



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

2 (1:36 p.m.)

3 CHAIRPERSON ANDERSON: The next case  
4 in our calendar is Case No. -- it's another fact-  
5 finding hearing on Philippe Chow/Watermark  
6 Waterfront Bar, License No. 121216.

7 Good afternoon, Mr. Orellana. Can you  
8 please elevate the rights of the parties in this  
9 case please? I think there should be (audio  
10 interference).

11 MR. ORELLANA: All right. Bob Link,  
12 your access has been elevated. Investigator  
13 Glasgow -- Rhoda Glasgow, your access has been  
14 elevated. Richard Cohn, your access has been  
15 elevated. And Sean Morris, your access has been  
16 elevated. That is all, Chairman.

17 CHAIRPERSON ANDERSON: All right,  
18 thank you. If you have a camera, please turn  
19 your camera on please. All right, good  
20 afternoon. Good afternoon, everyone. Thank you  
21 for being here. Let's start with the  
22 representative of the establishment and I see  
23 that's Mr. -- I'm sorry. Who is the  
24 representative?

25 MR. MORRIS: Yes. Good afternoon,

1 Chairman Anderson. This is Sean Morris as  
2 counsel for the Licensee.

3 CHAIRPERSON ANDERSON: Thank you.  
4 Spell your name for the record please.

5 MR. MORRIS: Yeah. First name is  
6 Sean, S-E-A-N, last name Morris, M-O-R-R-I-S.

7 CHAIRPERSON ANDERSON: Thank you, sir.  
8 Is the Licensee here with you, sir?

9 MR. MORRIS: Yes. Mr. Richard Cohn is  
10 here on behalf of the Licensee.

11 CHAIRPERSON ANDERSON: Mr. Cohn, can  
12 you please identify yourself for the record  
13 please?

14 MR. COHN: Yes. Good afternoon,  
15 Chairman and everyone. My name is Richard Cohn,  
16 C-O-H-N. I'm a representative of the Licensee.  
17 Abraham Merchant and myself are the principals  
18 and partners and the Licensee.

19 CHAIRPERSON ANDERSON: Thank you. Mr.  
20 Link, can you please identify yourself for the  
21 record please?

22 MR. LINK: My name is Bob Link, L-I-N-  
23 K. I'm the ANC 6D01 SMD Commissioner.

24 CHAIRPERSON ANDERSON: All right. Mr.  
25 Link, is there anyone -- I'm sorry. Ms. Glasgow,

1 can you please identify yourself for the record  
2 by spelling and stating your name please?

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

5 CHAIRPERSON ANDERSON: Good afternoon.  
6 Mr. Link, is there anyone else that you're  
7 expecting to join us today?

8 MR. LINK: No, sir.

9 CHAIRPERSON ANDERSON: No? Okay.  
10 This is a fact-finding hearing. We're just  
11 trying to gather some facts and I just -- I just  
12 want to let -- just want to set the stage for --  
13 we have a fact-finding hearing. The Board is  
14 gathering facts. The Board -- no one is sworn in  
15 at a fact-finding hearing. It's just an  
16 information session. The Board legally cannot  
17 order a party to take any specific action at a  
18 fact-finding hearing. The Board can ask  
19 questions. The Board can ask you to do something  
20 and you can volunteer to do it, but you don't  
21 have to volunteer to do it. And it's not -- and  
22 if you do not volunteer to do it, the Board will  
23 not look -- the Board will not take any punitive  
24 action against you.

25 All right, I just wanted to put that

1 out there. This is just an information  
2 gathering, that we'll gather information and that  
3 we'll make recommendation. Now one of the  
4 reasons why this -- It's my understanding that  
5 this license was placarded as July 22nd, 2022.  
6 And they -- the placard that -- since this matter  
7 was not protested, so the license was issued.

8           And this is what is my understanding,  
9 the restaurant -- I'm sorry -- the establishment  
10 -- yes, the restaurant, the establishment -- the  
11 establishment with a total occupancy load of 266  
12 with seating for 194 to include a summer garden  
13 with 118 seats. The Licensee was provided an  
14 entertainment endorsement with dancing and cover  
15 charge to provide live entertainment inside the  
16 premises and outside of the summer garden. The  
17 hours of operation are Sunday through Thursday,  
18 9:00 a.m. to 2:00. Friday and Saturday 9:00 a.m.  
19 to 3:00 with live entertainment inside the  
20 premises is Sunday through Thursday 11:00 to  
21 2:00, Friday and Saturday 11:00 to 3:00 and the  
22 hours of live entertainment from the summer  
23 garden is Sunday through Thursday 9:00 a.m. to  
24 12:00, Friday and Saturday from 9:00 a.m. to 1:00  
25 a.m.

1                   The Agency received a letter of  
2 inquiry from the ANC and so I will just -- Let me  
3 -- I'm trying to see if the letter we received --  
4 if it was signed by -- a letter of inquiry from  
5 ANC 6D. And Mr. Link, were you the -- were you  
6 the individual who wrote the letter, sir?

7                   MR. LINK: Yes, sir.

8                   CHAIRPERSON ANDERSON: All right. So  
9 what I'm going to do is just -- I just want to --  
10 I want to frame this conversation from the ANC,  
11 so the ANC can state their concerns. The ANC  
12 will state their concern. I will also have --  
13 then I'll have -- After the ANC states its  
14 concern, I will have Ms. Glasgow -- It's my  
15 understanding that she went out and she observed  
16 the establishment and then Mr. Morris and you can  
17 speak based on the concern and your client's  
18 business model. Again, we're just gathering  
19 information and based on the letter that we  
20 received, we thought this was just a better forum  
21 for us to put it out there so we can discuss  
22 what's going on. And then we can provide some  
23 guidance to the parties on next steps if there  
24 are any next steps. Any questions before we  
25 start?

1 MR. LINK: No, sir.

2 MR. MORRIS: No, Mr. Chairman. Thank  
3 you.

4 CHAIRPERSON ANDERSON: All right,  
5 thank you. So Mr. Link, so you wrote a letter to  
6 the Board on June 13th, 2023. What is the  
7 concern of the ANC, sir?

8 MR. LINK: Yes, thank you. And just  
9 as a matter of table setting, I have not -- I  
10 have not met Mr. Cohn. I have met Mr. Merchant  
11 previously. And I also want to acknowledge a  
12 very active dialogue with Mr. Morris in the last  
13 ten days. There's been a lot of communication  
14 back and forth. So I just wanted to make sure  
15 that that was known to the Board as well.

16 The second table setting is that the  
17 ANC has no issues, no desires, no motives to  
18 impact the Philippe Chow Restaurant that is in  
19 fact open -- successfully opened, well received,  
20 doing everything they said they would do. Okay?  
21 So I just want to make sure -- that is an  
22 important, I think, table setting conversation.

23 The entirety of the concern is with  
24 the proposed Merchants Marina structure and bar  
25 that has been proposed. So I guess stop there.

1 Does that make sense or is there any kind of  
2 initial clarification about that, sir, or any of  
3 the Board?

4 CHAIRPERSON ANDERSON: No. I'm just  
5 saying so you're saying it's the structure that's  
6 been proposed. And I guess Mr. -- You know what?  
7 I'll just ask Ms. Glasgow. So maybe Mr. Morris,  
8 maybe you can explain to us what is it in fact --

9 (Simultaneous speaking.)

10 MR. LINK: I can keep going if you  
11 want. I just --

12 (Simultaneous speaking.)

13 CHAIRPERSON ANDERSON: You can just  
14 keep going, Mr. Link, because we're have this  
15 hearing because it appears that there is some  
16 concerns from the ANC. And so I set the table by  
17 saying what exactly was on the license. And so  
18 if there is any proposal -- and if it's not  
19 within -- if it's not what I just read -- So I  
20 know that we gave a license for a summer garden.  
21 So if there's any changes that was not placarded,  
22 then the establishment would have to come back to  
23 the Agency and apply for a substantial change.

24 MR. LINK: So indeed -- and in the  
25 letter -- Indeed. In the letter, I actually



1 excerpt the placard. The placard was for the  
2 restaurant and a summer garden. The ANC's -- and  
3 this is what we presented -- the ANC's position  
4 is there are actually two summer gardens -- two  
5 very distinct summer gardens that now have been  
6 presented by the Applicant.

