDERSON: You rest?



1 MS. STEINBERG: We do.

2 CHAIRPERSON ANDERSON: All right. I,  
3 I know you, you had talked about a lot of videos.  
4 I don't have, I don't have access to the videos.  
5 All I, I do have your PIF. But at least I assume  
6 that the Agency got the videos, but the documents  
7 that were shared with the Board, I do not have  
8 access to any of your videos.

9 MS. STEINBERG: If you look at the  
10 link in the PIF there's a -- let me just open up  
11 the PIF.

12 CHAIRPERSON ANDERSON: Oh, okay. So,  
13 I would have to --

14 MS. STEINBERG: If you click on that  
15 link it takes you directly to the videos.

16 CHAIRPERSON ANDERSON: Yes. I do see.  
17 A lot of the volumes that we have  
18 stored are done digitally. Okay.

19 MS. STEINBERG: Yeah. Because it was  
20 too hard to attach the files, so that's why we  
21 did it in a cloud storage.

22 CHAIRPERSON ANDERSON: Click the link.  
23 And the link has -- All right.

24 So --

25 MR. KLINE: Mr. Chairman.

1 CHAIRPERSON ANDERSON: Yes, Mr. Kline.

2 MR. KLINE: I understand that Ms.  
3 Steinberg does not do this, and I don't fault her  
4 for this. But this is an administrative hearing  
5 on the record.

6 CHAIRPERSON ANDERSON: Okay.

7 MR. KLINE: So, to the extent that  
8 there's evidence, it needs to be produced on the  
9 record.

10 There were certain videos that were,  
11 were played. A couple of them were identified, a  
12 couple were not.

13 We don't have any objection to those  
14 that were played and identified on the record  
15 being admitted. And we don't have objection to,  
16 to other evidence, other exhibits that were  
17 identified, if we can figure out what they were,  
18 being admitted.

19 But we greatly take issue with a data  
20 dump of videos, and photos, and other exhibits  
21 that have not been examined on this record as is  
22 required by the administrative procedure.

23 CHAIRPERSON ANDERSON: Thank you.  
24 That's, and that's one of the reasons through Mr.  
25 Kline why I am now doing that. In the sense that

1 I knew that certain videos were identified, but  
2 before I didn't have access to, to those videos.

3 I, that's why I was asking questions,  
4 so we could go through the videos that were, that  
5 were identified and that we had a witness testify  
6 to so I can move them into evidence.

7 MR. KLINE: Right.

8 CHAIRPERSON ANDERSON: So, that's why,  
9 that's the purpose of what I'm doing now.

10 So, what I recall, and maybe Ms.  
11 Steinberg can further direct, we had talked about  
12 video 1804, video 1219, video 1220, video 13 --.

13 MS. STEINBERG: Yes.

14 CHAIRPERSON ANDERSON: So, I don't  
15 know how to identify these documents that I  
16 remember, I remember during your direct you had.

17 So, I need to, I need you again to --

18 MS. STEINBERG: Sure.

19 CHAIRPERSON ANDERSON: -- let me know  
20 which one of the videos that were disclosed that  
21 you had shown so I can move those into evidence.

22 And I can only, as counsel is correct,  
23 I can only move videos into evidence that were  
24 testified to.

25 MS. STEINBERG: No problem.

1 MR. KLINE: Mr. Chair, if I may. The,  
2 the last one was not identified by the taker of  
3 the video. And the person who identified it was  
4 not present when it was taken.

5 So, I'm not sure which number that is,  
6 but we would certainly object to that one. I  
7 mean it's in the testimony that this is, well,  
8 this is kind of what it looks like, is not  
9 appropriately noted.

10 CHAIRPERSON ANDERSON: All right.  
11 Let's, well, let's go through the documents. And  
12 let's go through the videos and then you can  
13 raise your objection at that time, Mr. Kline.

14 All right. So, you had talked about  
15 video 1804. I mean, how is that --

16 MS. STEINBERG: The best way to find  
17 it, if what you're asking is how you can locate  
18 it, is that the question?

19 CHAIRPERSON ANDERSON: Right. So, I'm  
20 just saying which video is 1804 you had talked  
21 about?

22 MS. STEINBERG: It's called, it's  
23 called 1804. So, the way to find it would be if  
24 you go to the search box on top and just type in  
25 "1804" it shows up. It's IMG 1804.

1                   CHAIRPERSON ANDERSON: Well, I can't  
2 -- it doesn't -- I can't find it. But anyway, so  
3 but I, but 1804 is the first one.

4                   So, I'll move. Do you have an  
5 objection to 1804, Mr., Mr. Kline?

6                   MR. KLINE: If I could just know which  
7 witness identified it?

8                   MS. STEINBERG: That was so both Yanev  
9 -- both Mr. Suissa and Mr. Spooner spoke to the  
10 same video. They were both --

11                   CHAIRPERSON ANDERSON: Mr. Suissa had,  
12 Mr. Suissa from what's in my notes, Mr. Suissa  
13 had testified to 1804, 1219, 1220, 1373. Because  
14 I have, that's what I have written on the log he  
15 was testifying.

16                   These were the videos that were  
17 identified.

18                   MS. STEINBERG: Correct.

19                   CHAIRPERSON ANDERSON: At least at a  
20 minimum those are, those are videos that Mr.  
21 Suissa had testified to.

22                   MS. STEINBERG: Correct.

23                   MR. KLINE: And we have no objections.

24                   MS. STEINBERG: Yeah, the ones that --

25                   CHAIRPERSON ANDERSON: So, I --

1 MS. STEINBERG: Oh, sorry.

2 CHAIRPERSON ANDERSON: I'm sorry, go  
3 ahead, ma'am.

4 MR. KLINE: Yeah, go ahead, ma'am.

5 MS. STEINBERG: No, all I was going to  
6 say is that the ones that Mr. Spooner testified  
7 two were the same, were two of the ones already  
8 in that group. Because I was -- because Mr.  
9 Suissa wasn't able technology to show those  
10 videos, I just showed the same ones later. So,  
11 there's no new videos besides the ones you  
12 already listed.

13 CHAIRPERSON ANDERSON: So, it was, so  
14 I'm going to move, all right, 1804, 1219, 1220,  
15 1373.

16 (Whereupon, the above-referred to  
17 videos, previously marked as  
18 Protestant's Videos 1804, 1219, 1220,  
19 1373 for identification, were received  
20 in evidence.)

21 CHAIRPERSON ANDERSON: Now, which  
22 number that Mr. Kline had objected to the last?  
23 So, which, what number was the last video? I'm  
24 sorry, what video did you object to, Mr., Mr.  
25 Kline? I shouldn't have let Mr. Spooner testify

1 to it.

2 MR. KLINE: The one that Mr. Spooner  
3 testified to there was no identifying number when  
4 it played. So, I was -- I'm not what it was.

5 CHAIRPERSON ANDERSON: Right. So --

6 MS. STEINBERG: It's 1219.

7 MR. KLINE: Okay. Well, I mean, if  
8 that was previously identified by Mr. Suissa,  
9 then I, I withdraw the objection.

10 CHAIRPERSON ANDERSON: All right.  
11 Well, okay, I will because I had the same  
12 concern, too, because I did not -- I did not  
13 know. But it was 1219 that was identified during  
14 Mr. Suissa's testimony.

15 So, I will move 1804, 1219, 1220,  
16 1373. Are those the only ones?

17 MS. STEINBERG: Yeah. I mean, we have  
18 a hundred --

19 CHAIRPERSON ANDERSON: Did I -- No,  
20 I'm sorry, but I can only move into evidence the  
21 ones that we had testimony on --

22 MS. STEINBERG: Yes.

23 CHAIRPERSON ANDERSON: -- that were  
24 identified.

25 MS. STEINBERG: Yes. I mean, well,

1 one thing I would say is that the 169 videos and  
2 photos that we have over the course of four years  
3 were testified to generally by all parties.

4 But since, you know, Mr. Kline is  
5 insisting on, I would say, being very  
6 uncharitable here given that we were charitable  
7 when he did not timely file his own PIF and his  
8 own exhibit form, if we have to agree to that,  
9 then, yes, those would be the relevant videos.

10 CHAIRPERSON ANDERSON: So, I would  
11 move 1804, 1219, 1220, 1373 into evidence without  
12 objections.

13 Is there any other, I'm sorry, any  
14 other documents, ma'am, that's in your PIF that -  
15 - let me just explain something to you.

16 You submitted the PIF. But in order  
17 to have them to be moved into evidence, now you  
18 have to tell us which one of the documents we had  
19 testimony on that you want to move into evidence.

20 MS. STEINBERG: Sure.

21 CHAIRPERSON ANDERSON: So, what are  
22 the documents in your PIF that you want to move  
23 into evidence we have had testimony on?

24 MS. STEINBERG: Yes. Yes. We've had  
25 testimony I think on virtually all of them. So,



1 give me one second and I will tell you which  
2 ones.

3 So, Exhibit 1 was 169 photos and  
4 videos. And we've already carved that down.

5 (Whereupon, the above-referred to  
6 documents were marked as Protestant's  
7 Exhibit No. 1 for identification.)

8 MS. STEINBERG: No. 2, we spoke at  
9 length about the text messages between me and  
10 Ultrabar personnel. So, that was Exhibit 2.  
11 That should be moved into evidence.

12 (Whereupon, the above-referred to  
13 documents were marked as Protestant's  
14 Exhibit No. 2 for identification.)

15 MS. STEINBERG: Exhibit 3 was a letter  
16 from the former HOA president Tana Condos. Mr.  
17 Suissa has testified about that letter.

18 (Whereupon, the above-referred to  
19 document was marked as Protestant's  
20 Exhibit No. 3 for identification.)

21 MS. STEINBERG: Exhibit 4 was spoken  
22 about quite a bit about the 911 calls. These are  
23 the FOIA requests. Mr. Suissa spoke about them,  
24 and he spoke about how he had requested all of  
25 those. So, I would move that that be introduced

1 into evidence.

2 (Whereupon, the above-referred to  
3 documents were marked as Protestant's  
4 Exhibit No. 4 for identification.)

5 MS. STEINBERG: We spoke about Exhibit  
6 5, but no directly, which was about sample phone  
7 calls to ABRA and outcomes. We spoke generally  
8 about having called ABRA. And this was meant --  
9 these were, these were the screenshots of those  
10 phone calls.

11 (Whereupon, the above-referred to  
12 documents were marked as Protestant's  
13 Exhibit No. 5 for identification.)