7 There is a summer garden that is  
8 directly adjacent to the Philippe Chow Restaurant  
9 and which opens directly to the interior of the --  
10 -- of the Philippe Chow Restaurant. There is now  
11 a totally separate free-standing structure that  
12 is branded under the Merchant's Marina, you know,  
13 title, that is located -- and Ms. Glasgow  
14 probably walked it off -- but which is located  
15 approximately 50 feet or so from Philippe Chow,  
16 from the summer garden, completely free-standing  
17 separate all together -- you would think it was  
18 two different businesses if you did not -- you  
19 know, were not aware of kind of the connection  
20 between the Applicant. Does that make sense?

21 CHAIRPERSON ANDERSON: All right. But  
22 as far as the -- our Agency is concerned, to the  
23 best of your knowledge, Mr. Link, are they  
24 selling and serving alcohol in the structure?

25 MR. LINK: It is a 45 seat roughly

1 covered permanent structure with a bar and then  
2 caf, seating that is intended to serve alcohol.  
3 It is also intended to serve light food options  
4 that are separate from or distinct from the menu  
5 at Philippe Chow. This is all based on a meeting  
6 that we had with Mr. Merchant in April of 2023.  
7 And I've shared those meeting notes with Mr.  
8 Morris as well. But that's -- that was all  
9 explained to us by Mr. Merchant at an April 2023  
10 meeting.

11 CHAIRPERSON ANDERSON: Okay. And the  
12 reason why I ask -- the reason I posed the  
13 question that way is because I just want the  
14 parties to be aware that if alcohol is not going  
15 to be sold or served in this space, then it's not  
16 within the jurisdiction of the ABCA -- of our  
17 agency. That's why I was asking because if --  
18 they can do whatever they want to do with a  
19 space. And as long as alcohol is not being sold  
20 or served in this space, then our agency does not  
21 have jurisdiction over the space. We only have  
22 jurisdiction once the business decides to sell or  
23 serve alcohol in this space.

24 Do you have anything else you want to  
25 add, Mr. Link, before I turn it over to Mr.

1 Morris?

2 MR. LINK: That's the crux of why the  
3 ANC has further reviewed and reached out to you  
4 is that -- And it's just for whatever reason --  
5 and Mr. Morris and I have had extended  
6 discussions about this. For whatever the reason,  
7 the way that it was placarded and the means by  
8 which it was presented to the ANC last Fall, did  
9 not have the clarity to really represent the  
10 final plan that Mr. Merchant presented to the ANC  
11 in April of this year. Right? And that's really  
12 what we're looking to resolve.

13 Again, not trying to stomp anything or  
14 shut it down. We just want to ensure that it's  
15 clear and that hopefully we can enter into a  
16 settlement or community agreement that accurately  
17 represents the proposed operations of the  
18 Merchants Marina. I wouldn't call it a summer  
19 garden, but I don't want to insert that  
20 Merchant's Marina bar -- It's essentially a bar.

21 CHAIRPERSON ANDERSON: All right. Mr.  
22 Morris, as I said before, looking at the placard  
23 and notice. And what was placarded is that you -  
24 - you have a summer garden -- There's a summer  
25 garden. So is this -- so can you tell us from

1 your perspective, bringing us up to speed of what  
2 is this structure? And is the structure, the  
3 summer garden that was proposed or is this a  
4 separate structure?

5 MR. MORRIS: Thank you, Mr. Chairman.  
6 I think it might be helpful if you would indulge  
7 me a little bit, if I could just give the -- give  
8 the Board a little bit of a timeline of how -- of  
9 how this all went because I think it might give --  
10 - give you a little bit more context here.

11 CHAIRPERSON ANDERSON: All right. Go  
12 ahead.

13 MR. MORRIS: Back in March -- March,  
14 early spring of 2022, we submitted our  
15 application. And as part of that application, it  
16 is correct that we submitted a request for a  
17 summer garden with seating for 118. At the time,  
18 I contacted licensing staff and explained to them  
19 what we -- there are actually two separate summer  
20 gardens. One immediately adjacent and one at a  
21 little bit removed. And the question was well,  
22 is the space removed? Is it a public space or is  
23 it in private space? And we confirmed that it  
24 was in private space, owned by the landlord.

25 And the application form being what it

1 is, there really is only a provision just to  
2 check a box for a summer garden. And I was  
3 advised and I followed by own best judgement of  
4 working in this area for some period of time, we  
5 requested the summer garden endorsement. That,  
6 that was what was requested.

7 The placards as you know were posted  
8 in July of 2022 -- July 22nd. And then in  
9 September, we received -- we were contacted by  
10 the Chair of the Alcoholic Beverage Licensing  
11 Committee for this ANC to ask if we wanted -- we  
12 would be willing to come and present and discuss  
13 the method and mode of operations. We were told  
14 at the time that a protest was filed. We  
15 subsequently came to learn that there was no  
16 properly filed.

17 Nevertheless, in October of 2022,  
18 Abraham Merchant met with the Alcoholic Beverage  
19 Licensing Committee, presented on the outdoor  
20 seating area, including identifying the fact that  
21 there would be a -- that the outside seating  
22 area, the summer garden would be bifurcated, that  
23 there would be an outdoor bar area removed  
24 somewhat from the establishment, as well as the  
25 adjacent. We were very transparent about that.

1 It was presented to the Alcoholic Beverage  
2 Licensing Committee.

3 Subsequent to that, we were provided  
4 a draft cooperative agreement, which I revised  
5 and sent back to Mr. Johnson. I believe his name  
6 is Travis Johnson if I'm not mistaken, who is the  
7 Chair of the Alcoholic Beverage Licensing  
8 Committee. In that revised cooperative  
9 agreement, we clearly delineated that there were  
10 two separate summer garden areas, one adjacent  
11 and one somewhat removed. That the one that was  
12 somewhat removed would be operating under a  
13 different trade name. All was put in that draft  
14 cooperative agreement.

15 Some weeks later in early December, I  
16 received a response from Mr. Johnson that said we  
17 have only minor edits to this cooperative  
18 agreement. The only concerns we have relate to  
19 music -- the hours of music outdoors. No concern  
20 was raised related to the location or placement  
21 of the secondary covered summer garden area. No  
22 further questions were asked. We were not  
23 invited back to the full ANC. And then following  
24 that meeting in -- that communication in  
25 December, we received no further communication

1 from the ANC regarding entering into a  
2 cooperative agreement.

3 Subsequently Mr. Link, I believe Mr.  
4 Levine and some new commissioners were seated on  
5 this ANC. And we were contacted in March of 2023  
6 to see if we would meet with the new  
7 commissioners regarding our plans for Philippe  
8 Chow. And as mentioned, Mr. Merchant again in  
9 April met with Commissioner Link, with  
10 Commissioner Levine, and here spoke at length  
11 about the covered outdoor summer garden area  
12 including renderings. And spoke at length about  
13 how it would be located and how it would be built  
14 and how it would be constructed.

15 At the end of that meeting, even  
16 though the protest period had long since closed,  
17 no protest had been filed, that there had been no  
18 follow-up regarding our presentation of a  
19 cooperative agreement to the ANC in December, we  
20 were again asked -- Mr. Merchant was asked would  
21 you be willing to enter into a cooperative  
22 agreement? And he said -- he expressed a  
23 willingness to do so. I checked the ANC's  
24 minutes in April of 2023, the discussion was on  
25 the ANC's agenda regarding entering into a

1 cooperative agreement with Philippe Chow. We  
2 never heard anything. We were never provided a  
3 draft. There was no further communications at  
4 all.

5 The next thing we heard about any  
6 concerns that the ANC might have was the -- was  
7 the submission of the letter on June 13th. Now  
8 I'm going to echo if I may, the very productive,  
9 frank, candid, and cordial conversations I've had  
10 with Mr. Link. In my discussions with Mr. Link,  
11 he has not indicated -- nothing has been of an  
12 adversarial nature. It has been cooperative.  
13 And I would like to just point out however that,  
14 that is how Philippe Chow has approached this  
15 matter for the better part of a year.

16 We have been in communications with  
17 the ANC since September. We expressed a  
18 willingness to enter into a cooperative agreement  
19 even though no protest was filed in the Fall and  
20 no follow-up was provided to us. And again in  
21 April. And we presented on this outdoor seating  
22 area in October and again in April.

23 So any suggestion, (A), that there's  
24 been any change since this application was  
25 placarded in July of 2022 or presented to the ANC



1 -- to the committee in October of 2022 or again  
2 in April of 2022, there has been no change. We  
3 have been transparent about our plans every step  
4 of the way. We have accepted every opportunity  
5 to explain them to the ANC. We have expressed a  
6 willingness to enter into a cooperative agreement  
7 with respect to those operations. And we're here  
8 today. I only wish that there had been more  
9 communication with us about these concerns  
10 because I believe they could have been addressed  
11 in a cooperative manner. And my conversations  
12 with Mr. Link have done nothing to change my mind  
13 regarding that.

14 But I hope that provides some context  
15 at least procedurally with how this has gone and  
16 the Applicant's transparency and openness with  
17 respect to their plans. And how this in no way  
18 is any substantial change dating back to -- back  
19 to a year since this matter was placarded. Thank  
20 you, Mr. Chairman. I appreciate you giving me  
21 that amount of time.

22 CHAIRPERSON ANDERSON: The only  
23 problem I have, Mr. Morris, is that I'm looking  
24 at the placard. Right? The placard says, "to  
25 include a summer garden with 118 seats". It

1 says, "a summer garden". So do you have a summer  
2 garden or do you have -- or is there two separate  
3 summer gardens?

4 MR. MORRIS: I think there is still --  
5 within the context of the licensing regimen here  
6 in the District of Columbia, there is -- the only  
7 thing we can apply for is "a summer garden  
8 endorsement." There is no -- we don't need a  
9 separate endorsement for different areas. You  
10 either have a summer garden endorsement or you do  
11 not have a summer garden endorsement. If one of  
12 these areas had been in public space, I would  
13 submit we would need a summer garden endorsement  
14 and a sidewalk caf, endorsement. But the only  
15 thing you apply for on your license is a summer  
16 garden endorsement. Now hindsight --

17 (Simultaneous speaking.)

18 CHAIRPERSON ANDERSON: Well, let me  
19 cut you off a little bit.

20 MR. MORRIS: Sure.

21 CHAIRPERSON ANDERSON: How do you come  
22 -- it says the summer garden was 118 seats. So  
23 how did you come up with 118 seats?

24 MR. MORRIS: Seventy-eight were part  
25 -- were going to be in the area adjacent to the

1 establishment and 40 were in the separate covered  
2 summer garden area.

3 CHAIRPERSON ANDERSON: And I'm not --  
4 I'm not saying that I know all the answers, but I  
5 believe it doesn't appear that it was clear to  
6 the Agency that you have two -- that there are  
7 two spaces because it would appear to me, just by  
8 listening to what's been stated, is that when our  
9 investigator goes out, they're going to look at  
10 your -- "a" summer garden. And so we're going to  
11 look at the summer garden. Where's the summer  
12 garden? And that's attached to the establishment  
13 that's in -- that's in private space. And so  
14 we're going to monitor that area. But it appears  
15 that there's a separate area that I'm not sure if  
16 when the investigator goes out --

17 So let me help you a little bit. So  
18 Ms. Glasgow, you're an investigator. So you went  
19 out. So tell us -- this is what the license  
20 says. The license says that it's -- I'm sorry --  
21 "to include a summer garden with 118 seats." So  
22 you tell me, as an investigator when you go out,  
23 tell me what it is that you're looking for.  
24 Based on the way -- so their license says that  
25 they have a summer garden with 118 seats. So

1 tell me when you go out as an investigator -- so  
2 just tell me -- so you're going to this  
3 establishment to do a regulatory check. So tell  
4 me how is it that -- tell me what you do based on  
5 the placard.

6 INVESTIGATOR GLASGOW: I will look for  
7 the summer garden that's adjacent to the  
8 establishment and that's all I would look for.  
9 If it's -- it could be a rooftop. It can be in  
10 front of the establishment. That's what I'm  
11 going to look for. I won't actually look for one  
12 -- specifically look for one that's detached from  
13 the establishment in the manner of where this is  
14 located, opposite Philippe Chow's Restaurant.  
15 And I would check the amount of seating that they  
16 have there as well.

17 CHAIRPERSON ANDERSON: I'm sorry.  
18 Tell me what -- I'm just trying procedurally --  
19 I'm trying to figure out what is exactly that  
20 you're -- when you go out, you're looking for a  
21 summer garden. And what is it that you're  
22 looking for? I'm sorry.

23 INVESTIGATOR GLASGOW: I'm looking for  
24 the area that's in the vicinity attached to the  
25 establishment. I will check the number of seats

1 that they have. I have got to make sure that  
2 it's in coordination with the license -- the  
3 amount of seatings that's available, that's what  
4 I'll check for.

5 CHAIRPERSON ANDERSON: So you did an  
6 investigation based on -- based on what came in  
7 from the ANC. So tell me, what is it that you  
8 found? What did you look at when you went out?

9 INVESTIGATOR GLASGOW: Well, I went  
10 there -- I went into the establishment. I saw  
11 the summer garden that's adjacent to the  
12 establishment. I spoke with the ABC manager and  
13 I asked the ABC manager about the space that is  
14 in question, Watermark Waterfront. And he took  
15 me over there. I didn't even know where it was -  
16 - where it was located. And it's an open space  
17 right now. Nothing is built there. And I asked  
18 him when would this be operational? He said it  
19 would be operational next year -- summer.

20 CHAIRPERSON ANDERSON: Anything else  
21 you want to add?

22 INVESTIGATOR GLASGOW: I'm sorry?

23 CHAIRPERSON ANDERSON: Anything else  
24 you want to add?

25 INVESTIGATOR GLASGOW: Yes. So I

1 asked about if there would be entertainment out  
2 there. And the ABC manager advised that there  
3 would be no entertainment. Because I read the --  
4 the letter that was sent to the Agency. And he  
5 advised that there would be no entertainment, no  
6 DJ. The structure is not -- it is not  
7 retractable, so the roofing would not be opened.

8 What else did we discuss? I asked if  
9 the summer garden can be used publicly -- before  
10 I asked if it was retractable, I asked if it  
11 would be an area that the public can use? And he  
12 advised, no, the public can't use it when they're  
13 not using it.

14 CHAIRPERSON ANDERSON: So as an  
15 investigator -- and I know this is not -- as an  
16 investigator, what's the -- how do you see the  
17 structure? What's the structure that we're  
18 talking about from an -- as an ABRA investigator  
19 -- ABCA investigator who goes out, how do you see  
20 this -- How would you as an investigator look at  
21 this space -- this space in question?

22 INVESTIGATOR GLASGOW: The space  
23 currently right now, it's an open space.  
24 According to the letter that was sent, the  
25 structure looked like --

1                   CHAIRPERSON ANDERSON: No, not from  
2 the letter. I'm just saying based on the license  
3 -- I mean, the license that was provided to the  
4 establishment, is it that it has -- it's a total  
5 occupancy load of 266 with seating for 196 to  
6 include a summer garden with 118 seats? So this  
7 structure that you're referencing, at least to  
8 you as an investigator, is this a part of their  
9 license? I mean from your perspective when  
10 you're going out to do your regulatory  
11 inspection?

12                   INVESTIGATOR GLASGOW: I would say no.  
13 Looking at it without the information that I have  
14 now, I would say no. I would think that it's a  
15 totally separate establishment.