14 MS. STEINBERG: But because we didn't  
15 speak about those exact dates, we don't need to  
16 introduce those into evidence. You know, the  
17 testimony is sufficient.

18 Exhibit 6, we spoke about the petition  
19 very early on, signed by community neighbors.  
20 So, we would move that that be introduced.

21 (Whereupon, the above-referred to  
22 document was marked as Protestant's  
23 Exhibit No. 6 for identification.)

24 MS. STEINBERG: Exhibit 7, we spoke  
25 about how Investigator Fiorentine sent us an

1 email with potential mitigation measures. That,  
2 we would move that.

3 (Whereupon, the above-referred to  
4 document was marked as Protestant's  
5 Exhibit No. 7 for identification.)

6 MS. STEINBERG: And then, finally,  
7 Exhibit 8 was our attempts, emails, our attempts  
8 to have outreach to the club, but to no avail.

9 (Whereupon, the above-referred to  
10 documents were marked as Protestant's  
11 Exhibit No. 8 for identification.)

12 MS. STEINBERG: So, we would -- So,  
13 basically all of them except Item 5 we would move  
14 be introduced.

15 CHAIRPERSON ANDERSON: So, any  
16 objection to Exhibit 2, 3, 4, 6, 7, 8, Mr. Kline?

17 MR. KLINE: Yeah, I mean none of them  
18 were identified in terms of being identified.  
19 But all be accused of being uncharitable. But I  
20 think I'm being charitable by letting in 1, 2,  
21 and 3, which we have no objection to.

22 No. 4, we've seen that we object to.  
23 There wasn't really any discussion about it.  
24 There was, like, a FOIA request filed but there  
25 really wasn't any testimony about what it was or

1 identifying that those were the documents that  
2 were responsive.

3 And the same with the other exhibits  
4 that have just been moved.

5 CHAIRPERSON ANDERSON: So, you, so you  
6 have -- so, 2 and 3 without objection.

7 And, I'm sorry, which documents are  
8 you saying you didn't have objections to, sir?  
9 Four?

10 MR. KLINE: The rest of them, yes.

11 CHAIRPERSON ANDERSON: So, you have  
12 objection to 4, 6, 7, and 8?

13 MR. KLINE: Correct.

14 CHAIRPERSON ANDERSON: Can I get  
15 what's the nature of your objection?

16 MR. KLINE: They were never  
17 identified. I mean, they were never -- no  
18 witness every said "this is what they are." You  
19 know, there was discussion about there were these  
20 things, potentially, in some cases. But in terms  
21 of any witness ever saying, yeah, and this is it,  
22 I'm identifying it, they were never identified  
23 that, indeed, those are, those are what was being  
24 referenced in the testimony.

25 CHAIRPERSON ANDERSON: I'm going, I'm

1 going to allow Exhibits, 4, 6, 7, and 8 in  
2 evidence. I mean, we had, we had sufficient  
3 testimony in the evidence to clearly the  
4 documents. So, I'll allow those into evidence.

5 So, we'll have, we'll have Exhibits 1,  
6 2, 3, 4, 6, 7, 8 will be moved into evidence.

7 (Whereupon, the above-referred to  
8 documents, previously marked as  
9 Protestant's Exhibit Nos. 1, 2, 3, 4,  
10 6, 7, and 8 for identification, were  
11 received in evidence.)

12 MS. STEINBERG: Thank you.

13 CHAIRPERSON ANDERSON: All right. Are  
14 there any rebuttal witnesses by either side?

15 MR. KLINE: I think I only get that.  
16 But, no, we don't have any.

17 CHAIRPERSON ANDERSON: I'm sorry?

18 MR. KLINE: I said, I think I only get  
19 that, but we don't have any.

20 CHAIRPERSON ANDERSON: Well, I guess  
21 you said you both get rebuttal, no, both sides,  
22 both sides have the opportunity to call rebuttal  
23 witnesses as necessary. But that's not -- so  
24 neither of you wish to call rebuttal witnesses.

25 All right. So, what we're going to do

1 now is we'll have, I'll have each side -- we'll  
2 have 5 minutes for closing statements, starting  
3 with the Applicant, then the Protestant.

4 And what I, what I need to occur in  
5 your closing, I need each side to be specific  
6 what is it that you're asking the Board to do.

7 I believe that -- not believe -- it  
8 was clear that the, I know that the Licensee's  
9 asking for renewal. And the Protestant had  
10 stated to me on the record that they were not  
11 contesting the renewal of the license.

12 I think the purpose of this hearing  
13 was whether or not -- what conditions, if any,  
14 should be placed on the license once it's  
15 renewed. So, therefore, that's what I need both  
16 the closing. So, I guess the Applicant will say  
17 that there should be no, no conditions. And, of  
18 course, the Protestant's going to say what  
19 conditions, if any.

20 So, that's what I need you to be  
21 specific, what is it that each side is asking the  
22 Board to do. Okay?

23 So, Mr. Kline, you have 5 minutes to,  
24 to do your closing, sir.

25 CLOSING STATEMENT ON BEHALF OF APPLICANT

1 MR. KLINE: Thank you, Mr. Chairman,  
2 members of the Board, thank you for your patience  
3 today for sitting with us once again for an  
4 extended hearing.