16                   CHAIRPERSON ANDERSON: Okay. Mr.  
17 Morris -- and that's -- and this is not a -- at  
18 least from my perspective, this is not a matter  
19 of whether or not there should be a cooperative  
20 agreement or anything like that. I think it's  
21 that I'm not sure -- and maybe what needs to be  
22 done is that you need to meet with our Licensing  
23 Office to again go through the architectural  
24 plans for this structure to see if this structure  
25 is currently a part of your license. And if it's

1 not a part of your license, maybe you --

2 And I don't know if this is even --  
3 and I don't what this is, if it's a substantial  
4 change, but it's not apparent. And again, I'm  
5 not making the decision, but just from what I'm  
6 hearing in listening to what you were stating and  
7 listen to what Ms. Glasgow was saying, it's not  
8 necessarily apparent to me that this structure is  
9 part of the license that -- when it was issued,  
10 it was envisioned. I don't know. But only -- I  
11 think it would appear that one of the  
12 investigators probably would have to go back --  
13 I'm not sure if the information that's gathered  
14 by Ms. Glasgow is sufficient. And the businesses  
15 -- your business plan and maybe we can advise you  
16 how this space can be license because -- just  
17 listening right here, I'm unsure about this. I'm  
18 just (audio interference). Yeah, I'm unsure.

19 Hold on. Any questions any of the  
20 other board members want to ask? I'm going to  
21 give you an opportunity -- I'm going to give you  
22 an opportunity, Mr. Morris to respond to everyone  
23 else. But let me ask the board members if they  
24 have any questions. Mr. Short has his hand up.  
25 Yes, Mr. Short. Mr. Short, I can't hear you,



1 sir.

2 MR. SHORT: How about now? Good  
3 afternoon, Mr. Morris.

4 MR. MORRIS: Good afternoon, Mr.  
5 Short. How are you?

6 MR. SHORT: Just fine. During your  
7 briefing to us, I heard you say you spoke with  
8 the ANC's committee about it. Have you talked to  
9 any government agency other than -- have you  
10 talked to any government agencies about building  
11 the structure in the first place, even though  
12 it's on private property, if you're talking about  
13 118 seats -- over 50 seats comes under public  
14 safety laws. You'd have to get a permit,  
15 wouldn't you?

16 MR. MORRIS: Well, this area -- the  
17 covered summer garden area that's at issue here  
18 will -- has fewer than that number of seats.  
19 It's approximately 35 to 40 seats. And there has  
20 been -- the permitting process and Mr. Cohn can  
21 probably speak to this a little bit more  
22 directly, we have --

23 CHAIRPERSON ANDERSON: Well, if he  
24 could -- I don't mean to cut you off, but can  
25 someone, yourself or Mr. Cohn explain to me if

1 you've talked to any other government agencies  
2 other than the ANC Commissioner and our agency  
3 about two separate spaces and a structure? Can  
4 anyone address that?

5 MR. COHN: Mr. Short, thank you. It's  
6 Richard Cohn. Right now, we have a certificate  
7 of occupancy and a tenant permit that provides  
8 for an additional summer garden bar and seating  
9 with canopy structure, 40 seats, 74 occupancy  
10 load. So like Mr. Morris referenced, when you  
11 referenced 118 seats, that is the existing  
12 initial summer garden that's attached to the  
13 Philippe Chow establishment, plus the additional  
14 40 seats for the space that is off from the  
15 establishment, this patio space that's part of  
16 our leased premises --

17 CHAIRPERSON ANDERSON: Okay. Mr.  
18 Cohn, I do understand that. That's been  
19 explained. My question to you and anyone who can  
20 answer this, have you talked to any other  
21 government agencies about this structure and  
22 about a separate site other than the one that you  
23 got a license for from ABCA? Now he did say --  
24 he did say, Mr. Short, that he has a -- did you  
25 say you had a certificate of occupancy for that

1 structure, sir?

2 MR. COHN: Yes. I'm looking at --

3 MEMBER SHORT: Mr. Chair --

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: I might be able  
6 to help --

7 MEMBER SHORT: Thank you for your  
8 help, Mr. Chair, but I think if they answer the  
9 question instead of you, it might be a little  
10 more clear to myself as a board member.

11 MR. MORRIS: I might be able to -- I  
12 might be able to help you, Mr. Short.

13 MEMBER SHORT: I would appreciate  
14 that. Thank you.

15 MR. MORRIS: So this is all going to  
16 be under one certificate of occupancy for both  
17 the adjacent area, the interior area, as well as  
18 the covered summer garden with one single  
19 certificate of occupancy. It's one single lease.  
20 It's one single limited liability company. It  
21 was all under the same umbrella. Right now the  
22 establishment is operating under a temporary or  
23 conditional certificate of occupancy pending the  
24 issuance of the certificate of occupancy covering  
25 the covered outdoor seating area. But it would

1 be one single certificate of occupancy.

2 And our permitting consultants have  
3 been working with, I believe it's the Department  
4 of Buildings on this. And it's just -- Right  
5 now, it just hasn't been issued because  
6 construction on the outdoor area was delayed --  
7 the covered outdoor area was delayed. But yes,  
8 there has been regular communications,  
9 inspections, everything with the applicable D.C.  
10 authorities outside of ABCA regarding getting the  
11 requisite approvals for the covered outdoor  
12 seating area.

13 MR. SHORT: I do appreciate that, Mr.  
14 Morris. You've been in discussions, but when our  
15 investigator went out and her testimony has been  
16 that your ABC person or your ABC manager told her  
17 that the place would be operating this time next  
18 year. And right there, currently with this  
19 Board, you only have one permit. And that's to  
20 be adjacent to your current establishment. Is  
21 that correct?

22 MR. MORRIS: Well, what we -- what we  
23 have right now is the license that has been  
24 issued covers -- permits 78 seats because that is  
25 what the temporary certificate of occupancy

1 permits.

2 MR. SHORT: That's only one area.

3 Correct?

4 MR. MORRIS: That is correct.

5 MR. SHORT: But what about the second  
6 area?

7 MR. MORRIS: Well, that's why we only  
8 have -- the license right now is only covering  
9 the 78 seat area because when the final  
10 certificate of occupancy for the entire  
11 establishment is issued, it will cover the full  
12 118 seats that we required -- requested and a new  
13 license will be issued. But we are approved by  
14 ABCA and by this Board for 118 seats in the  
15 summer garden.

16 MR. SHORT: That's why I came up with  
17 that number and that's the reason why I asked  
18 that question. But currently how many summer  
19 gardens are you operating?

20 MR. MORRIS: Right now, the portion of  
21 the summer garden that is adjacent to the  
22 establishment is the only part that is being  
23 operated. And I would -- I'm going to draw sort  
24 of a parallel because I run into this with  
25 clients who have sidewalk caf, seating approvals

1 from ABCA, but have not gotten their public space  
2 permit from DOT or something for whatever reason.  
3 We often will have the license issued,  
4 particularly if they're opening in the Winter  
5 time or if they just had delays and they just  
6 want to get open and operational, that they'll  
7 have the license issued without the sidewalk caf,  
8 endorsement on it.

9 It's a similar situation here is that  
10 our summer garden endorsement is only a partial  
11 endorsement right now. And it doesn't cover the  
12 entirety of the summer garden. It only covers  
13 the area that is adjacent because we don't yet  
14 have a certificate of occupancy covering the  
15 other non-adjacent covered outdoor seating area.

16 MR. SHORT: Okay. My last question --  
17 only other question is have you known of or has  
18 the establishment used the other space at all  
19 anytime during this period of time while you are  
20 still in the planning stage? Have you used that  
21 space for anything other than what you have  
22 stated?

23 MR. MORRIS: No. No. The only area  
24 -- the outdoor seating area that has been used by  
25 the restaurant or by its patrons is the adjacent

1 area. We are again awaiting construction and  
2 issuance of the final certificate of occupancy,  
3 which will cover the covered outdoor seating  
4 area. And I do want to point out that this isn't  
5 a separate certificate of occupancy. This isn't  
6 separately permitted. It wasn't separately  
7 applied for. It was all submitted pursuant to  
8 the entirety of the plans. And when we submitted  
9 the photographs and renderings to ABCA by our  
10 licensing specialist of the outdoor -- of the  
11 summer garden -- requesting a summer garden, we  
12 included renderings of both the adjacent area, as  
13 well as the covered area to make sure that before  
14 this went to the Board, it was very clear that  
15 there were two summer garden areas covered by  
16 that endorsement.

17 MR. SHORT: My very last question, so  
18 you've submitted plans to ABCA as you're saying,  
19 to our licensing agency?

20 MR. MORRIS: Yes, sir.

21 MR. SHORT: And those same plans went  
22 to the Department of Buildings?

23 MR. MORRIS: I don't know if it was  
24 the exact same plans. What we included as part  
25 of our -- part of the licensing process were

1 renderings of the outside as opposed to permit  
2 plans that got submitted to the Department of  
3 Building.

4 MR. SHORT: Okay. Thank you for your  
5 answers. You've been quite compelling, your  
6 answers. I'll just simply say this, our Board  
7 Chairman Anderson has said to you, maybe if would  
8 be wise if you came in and talked with our  
9 licensing section. They might be able to help  
10 you and save you some --

11 MR. MORRIS: Well, I actually --  
12 actually Mr. Short, I did that very thing and did  
13 speak to the supervisors in Licensing and  
14 explained to them the somewhat unique nature of  
15 the -- of the summer garden endorsement. And I  
16 said, you know -- and what I was advised was if  
17 it was all the same certificate of occupancy, all  
18 the same lease and all in private space covered  
19 by that certificate of occupancy and covered by  
20 that lease, we would just submit a request for a  
21 summer garden endorsement for the combined  
22 outdoor seating.

23 So when I do, you know, and I think  
24 you might know, Mr. Short, I've been practicing  
25 in this area for a number of years, whenever I



1 find anything that is even remotely unique or  
2 that I haven't dealt with before, I really try to  
3 rely on the expertise and experience and guidance  
4 of licensing staff. If you ask any of them, you  
5 might find out that I --

6 (Simultaneous speaking.)

7 MEMBER SHORT: I do appreciate your  
8 answers. And please keep the ANC right there  
9 with you when you're doing all of this. That's a  
10 very exciting area and it's just been very  
11 helpful to Washington D.C. and our tourists. And  
12 it's just a wonderful location to do anything  
13 business wise, so thank you very much for  
14 bringing that to us. But stay close to our  
15 Licensing Section and with the Department of  
16 Buildings. And Mr. Chair, that's all I have at  
17 this time. Thank you, sir.

18 MR. MORRIS: Thank you, Mr. Short. I  
19 appreciate those questions very much.

20 CHAIRPERSON ANDERSON: Mr. Grandis.

21 MEMBER GRANDIS: Good afternoon, Mr.  
22 Morris.

23 MR. MORRIS: Good afternoon.

24 MEMBER GRANDIS: In my review of your  
25 lease, it does appear that the areas that we are

1 discussing are all mentioned within your lease.  
2 So I think that's very helpful because the  
3 section I looked at, it breaks each section down.  
4 Right? So I think that's very helpful in the  
5 lease.

6 Now getting to the application, are  
7 you familiar with the exhibits that were filed  
8 with that application?

9 MR. MORRIS: Yes, I am.

10 MEMBER GRANDIS: So could you help me,  
11 because I do have it up -- help me find the  
12 separate renderings that are part of the  
13 application?

14 MR. MORRIS: Well, they were submitted  
15 as a supplemental. They don't get a -- usually  
16 those are not attached with the initial  
17 application. Again, we submitted the initial  
18 application in March of 2022 while plans for the  
19 establishment were in their nascent state. So it  
20 was subsequent that -- with respect to a  
21 supplemental submission as the application  
22 proceeded to the various steps. And I believe if  
23 memory serves is that those get submitted prior  
24 to the application going to the Board for final  
25 approval, that we need to submit photographs

1 and/or renderings of both the inside and the  
2 outdoor seating area. In this case, the two  
3 different outdoor seating areas.

4 MEMBER GRANDIS: Mr. Morris, thank you  
5 for the explanation, but I still am requesting,  
6 can you provide us with a copy of that rendering  
7 of each of the locations --

8 (Simultaneous speaking.)

9 MR. MORRIS: I'm not able to do it at  
10 this meeting right now, but I'd be -- I'd be  
11 happy to review my records and see what we  
12 submitted to the licensing specialist at that  
13 time. That would be no problem. I'd be happy to  
14 make that supplemental submission.

15 MEMBER GRANDIS: Because you would  
16 agree that our licensing staff are very  
17 particular and careful and that they only approve  
18 -- can approve what is submitted.

19 MR. MORRIS: Correct.

20 MEMBER GRANDIS: Okay.

21 MR. MORRIS: I was working with a very  
22 experienced -- one of your better -- and yeah, I  
23 think they're all wonderful, but certainly one of  
24 the most experienced and competent and capable  
25 members of your licensing staff. So he's always

1       been someone who I rely on to make sure I'm  
2       providing all the information. He's very  
3       thorough, so I'm nearly certain I could get that  
4       to you in short order, Mr. Grandis.

5                   MEMBER GRANDIS: So your recollection  
6       would be that the final approval by our licensing  
7       staff to come to the Board for approval of the  
8       license included the renderings of each of those  
9       locations.

10                   MR. MORRIS: That is my recollection  
11       and if I determine I was mistaken in any way,  
12       I'll be certain to advise promptly.

13                   MEMBER GRANDIS: Ms. Glasgow, I want  
14       to thank you for your being here today. I know  
15       you're busy and it's very helpful to the Board to  
16       get your recollection. You heard the questions  
17       that I just posed. When you went to the site to  
18       do the investigation that is routine on these  
19       kind of applications, did you have any renderings  
20       at all with you; part of the application,  
21       separate? Do you remember at all, is that  
22       something that you take with you?

23                   INVESTIGATOR GLASGOW: No.

24                   MEMBER GRANDIS: So when you got to  
25       the site and you talked to, I think you said, one

1 of the representatives of the business, you asked  
2 to see the summer garden. Is that correct that  
3 you asked to see it?

4 INVESTIGATOR GLASGOW: Yes.

5 MEMBER GRANDIS: And did someone  
6 actually take you to the area?

7 INVESTIGATOR GLASGOW: Yes.

8 MEMBER GRANDIS: Did that person  
9 explain to you that there was an additional area?

10 INVESTIGATOR GLASGOW: Yes.

11 MEMBER GRANDIS: And did you go to  
12 that area?

13 INVESTIGATOR GLASGOW: Yes.

14 MEMBER GRANDIS: So what did you --  
15 and you may have already mentioned this, but what  
16 did you see at the, what I think they call the  
17 location that is not adjacent to it? What did  
18 you see when you got to that area?

19 INVESTIGATOR GLASGOW: There was  
20 nothing there. It was just an open space.

21 MEMBER GRANDIS: And did that  
22 representative of the business explain to you how  
23 much of that open space they would be using?

24 INVESTIGATOR GLASGOW: The entire  
25 area.

1                   MEMBER GRANDIS: Oh, they would be  
2 using -- they acknowledged that -- and did you  
3 get information on whether that structure,  
4 because I heard it was possibly not a permanent  
5 structure. Right? It's not a permanent  
6 structure? Or maybe I need to ask Mr. Morris  
7 that, but do you know?

8                   INVESTIGATOR GLASGOW: I believe it is  
9 a permanent structure. It's nonretractable, so  
10 it stays there.

11                   MEMBER GRANDIS: And did they -- did  
12 the person explain to you or did you note by  
13 looking at the application that there would be a  
14 separate trade name at that location?

15                   INVESTIGATOR GLASGOW: By looking at  
16 the application -- the letter that was sent,  
17 that's the only way I knew about it.

18                   MEMBER GRANDIS: Okay, thank you. Mr.  
19 Chairman, I want to thank you for letting me ask  
20 the questions and Mr. Morris, thank you. And I  
21 hope you'll get back to the Agency as promptly as  
22 you can on what was submitted and the date that  
23 it was submitted.

24                   MR. MORRIS: Certainly, Mr. Grandis.  
25 Thank you. I appreciate your questions.

1 MEMBER GRANDIS: Thank you.

2 CHAIRPERSON ANDERSON: Any other  
3 questions by any of the board members? Mr. Link,  
4 any questions that you have?

5 MR. LINK: I have a series of  
6 statements. Is that acceptable, sir?

7 CHAIRPERSON ANDERSON: You can -- I  
8 mean we're just gathering information, sir, so  
9 you can --

10 MR. LINK: I want to acknowledge that  
11 the timeline, Mr. Morris presented is accurate  
12 and there's no disagreement on that. I want to  
13 be clear because Inspector Glasgow made this  
14 point, but just to be clear, the structure in  
15 question has not been constructed yet. They are  
16 indeed waiting for their building permits. I  
17 want to confirm Mr. Morris's or Mr. Cohn's  
18 statement that they don't intend to have  
19 entertainment or dancing in the structure in  
20 question, but a single license with that  
21 endorsement, right, doesn't prevent that from  
22 occurring. So does that make sense?