5 This case is about a nightclub  
6 renewing its license in a downtown commercial  
7 zone, specifically the downtown retail core sub  
8 area, pursuant to 11-1 DCMR Section 606  
9 pertaining.

10 And as I said at the outset, not every  
11 area of the city is the same. We are not  
12 unsympathetic to the issues that have been raised  
13 by the Protestants. But to hear them tell it,  
14 this is the worse place in the world.

15 Now, contrast that with the objective  
16 evidence that you have before you.

17 Let's, let's start with their videos.  
18 In terms of their videos, frankly, I don't know,  
19 they don't look any different than any other  
20 nightclub I've seen, the outside of any  
21 nightclub. That's what, what I would expect to  
22 see outside a nightclub.

23 And I would also expect from a  
24 responsible operator that they would do what is  
25 needed to control that crowd. And the evidence

1 is that they do that.

2 The evidence is that they're committed  
3 to reimbursable detail. They've done it for many  
4 years. As long as the officers are available  
5 they, they pay the money, they get them there.

6 We had Mr. Galin Epps, head of  
7 security, who in my estimation was honest and  
8 presented as someone who is competent. I asked  
9 him what his training was. You've heard what his  
10 training was. He is not someone, we hear it all  
11 the time, the Board hears it all the time: oh, I  
12 learned in the business. I don't have any formal  
13 training. I've just worked in a bunch of places  
14 and I picked it up.

15 That's not what we have. We have  
16 someone who said that he's taken Robert Smith's  
17 place. Robert Smith, I think his name's in front  
18 of you as a retired San Diego police officer who,  
19 in my estimation -- of course, it's not evidence,  
20 I'm just mentioning it -- is one of the best in  
21 the business in terms of training.

22 And I think that, that Mr. Epps'  
23 testimony is credible in terms of what they do.  
24 And they make the efforts, even though they  
25 admittedly do not have authority over people on



1 the public sidewalks of the District of Columbia.

2 And we heard, we heard complaints from  
3 Protestant's witnesses that things weren't being  
4 done. Well, they're complaints with MPD  
5 officers. Even though the establishment paid for  
6 them, these officers don't report to the  
7 establishment. As the Board knows, they are  
8 simply additional officers within the  
9 neighborhood. And the residents that are  
10 protesting have an equal amount of say over what  
11 they do as the establishment.

12 The point is this, as I said, there's  
13 different areas of the city that deserve to be  
14 treated differently. The noise provisions of the  
15 D.C. Code Section 27-725 do not apply in -- to  
16 residences that are located in commercial zones.

17 And, indeed, someone said that that's  
18 not what the Code says. I have it in front of  
19 me. I think the Board knows it. It was amended  
20 when the Zoning Code was changed, so it no longer  
21 references C-1, C-2, et cetera, it references  
22 commercial zones.

23 And the Board can have legal law, this  
24 is a commercial zone.

25 And, you know, the suggestion is that

1 the law should be rewritten, and that the law, by  
2 order of this Board, be rewritten to apply to  
3 this licensee. And we would submit that that's  
4 just improper.

5 I mean, there's a reason that there's  
6 a difference in terms of how residential premises  
7 are treated with respect to the noise preventions  
8 -- provisions of the agency's law. And it's a  
9 recognition that we have different areas.

10 And those that live in commercial  
11 zones, like it or not, don't, don't seek to have  
12 the law changed, are not entitled to the same  
13 protections as those that live in residential  
14 zones. People in commercial zones do not have  
15 the same protections.

16 Contrasted with the evidence of the  
17 Protestants who, as I said, make this place out  
18 to be the worst place they've ever seen, we have  
19 an ABRA investigation. Eleven visits to the  
20 establishment. She was there every other week,  
21 unannounced. She found no evidence to  
22 substantiate that this establishment has a  
23 negative effect on peace of the residents.

24 Now, let's look at their, their other  
25 history. In my experience, and maybe the Board

1 feels differently, a nightclub that's operated  
2 since 2006 without a single violation is almost  
3 unheard of.

4 Now, I don't know of another case  
5 where I've seen a nightclub with an investigative  
6 history that didn't, didn't reflect no manager on  
7 premises, or, or some violation. But I think  
8 that is objective evidence that these folks know  
9 what they're doing and they do it right.

10 Mr. Marmaras, I think, testified  
11 honestly as to what he's committed to doing, and  
12 he's committed to fixing it. They've already  
13 spent a bunch of money.

14 This notion that, well, gee, they only  
15 do it when they have a protest hanging over their  
16 head. This protest has been pending for 2  
17 years. So, the protest has been hanging over  
18 their head the entire time. So, to suggest,  
19 well, gee, it's only now that they're doing it, I  
20 think we heard very clearly as to why they are  
21 doing it, because they admit that they were going  
22 to survive this whole thing.

23 And it's only now when they realize  
24 that they think they're going to survive because  
25 of some generous aid from the government --

1 governments, that they're going to spend the  
2 money and they're going to do what's needed.

3 Unless Mr. Marmara is a liar -- and I  
4 don't think he is. And I think he testified very  
5 truthfully. -- he gave you his intentions, like,  
6 I'm committed to fixing it.

7 So, I don't know that anyone ever  
8 heard before specific words from him that I'm  
9 going to fix it, I'm going to make it right. But  
10 that's what he told you. And I think his  
11 testimony is to be believed, credible.