23 With respect to the structure itself,  
24 it is indeed a permanent structure as proposed.  
25 The sides are retractable. The roof canopy is

1 not just for clarity. That's what Mr. Merchant  
2 presented to the ANC. With respect to the idea  
3 that you can't placard for multiple summer  
4 gardens, I would respectfully disagree. There's  
5 a current applicant with License No. 124085 in  
6 which the ANC actually requested and they did  
7 comply to update their placard to specifically  
8 reflect multiple summer gardens with multiple  
9 kiosks that were physically diverse from each  
10 other. Inspector Glasgow already answered the  
11 question about the DBA. There are indeed two  
12 business entities here.

13 And that's it. I don't have any  
14 questions. And I really appreciate the Board's  
15 time and consideration this afternoon. Thank  
16 you, sir.

17 CHAIRPERSON ANDERSON: You're welcome.  
18 Mr. Morris, any final comments you want to make?

19 MR. MORRIS: I would just want to just  
20 address one quick point that Commissioner Link  
21 just made. I don't think there's any dispute  
22 that there isn't a manner and possibility in  
23 which a placarding notice -- if there were any  
24 confusion, could be amended and revised. All I  
25 was suggesting when I said is that the



1 application as it is formulated does not -- does  
2 not readily suggest -- you know, for example,  
3 there are parts on the application that say if  
4 you're going to have a dance floor, please  
5 describe the dance floor.

6 You know, by way of comparison, the  
7 Virginia ABC application says, "please describe  
8 your outdoor seating area, the size, location,  
9 how it is enclosed." The application that we  
10 submitted has a box to check for a summer garden.  
11 And it says, "how many seats?" And again, based  
12 on my best information and my best guidance from  
13 licensing staff, I was told that once certificate  
14 of occupancy and with a summer garden with a  
15 combined seating, that, that was the proper way  
16 to submit the application.

17 And again, we went before the ANC in  
18 October. I just heard from Mr. Link in another  
19 context that it was requested that the placard  
20 notice be amended based on information that was  
21 gathered during the ANC process. Had that ever  
22 been requested of us, had it ever been suggested  
23 that there was some confusion, I have no doubt in  
24 my mind that we would have readily complied. And  
25 I think the course of dealing here, the fact that

1 we have been responsive -- and when I say "we", I  
2 am including the Licensees here. There's never  
3 been any adversarial moment really between us and  
4 the ANC. It has been cooperative and cordial at  
5 every -- at every step of the way.

6 This applicant submitted their  
7 application using the best guidance of staff.  
8 They submitted it in accordance to the letter of  
9 the application itself. There was nothing in the  
10 application that was in any way less than  
11 transparent. And in all our dealings with  
12 licensing staff, as well as the ANC, we have  
13 repeatedly expressed that there were two non-  
14 adjacent summer garden areas. And we have asked  
15 how best to deal with that? And how best to  
16 ensure that it was -- that, that was accurately  
17 reflected.

18 So I understand -- I understand that,  
19 you know, now eight months after we initially met  
20 with the ANC, that we're now -- or nine months, I  
21 guess it is, that we're not revisiting this  
22 issue. But I think I just would like to state  
23 for the record that this applicant has at every  
24 step of the way responded to any request from the  
25 Agency, has been proactive in seeking the

1 feedback and guidance of the Agency, and has been  
2 very responsive with respect to any requests made  
3 by the ANC.

4 So I hope when the Board takes  
5 consideration of that matter that, that is given  
6 due -- given due consideration. I think the fact  
7 -- what the applicants had planned here, every  
8 effort has been made to be 100 percent  
9 transparent about that, so thank you.

10 MEMBER GRANDIS: I think I have some  
11 clarification that I'm disclosing what Mr. Morris  
12 just said. May I ask him a question?

13 CHAIRPERSON ANDERSON: Yes, Mr.  
14 Grandis.

15 MEMBER GRANDIS: Mr. Morris, thank you  
16 for what you just said because I went back and  
17 reviewed the lease. And on Page 6 of 10, it's  
18 dated May 14th, 2021, which I think is the lease  
19 date. Am I somewhat close?

20 MR. MORRIS: That could be right. I  
21 would need to go back and look at my records, but  
22 that sounds about right.

23 MEMBER GRANDIS: Well, there's a  
24 rendering on that page that shows two summer  
25 gardens -- they call them cafes, but there are

1 two. So what you're saying matches what your  
2 lease shows. There's a rendering on that Page 6  
3 of 10. And I'm not sure if the ANC got it or  
4 whatever. But in that, it's a very clear  
5 rendering that shows something called No. 920  
6 caf, and it points to, it looks like adjacent to  
7 the restaurant. And then it says, there's a  
8 walkway. And past the walkway, there's something  
9 called No. 925 caf, with about 1,000 square feet,  
10 which is definitely separate. So I just wanted  
11 to bring that into the record today because I  
12 think that helps gives me some clarification on  
13 at least when the Agency because the lease is  
14 provided to the Agency. Correct?

15 MR. MORRIS: Correct.

16 MEMBER GRANDIS: The Agency may have  
17 been on notice all along that there were two  
18 separate locations. So thank you for letting me  
19 ask that question.

20 MR. MORRIS: I appreciate that, Mr.  
21 Grandis. Thank you.

22 MEMBER GRANDIS: Thank you, Mr.  
23 Chairman.

24 CHAIRPERSON ANDERSON: You're welcome,  
25 Mr. Grandis. Anything to add to his remarks?

1 MR. MORRIS: I have nothing further.  
2 I appreciate you giving me and Mr. Cohn an  
3 opportunity to provide some clarity to what  
4 brought us to today and I appreciate your  
5 questions and your efforts. So thank you and  
6 again, I just would express my appreciation to  
7 Mr. Link. And I'll just reiterate that I'm not  
8 difficult to find. And he has my cell phone  
9 number. He has my office number. And we've  
10 already texted, so I invite him to use whatever  
11 method of communication to reach out to me that  
12 he sees fit. And I'm happy to answer any follow-  
13 up questions that the Board might have if there -  
14 - if there are any further questions after you  
15 meet together on this.

16 MEMBER GRANDIS: Well, I think Mr.  
17 Morris, and that's one of the reasons why I asked  
18 Ms. Glasgow, the investigator. She's the person  
19 who would be charged to go to the establishment  
20 and to do a regulatory inspection. And it would  
21 appear to me that your license does not currently  
22 reflect your business model. And that's why it  
23 just -- that's how it sounds to me.

24 And that's one of the reasons why I  
25 asked Ms. Glasgow as an investigator who goes out

1 to the establishment to do a regulatory  
2 inspection, based on this location of this other  
3 summer garden -- and I think because it appears  
4 to me that your license says you have a "a summer  
5 garden". When that says, "a" and that sounds to  
6 me like you have one summer garden. And so  
7 therefore, it would appear that they -- the  
8 investigator would look at the summer garden  
9 that's attached to the building.

10 And I think an investigator who goes  
11 out and sees this separate structure which is  
12 away from the main building, I think the first  
13 thing they're going to do -- it would appear that  
14 they would go over there and ask for a copy of  
15 the license. And they would be like, okay, let  
16 me speak to the ABC manager or owner and ask for  
17 a copy of the license. And the license that's --  
18 if the license that's provided is kind of like --  
19 well, this doesn't -- it doesn't match -- it  
20 doesn't match -- it doesn't appear that it would  
21 match with your license.

22 So what I would suggest that is done  
23 is that you meet with Mr. Sean Gordy. Not one of  
24 the specialists, but Mr. Gordy and provide him  
25 the rendering -- the business model for this

1 current -- this new structure. And he should be  
2 able to advise you what changes, if any, needs to  
3 be made to your license because clearly a change  
4 needs to be made to your license. I don't know  
5 what change that is and I don't know if it's a  
6 substantial change if it's the same. Because it  
7 appears that's a different trade name. I don't  
8 know if it's a different business. I don't know,  
9 but it appears that -- and it appears that  
10 changes need to be made to the current license to  
11 accurately reflect that.