12 And the other point is, if for some  
13 reason this doesn't work, as the chair suggested  
14 at the outset, there's another protest in  
15 September. We'll be right back here again.

16 Now, I assure that this Licensee isn't  
17 interested in that. They have no interest in  
18 committing more resources to fighting a fight  
19 like this rather than working to solve the  
20 problem.

21 So, I ask this Board to trust the  
22 testimony that they have heard, trust the  
23 testimony from the Board's own investigator that  
24 she didn't see anything.

25 And in terms of the videos, like I

1 said, I don't think in my experience there's  
2 anything useful there in terms of a nightclub of  
3 750 people. And the nightclub of 750 people is  
4 on F Street in the downtown commercial corridor.

5 We need this business to go with the  
6 Convention Center, to produce tax revenues. And  
7 if we say, ah, well, now people decided to use  
8 downtown on F Street, we should worry about these  
9 nightclub businesses. We've got to make sure  
10 that they sleep. Then we throw everything into  
11 imbalance and we have no places for these  
12 establishments to operate.

13 I don't think that's what's intended  
14 by the law. I don't think that's what intended  
15 by the zoning law. I don't think that's what's  
16 intended by the noise law of the ABRA Code, which  
17 makes a distinction.

18 So, notwithstanding the fact that  
19 their position is understandable and sympathetic,  
20 it's our contention that the law is simply not on  
21 their side. This license should be renewed  
22 without conditions.

23 Thank you.

24 CHAIRPERSON ANDERSON: Thank you, Mr.  
25 Kline.

1 Ms. Steinberg.

2 CLOSING ARGUMENT ON BEHALF OF PROTESTANT

3 MS. STEINBERG: Thank you.

4 So, I think the real question here is  
5 what is reasonable? You'll note that we've been  
6 reasonable the entire, the entire time, for  
7 years. We've tried so hard to engage with  
8 Ultrabar, everything we could think of. Reaching  
9 out to every agency we could think of to try to  
10 come up with solutions. We engaged ANC. We are  
11 really trying to be reasonable here.

12 And that's why we're not asking, you  
13 know, for this horror story that Mr. Kline is  
14 presenting about how the entire business is going  
15 to -- you know, the operation of the city are  
16 going to be shut down if we don't allow  
17 nightclubs to operate. We're specifically not  
18 challenging the renewal of the license, because  
19 we want to be reasonable. And we acknowledge  
20 other businesses' right to exist.

21 All we are asking for is a little bit  
22 of peace and quiet. It's shocking to me that Mr.  
23 Kline is suggesting that somehow all the law and  
24 all the regulations don't protect us as residents  
25 of the District. If, if that were the case, then

1 we would have no standing to even bring a suit,  
2 or even have this hearing, because ABRA would  
3 have no, no authority to enforce any of, any of  
4 its own rules.

5 But, instead, we see settlement  
6 agreements and ABRA orders across the city in  
7 cases where nightclubs exist next to residences.  
8 And ABRA can enforce what it thinks is reasonable  
9 and rule, and require that, you know, these  
10 businesses take measures to mitigate. Because  
11 like it or not, we're all in this together.

12 I mean, Mr. Kline insinuated that we  
13 were, you know, we knew what we signed up for,  
14 because this is just like signing up, you know,  
15 to live across the street from a fire station.  
16 But as you heard Commissioner Shankle testify,  
17 this is way beyond just normal living near a  
18 nightclub.

19 We all understood that by moving into  
20 this district, into this zone, that we would have  
21 businesses around. What goes on with Ultrabar is  
22 shocking. And so, for Mr. Kline to say, oh, well  
23 that video didn't look that bad to me, I can't  
24 tell you the countless times that we asked  
25 Ultrabar personnel themselves to come in, check

1 out our apartments, hear our noise. But for him  
2 to say that that's not a big deal is him calling  
3 Mr. Spooner, and Mr. Suissa, and me, and Mr.  
4 Shankle a liar because we hear the noise.

5 I could sing the song lyrics to what  
6 was being played at the club across lanes of  
7 traffic even when the weather was dark out, even  
8 when the weather was, you know, windy and I  
9 shouldn't even hear noise. I could hear  
10 everything. So, it is a problem.

11 And what's strange enough is that  
12 Jimmy appears to recognize that this is a  
13 problem. It can't be both, that there's no  
14 problem, and that we're hallucinating, and that,  
15 you know, this is just we're being completely  
16 unreasonable, but also they've already started to  
17 take mitigation measures.

18 So, I think the question I would pose  
19 to ABRA is, you know, what's the harm then? If  
20 they say that they're already going to do this  
21 and we should believe Jimmy because, you know,  
22 Jimmy's word is as solid as oak, they are going  
23 to do this, then what's the harm with ABRA  
24 saying, yes, you have to do this, and if you  
25 don't do it, there's a penalty, or there's some



1 consequence?

2 And, look, you know, as you've seen  
3 from the testimony, like, I have a great  
4 relationship with Jimmy. We really like him  
5 personally. But these problems are bigger than  
6 Jimmy. The solution to a massive problem of  
7 noise, and chaos, and disruption can't be text  
8 messages in real time and Jimmy running around  
9 trying to fix things. That's not a solution.