12           And once that decision is made, the  
13 Agency will make a decision. And based on the  
14 decision that's made by the Agency, then that  
15 will -- we'll see if the ANC plays a role in it.  
16 Because if the Agency states that it's -- it's  
17 not a substantial change, it's a part of your  
18 license, the matter is over. But if the Agency  
19 determines that this is a substantial change,  
20 then it has to be placarded. Or if the Agency  
21 determines that you have to apply for a separate  
22 license based on -- based on the location of this  
23 structure, I don't know what the Agency will tell  
24 you. And then based on the determination that's  
25 made by the Agency, then that will determine

1 whether or not the ANC needs to be involved.

2 But that's what I gather from the  
3 communication. As I said before, I was listening  
4 intently and then that's one of the reasons why I  
5 asked the investigator when she goes out to do a  
6 regulatory inspection based on the current  
7 license, where would she do her regulatory  
8 inspection? And it doesn't appear to me that she  
9 would have done a regulatory inspection at that -  
10 - at this area because it doesn't appear -- at  
11 least, it doesn't appear to me -- and I could be  
12 wrong -- that it is not a part of your current  
13 license.

14 MR. MORRIS: Chairman Anderson, may I  
15 just respond to that very briefly?

16 CHAIRPERSON ANDERSON: Yes, sir. Go  
17 ahead.

18 MR. MORRIS: First of all, I  
19 appreciate your advice and I have always had a  
20 great relationship with Mr. Gordy. I'd be happy  
21 to speak with them about this. I've also spoken  
22 with Ms. Karen Jackson about this actual  
23 application as well, but Mr. Gordy has always  
24 been a tremendous resource.

25 I just want to make one point of



1 clarification. Where it says, "a summer garden"  
2 that is on the placarding notice. It is not on  
3 the license itself. And we don't draft that  
4 placarding notice. The placarding notice is  
5 drafted by ABRA staff based on our application.  
6 And I would submit to you that any application,  
7 whether it had two summer garden areas or five  
8 summer garden areas would also just say "a summer  
9 garden" because the application does not provide  
10 a place for us to specify how many summer  
11 gardens, where they're located. Just it's a box  
12 to check that says, "summer garden".

13 And the license itself just says,  
14 "summer garden" -- the types of endorsements, one  
15 being a summer garden. We were just requesting a  
16 summer garden endorsement. We did not -- I just  
17 want to make it clear, we did not specify on our  
18 application or anywhere else that we were seeking  
19 an endorsement for a single summer garden area.  
20 We just said per the license application, we were  
21 seeking a summer garden endorsement so we could  
22 operate in private space out of doors.

23 And as Mr. Grandis mentioned, our  
24 lease, as well as other submissions made to  
25 licensing staff all clearly show that there were

1 more than one outdoor area that would be covered  
2 by that summer garden endorsement. So I just  
3 wanted to just make that little point of  
4 clarification, so there wouldn't be any  
5 misapprehension that our application in any way  
6 said we were -- said we were seeking an  
7 application for an endorsement for a single area.  
8 That placarding notice was not written by us and  
9 is a bit out of our control. We only see it  
10 after the fact.

11 CHAIRPERSON ANDERSON: And you're  
12 correct, Mr. Morris. I did say that it doesn't  
13 appear that your license currently reflects your  
14 business model. That's all I said.

15 MR. MORRIS: Okay. Thank you.

16 CHAIRPERSON ANDERSON: Yeah. And did  
17 say that. I did say that.

18 MR. MORRIS: I appreciate that.

19 CHAIRPERSON ANDERSON: Right. So I'm  
20 not saying that you did anything wrong on the  
21 application. I'm just saying the current license  
22 that you have -- and going with the investigator,  
23 so based on the license that the investigator had  
24 when she goes -- when she went out to do a  
25 regulatory inspection, the investigator would not

1 intuitively look at this other establishment.  
2 And I don't know if the license itself said one  
3 or -- just generally, but I know that I've had  
4 cases and there is specific mention that there  
5 are two summer gardens. And we have the  
6 occupants and load for each summer garden, so I  
7 am familiar with that.

8 MR. MORRIS: Of course you are.

9 CHAIRPERSON ANDERSON: So I'm just  
10 saying that just from what I'm picking up today -  
11 - that's what I said -- it doesn't appear that  
12 your license currently reflects the business  
13 model. And a lot of times when we issue licenses  
14 -- the licenses are issued prior to the  
15 completion of the building, so you have  
16 renderings and things might not -- we might not  
17 necessarily get it right the first time. So  
18 that's one of the reasons why I'm saying go back  
19 to meet with Mr. Gordy, provide the rendering,  
20 provide the business model, share with him the  
21 trade name -- the different trade name for this  
22 establishment. I don't know if that's the same  
23 license. I don't know. Only the Licensing  
24 Division -- and when I said -- and I specifically  
25 say go to Mr. Gordy and not one of the licensing

1 specialists.

2 MR. MORRIS: No. Of course, I  
3 understand that.

4 CHAIRPERSON ANDERSON: Right. And  
5 that's why I'm saying it that way, so therefore  
6 he can discuss it. And then based on whatever  
7 decision is made, then that would state whether  
8 or not you need to come back to us or whether or  
9 not you need to go back to the ANC. So that's  
10 where we are right now. And so that is -- So  
11 that's the recommendation is that you meet with  
12 Mr. Gordy. Mr. Gordy will give you instructions  
13 on whether or not your current license reflects  
14 your current business model.

15 MR. MORRIS: Yeah, thank you for that.  
16 I will discuss that with Mr. Gordy. And one of  
17 the things I might suggest because our existing  
18 license does not cover the additional outdoor --  
19 covered outdoor seating area. So right now, the  
20 license does reflect how we are operating because  
21 it only has -- relates to the adjacent outdoor  
22 seating. So there might -- there might be a  
23 reason that we would -- when the final  
24 certificate of occupancy is issued and the final  
25 license is issued reflecting the updated

1 certificate of occupancy, that the license have a  
2 separate section for the two areas of summer  
3 garden just as if it were a summer garden and a  
4 sidewalk caf, for example. So I appreciate that  
5 suggestion a great deal, Mr. Chairman.

6 CHAIRPERSON ANDERSON: And I think  
7 before that, I believe it has to be clear that  
8 this is a separate area. I mean in a sense  
9 that's for when the investigator goes out. Then  
10 the investigator will know what they're looking  
11 for. They're not looking at -- you have this  
12 other structure. And this agency is only  
13 involved if only if you're selling or serving  
14 alcohol. If you're not selling and serving  
15 alcohol in the structure, it's not within our  
16 purview. Only if you're going to -- only if the  
17 business model is that you have been selling and  
18 serving alcohol in the structure. If that's the  
19 case, then we need to -- it needs to reflect on  
20 your current license. Okay?

21 MR. MORRIS: Thank you, Mr. Chairman.

22 CHAIRPERSON ANDERSON: Any questions  
23 before we adjourn?

24 MR. COHN: Chairman --

25 CHAIRPERSON ANDERSON: Mr. Cohn. Mr.

1 Cohn, this is one thing I always do and I'm  
2 attorney myself and Mr. Morris is your attorney.  
3 Make sure that you clear with Mr. Morris what you  
4 want to ask because I know that you're paying him  
5 big money to protect you from yourself. Okay?  
6 So I just want to give you that opportunity to  
7 make sure you clear with him what you're wanting.  
8 All right? Okay.

9 MR. MORRIS: I should say Mr. Cohn  
10 also is burdened by a law degree, so I have full  
11 confidence in his ability to ask a question.

12 CHAIRPERSON ANDERSON: I just put it  
13 out there. All right.

14 MR. MORRIS: Thank you, Chairman.

15 MR. COHN: Thank you, Chairman. I  
16 really appreciate the opportunity and I don't  
17 want to be duplicative of what anybody else has  
18 said already. But I just wanted to just touch  
19 and add a couple things based upon what I've been  
20 hearing.