10 And we have been trying tirelessly for  
11 years, and especially since we resumed the  
12 protest a few months ago, to try to work out a  
13 solution that's bigger than Jimmy, because this  
14 doesn't work.

15 And, unfortunately, it is only in the  
16 last two weeks that they've decided that, oh,  
17 actually, this is serious, that they're going to  
18 do something about it.

19 And so, I think it's completely a  
20 fallacy to say, well, you know, the order wasn't  
21 -- there was no order in place and they still  
22 started taking these mitigation measures. Well,  
23 a protest hearing was in place. And that's why  
24 things have been so quiet.

25 So, you know, Mr. Kline cites Ms.

1 Glasgow's testimony. We're not disputing what  
2 she witnesses. What we're saying is that things,  
3 that because the protest was already looming in  
4 the background when this -- by virtue of Ms.  
5 Glasgow being assigned to this case, they were on  
6 better behavior. And what we want to do through  
7 ABRA is encourage the continuation of that  
8 behavior.

9 All we're asking for is for ABRA to  
10 say, look, you guys are on the right track and  
11 you have to keep doing this. Because we don't  
12 want to be back here in September again with  
13 another protest, we just want some peace and  
14 quiet. And we are begging you, pleading, can you  
15 please tell Ultrabar that they have to do it.  
16 Because over the past years and years and years  
17 we've seen them say, sure, sure, we'll do it, but  
18 then not do it.

19 You heard Commissioner Shankle testify  
20 that at the ANC meeting they stopped, and they  
21 said, we're not doing any of this. Without an  
22 ABRA order, there is nothing requiring them to  
23 clean up their act. We are begging you to do  
24 this.

25 We just want the mitigation measures

1 in place. So, specifically, you asked us to say  
2 specifically what we wanted.

3 We'd like them to hire an independent  
4 sound engineer to come in, provide  
5 recommendations. And we'd like to be able to  
6 approve of that sound engineer because we don't  
7 want them to hire somebody who isn't qualified,  
8 or somebody who they've had a close relationship  
9 with who's incentivized, you know, not to give a  
10 truthful recommendation. That we can say that  
11 such, you know, not to be unreasonably withheld,  
12 for example, that we can't unreasonably withhold  
13 our approval.

14 But we would like, in other words, to  
15 work together to find a sound engineer that can  
16 come in and make recommendations to the  
17 establishment on what they can do to mitigate  
18 sound. Because as of Saturday night, these  
19 mitigation measures aren't working.

20 I don't care how many egg crates they  
21 installed, it's not working, as I told Jimmy, and  
22 as Jimmy testified to.

23 The other thing we are asking is for  
24 the enforcement of a security plan. So, the  
25 security plan is already on the record. And

1 there's obviously some dispute. You know, Mr.  
2 Epps, I've met him a few times. He seems like a  
3 lovely person. I'm sure he's very well trained.  
4 But the thing we are asking for is for the  
5 implementation of that security plan to actually  
6 happen. And you heard Commissioner Shankle  
7 testify that commonly and routinely he's  
8 witnessed none of these security measures in  
9 place.

10 And so if we're going to say -- so,  
11 we're asking ABRA to say that if you violate --  
12 we're asking ABRA to put in the order that they  
13 have to adhere to the security plan, the security  
14 plan that they have on file or one that they're  
15 updating.

16 A couple more things I'll point out  
17 and then I'll be finished. You know, Ms. Rhoda  
18 Glasgow visited our unit exactly once during  
19 this, you know, the past several weeks. However,  
20 we would encourage you to look at the word of  
21 John Fiorentine, the supervisor investigator who  
22 visited last summer when there was no protest  
23 hearing in place, and no order in place, and take  
24 to heart what he said. Because he was horrified  
25 by what he witnesses. He was horrified by the

1 noise. And he did not think, as Mr. Kline  
2 contends, that this is just normal, and this is  
3 what he would expect as a nightclub.

4 Mr. Fiorentine was very specific in  
5 his reaction to, to what he had witnesses. And  
6 so, we would encourage you to look at that.

7 When Ms. Glasgow visited, the protest  
8 hearing was on the way. But when Mr. Fiorentine  
9 visited and there was no incentive in place for  
10 Ultrabar to clean up, for Ultrabar to clean up  
11 its act, it didn't.

12 And so, in conclusion, if they're  
13 committed to fixing it, as they say they are,  
14 please just put something in place to make it  
15 that there's a consequence for not fixing it.  
16 Because we can't live like this. It's been  
17 years. We are begging you.

18 Thank you.

19 CHAIRPERSON ANDERSON: Thank you.

20 MR. SPOONER: If I may, I'm prepared  
21 to perhaps make this a little easier.

22 CHAIRPERSON ANDERSON: Mr. Kline.

23 MR. SPOONER: Yes. The licensee is  
24 agreeable to having a sound engineer.

25 CHAIRPERSON ANDERSON: I'm sorry? Go

1 ahead, sir.

2 MR. SPOONER: The licensee is  
3 agreeable to having a sound engineer come in.  
4 And we don't even have any problem making that  
5 person, having that person vetted by the  
6 Protestants. I mean, we're going to pay, and  
7 we're going, we're going to pick them. But we  
8 don't have a problem seeing that it's someone who  
9 they're comfortable with.

10 We actually have someone in mind who  
11 I know has worked both sides of the street in the  
12 past. And, hopefully, that will get us there.

13 With respect to -- because I think  
14 there were two things that were asked for. So,  
15 that's agreeable. I mean, we would, we'll agree  
16 to that. I mean, if the Board wants to put that  
17 in an order.

18 MS. STEINBERG: Sorry. Can I just  
19 clarify something, Mr. Kline, because there might  
20 be a misunderstanding. Is that okay?

21 MR. SPOONER: Sure.

22 MS. STEINBERG: Yes, the suggestion of  
23 the sound engineer was meant to be an example of  
24 noise mitigation measures generally. That wasn't  
25 meant to be the only thing that was required.

1                   So, we were asking for noise  
2 mitigation, that being an example of such  
3 mitigation.

4                   MR. SPOONER: Okay. I don't think  
5 we're, I don't think we're saying different  
6 things.

7                   So, obviously, if we agree to hire a  
8 sound engineer, then there's some expectation  
9 that we're going to follow reasonable  
10 recommendations. And I say reasonable  
11 recommendations because this is, this is  
12 obviously a business and cost has to be taken  
13 into, into account. But, I mean, I don't think  
14 we're saying different things.

15                   With respect to the security plan  
16 issue, it's already the law as to what it is,  
17 that one must follow their security plan.

18                   And in terms of the evidence -- and I  
19 don't, you know, I'm not trying to reargue the  
20 case -- but in terms of the evidence, there  
21 really wasn't any specific testimony about any  
22 specific security plan provision that wasn't  
23 being followed.

24                   MS. STEINBERG: Should we recall Mr.  
25 Shankle?

1 MR. SPOONER: May I? May I finish?

2 CHAIRPERSON ANDERSON: We're in  
3 closing now, so you can't call, you can't call  
4 any more witnesses. So, we're in close. We're  
5 closing, so we have to move with what's on the  
6 record.

7 MR. SPOONER: I'm just, Chairman, I'm  
8 just trying to be cooperative in trying to  
9 address the issues that were raised, and telling  
10 you what, what the Applicant will concede and  
11 what it won't concede, and the reason it won't  
12 concede the other point. That's all.

13 CHAIRPERSON ANDERSON: And thank you  
14 for that, Mr. Kline. I'm just, I'm just trying  
15 to find out what is it you're saying about your -  
16 - is there something you're agreeing to with the  
17 security plan, or are you just saying that there  
18 is no evidence presented? So, I'm just --

19 MR. SPOONER: I'm saying that it's not  
20 agreeable for two reasons. One is it's already  
21 adequately covered by the law. The security plan  
22 is on file. There is a regulation. And we've  
23 talked about it many, many times. And it's even  
24 been amended to ensure that that's the law, that  
25 you have to abide by your security plan.



1           And a number of years ago there was a  
2 appeals decision that suggested that that wasn't  
3 the case. But I think, Mr. Chair, you and me  
4 remember that that was amended. And maybe it was  
5 before your time, I'm not sure. But it was. And  
6 that is the requirement. So, I don't think  
7 that's needed in an order.

8           And just as an aside, I don't think  
9 that the evidence would support that in any  
10 event. And that's just an afterthought and a  
11 throw away. But the point is it's already, it's  
12 already required by the law.

13           So, I don't think it needs to be in a  
14 Board order with respect to this particular  
15 establishment, particularly since there was no  
16 specific testimony concerning a violation of the  
17 security plan. I think more of, yeah, they don't  
18 follow their security plan. So, we don't even  
19 know what that was, and didn't have any  
20 opportunity to dispute that because there were no  
21 specific allegations.

22           So, but the Applicant is prepared. I  
23 just thought it would be helpful because, given  
24 what we've heard from, from the testimony today,  
25 and given the previous discussions, we think this

1 is the most important point. And Mr. Karagounis  
2 communicated to me that that's acceptable to him.  
3 And he thought it would just alert the Board, and  
4 maybe that makes everyone's lives a little  
5 easier.

6 That's all.

7 CHAIRPERSON ANDERSON: Thank you. All  
8 right, with that said, are the parties, do the  
9 parties wish to file findings of fact and  
10 conclusions of law. It is their right to do so.

11 And what that is, Ms. Steinberg, is  
12 that you would, you would get the transcript.  
13 And then you would review the transcript and you  
14 would make legal arguments to say this is what,  
15 this is what was proven in the -- by the  
16 presentation today, and this is what the law is.

17 So, it would not be a matter of making  
18 new argument. You would be just reviewing the  
19 transcript and making legal arguments to the  
20 Board.

21 MS. STEINBERG: I'm sorry. I'm not  
22 sure I understand what the question is. Forgive  
23 me.

24 CHAIRPERSON ANDERSON: All right. One  
25 of the questions I always ask, are the parties,

1 do the parties wish to file proposed findings of  
2 fact and conclusion of law. Meaning that -- and  
3 that's why I was trying to explain what that is  
4 is that you would get the transcript, you would  
5 wait until the transcript is available, you  
6 review the transcript.

7 And then you would write a legal, some  
8 legal arguments to the Board to say this is what  
9 the facts said, this is what the law said, based  
10 on what was in the transcript.

11 You can waive that. Or the Board will  
12 make a decision based on the presentation that  
13 was made today. But you would not be bringing in  
14 new, new argument. It would just be what was  
15 presented today.

16 MS. STEINBERG: Does the, does the  
17 Applicant plan to do that?

18 MR. SPOONER: As long as you don't, we  
19 don't.

20 MS. STEINBERG: Okay.

21 CHAIRPERSON ANDERSON: Do both sides  
22 waive?

23 MS. STEINBERG: Yes. That's fine.

24 MR. SPOONER: Thank you.

25 CHAIRPERSON ANDERSON: All right,

1 good. That's fine.

2 All right. The Board, we will issue  
3 a decision within 90 days. However, we will  
4 probably reach a decision prior to that.

5 So, let me close. Let me being --  
6 formally close the case then.

7 As chairperson of the Alcoholic  
8 Beverage Control Board for the District of  
9 Columbia, and according to this D.C. Official  
10 Code Section 2-575 of the Open Meetings Act, I  
11 move that the ABC Board hold a closed meeting for  
12 the purpose of seeking legal advice from our  
13 counsel on Case No. 19-PRO-00163, Ultrabar  
14 Chrome, pursuant to D.C. Official Code 2-  
15 575(b)(4)(A) of the Open Meetings Act, and  
16 deliberation upon Case No. 19-PRO-00163, Ultrabar  
17 Chrome, for the reasons cited in D.C. Official  
18 Code Section 2-575(b)(13) of the Open Meetings  
19 Act. Is there a second?

20 MS. CROCKETT: Ms. Crockett seconds.

21 CHAIRPERSON ANDERSON: Ms. Crockett  
22 has seconded the motion.

23 We'll now have a roll call vote on the  
24 motion.

25 Mr. Short? Mr. Short? Mr. Short, I

1 can't hear you, sir. Mr. Short, can you give me  
2 a thumbs up? So, I see you on the screen but I'm  
3 not hearing you. Are you hearing me, Mr. Short?  
4 Yes? I can't hear you, Mr. Short.

5 All right, well, let me go back to Mr.  
6 Cato.

7 MEMBER CATO: Mr. Cato. I agree.

8 CHAIRPERSON ANDERSON: Ms. Crockett?

9 MEMBER CROCKETT: Rafi Crockett. I  
10 agree.

11 CHAIRPERSON ANDERSON: Ms. Hansen?  
12 Ms. Hansen?

13 MEMBER HANSEN: Jeni Hansen. I agree.

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: Edward Grandis.  
16 Agree.

17 CHAIRPERSON ANDERSON: And, Mr. Short?  
18 I see Mr. Short has just left. He's not online.

19 And, Mr. Anderson. I agree. The  
20 matter passes 5-0-0. So, it appears that the  
21 motion has passed.

22 I hereby give notice that the ABC  
23 Board will recess its proceedings to hold a  
24 closed meeting pursuant to Section 2-575 of the  
25 Open Meetings Act.

1 I would like to thank both parties for  
2 their presentation today. And, again, I stated  
3 that the Board will issue a decision in 90 days.

4 All right. So, just let me close the  
5 record.

6 Board, just give me another minute,  
7 please, and I will close the record for the day.

8 As chairperson of the Alcoholic  
9 Beverage Control Board for the District of  
10 Columbia, in accordance with D.C. Official Code  
11 Section 2-575(b) and Section 2-575(b)(14) of the  
12 Open Meetings Act, I move that the ABC Board hold  
13 a closed meeting on May 18th, 2022, for the  
14 purpose of discussing and hearing reports  
15 concerning ongoing or planned investigations of  
16 alleged criminal or civil misconduct, or  
17 violations of law or regulations, and seeking  
18 legal advice from our legal counsel in the  
19 matters identified on the Board's legal licensing  
20 and investigative agenda for May 15th, 2022, as  
21 published in the D.C. Register on May 13th, 2022.

22 Is there a second?

23 MEMBER CROCKETT: Ms. Crockett  
24 seconds.

25 CHAIRPERSON ANDERSON: Ms. Crockett

1 has seconded the motion.

2 We'll now have a roll call vote on  
3 this.

4 Mr. Cato?

5 MEMBER CATO: Bobby Cato. I agree.

6 CHAIRPERSON ANDERSON: Ms. Crockett?

7 MEMBER CROCKETT: Rafi Crockett. I  
8 agree.

9 CHAIRPERSON ANDERSON: Ms. Hansen?

10 MEMBER HANSEN: Jeni Hansen. I agree.

11 CHAIRPERSON ANDERSON: Mr. Grandis?

12 MEMBER GRANDIS: Edward Grandis. I  
13 agree.

14 CHAIRPERSON ANDERSON: And Mr.  
15 Anderson. I agree. As it appears that the  
16 motion has passed 5-0-0, I hereby give notice  
17 that the ABC Board will hold its closed meeting.  
18 Pursuant to the Open Meetings Act, notice will  
19 also be posted on the ABC Board hearing room  
20 bulletin board, placed on the electronic calendar  
21 and ABRA's website, and published in the D.C.  
22 Register in as timely a manner as practical.

23 I want to thank the parties for  
24 participating in this case today. I would like  
25 to thank the members of the public who have

1 participated in our hearings today. Thank you  
2 very much. And we are adjourned for the day.  
3 Have a pleasant evening. Thank you.

4 (Whereupon, the above-entitled matter  
5 went off the record at 7:58 p.m.)  
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*Neal R Gross*

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