21 I just want to say in the first  
22 instance, Mr. Merchant and myself have been  
23 partners for 40 years. We have developed,  
24 opened, and operated about 20 restaurants. And  
25 this is our first restaurant in Washington D.C.

1 And we are so excited to be here. It took a  
2 little bit longer than we thought with supply  
3 chain and coming out of the pandemic. But we're  
4 very pleased and happy with the community and  
5 that people have come to the Philippe Chow  
6 Restaurant and enjoyed it and a lot of the  
7 feedback that we're hearing already.

8 We also, you know, most of our  
9 restaurants in New York and we have the  
10 equivalent of the ANC is the Community Boards.  
11 And we have wonderful relationships with all our  
12 community boards. We always get approved for any  
13 new thing that we do because we're cognizant of  
14 our neighbors. We work with them. We want them  
15 to be our guests, our customers -- our first  
16 guests to come in. So we try and take those  
17 steps to have those relationships -- ongoing  
18 relationships with the community, with the  
19 neighborhood. We feel a part of the  
20 neighborhood.

21 And when we came in D.C., we know what  
22 we don't know and we know we needed someone to  
23 represent us and guide us in doing the right  
24 thing. And how to apply and make sure we  
25 communicate clearly and transparently. And

1 that's why we brought on Mr. Morris to represent  
2 us and file the application and follow his  
3 experience and his guidance.

4 And just with respect to a couple of  
5 things, I'm listening about the investigator and  
6 I try and always put myself in her shoes. And  
7 when I look at the license at the top, it says,  
8 "Philippe by Philippe Chow/Merchants Marina".  
9 The original applications was Philippe Chow, plus  
10 the second trade concept was called "Watermark  
11 Bar" because we originally would call it  
12 "Watermark Bar". We've since said we're going to  
13 change the trade name to "Merchant's Marina" And  
14 that's how it was submitted or amended as we were  
15 going through the licensing process.

16 But when were, you know, investing  
17 multiple millions of dollars in this location and  
18 signed the lease -- the lease agreement and the  
19 demise premise on the lease, as Mr. Grandis  
20 pointed out, had separate outdoor caf, areas,  
21 which I guess in ABRA language are called "summer  
22 gardens", but they were specific, separately  
23 designated outdoor areas that were a part of our  
24 lease premises and as part of our business model.

25 And if the construction hadn't been



1 delayed on this additional patio area, we're just  
2 going to have pergola. It's a fancy pergola over  
3 the oval-shaped space that's going to have  
4 louvers that revolve because the idea is that we  
5 want to have light and air come in. But if it  
6 gets really hot, we want to be able to close the  
7 louvers. The same thing with being able to use  
8 it more -- almost year around. Like we can have  
9 canvas sides that are going to be retractable and  
10 come up.

11 But we've been delayed in the  
12 construction with that, so we haven't used it.  
13 We were able to get the TCO and the corresponding  
14 license that matches with the TCO. And so what  
15 we've been advised is that when buildings and  
16 that work is completed and we get our final CO  
17 because all the plans submitted to all the  
18 agencies included this outdoor area that the  
19 final CO -- that the license would then  
20 correspond to that. So I hear what you're saying  
21 in terms of amending and changing and making sure  
22 it's clear when all that happens.

23 But that's what we're working on  
24 construction wise with all the other permits and  
25 the supplies. And I want to get clear assurances

1 because I don't know if it was you, Chairman  
2 Anderson or Mr. Short that asked whether -- you  
3 know, there's no liquor or any food service  
4 happening on this oval patio pace. It's waiting  
5 for construction. We're very clear in complying  
6 with all regulations and only serve as permitted  
7 and licensed and approved. So I wanted to make  
8 sure you have that assurance from me personally  
9 that with respect to that additional space, until  
10 we get the TCO and until we get an amended  
11 license, there will be no liquor going on there.

12           And if we didn't call it "Merchant's  
13 Marina", if we put a sign up that said "Philippe  
14 Chow" and investigator came by, they would say  
15 oh, there's a Philippe Chow here and there's a  
16 Philippe Chow there. And then, you know, match  
17 up the corresponding. So when we do get the  
18 final license and it says Philippe by Philippe  
19 Chow/Merchants Marina, I submit that Investigator  
20 Glasgow, an experienced investigator would see  
21 the name on the license and say okay, here's  
22 Philippe Chow. Let me look 20 feet this way, I  
23 see Merchant's Marina and would be able to  
24 identify what's applicable.

25           So I think -- I think that's all I

1 have to say unless there's any questions. So  
2 thank you for your time. I really appreciate it.

3 CHAIRPERSON ANDERSON: I don't have  
4 any questions. Does anyone have any questions  
5 for Mr. Cohn? All right. Well, thank you very  
6 much, Mr. Cohn, for your presentation today.  
7 Thank you, Mr. Link --

8 MR. LINK: Thank you.

9 CHAIRPERSON ANDERSON: -- for your  
10 letter. But not for Mr. Link's letter, we would  
11 not be having this conversation today. And so I  
12 look at this letter as more informative,  
13 informational based that we can look at the  
14 business model and try to make sure that our  
15 business -- that the license that you have  
16 currently reflects your business model. And I  
17 think that's -- that's how I'm looking at this  
18 fact-finding hearing. Just gathering facts,  
19 trying to figure out -- and then for you, Mr.  
20 Morris, that you engage with Mr. Gordy and to  
21 make sure that in reviewing the license to make  
22 sure that your current ABRA license currently  
23 reflects your business model. Okay?

24 So thank you everyone for their  
25 presentation today. Ms. Glasgow, you can go back

1 to what's going on in the office. She knows what  
2 I'm talking about. But thank you very much for  
3 your presentation today and the Board will take  
4 this matter under advisement. All right, thank  
5 you.

6 MR. LINK: Thank you, Mr. Chairman.  
7 Thank you members of the Board.

8 PARTICIPANT: Thank you.

9 PARTICIPANT: Thank you.

10 CHAIRPERSON ANDERSON: All right. All  
11 right, so we are now at the end of our -- I don't  
12 see anything else on the calendar for the day.  
13 So with that said, I would now (audio  
14 interference) record for the day.

15 As Chairperson of the Alcohol Beverage  
16 and Cannabis Board for the District of Columbia  
17 and in accordance with Title 3, Chapter 4 and 5,  
18 Office of Corporate Government, I move the ABC  
19 Board hold a closed meeting on July 19th, 2023  
20 for the purpose of discussing any of the reports  
21 concerning ongoing plan investigation (audio  
22 interference) criminal or civil misconduct, or  
23 violations of law or regulations in seeking legal  
24 advice from our legal counsel on the Board's  
25 investigative agenda, legal agenda, and licensing

1 agenda for July 19th, 2023 as published in D.C.  
2 Records on July 14th, 2023. Is there a second?

3 MEMBER SHORT: Mr. Short, I second.

4 CHAIRPERSON ANDERSON: Mr. Short has  
5 seconded the motion. I will now take a roll call  
6 vote and then we'll note that this has been  
7 seconded. Mr. Short?

8 MEMBER SHORT: Mr. Short, I agree.

9 CHAIRPERSON ANDERSON: Mr. Cato?

10 MEMBER CATO: Bobby Cato, I agree.

11 CHAIRPERSON ANDERSON: Ms. Hansen?

12 MEMBER HANSEN: Jeni Hansen, I agree.

13 CHAIRPERSON ANDERSON: Mr. Grandis?

14 MEMBER GRANDIS: Edward Grandis, I  
15 agree.

16 CHAIRPERSON ANDERSON: Mr. Grandis?

17 MEMBER GRANDIS: Edward Grandis, I  
18 agree.

19 CHAIRPERSON ANDERSON: I can't hear  
20 you, but you agreed, Mr. Grandis. Okay. Mr.  
21 Grandis stated that he agreed. And Mr. Anderson,  
22 I agree. As it appears that the motion has  
23 passed 5-0-0, I hereby give notice that the ABC  
24 Board will hold a closed meeting pursuant to the  
25 Open Meetings Act. Notice will also be posted on

1 the ABC Board (audio interference) placed on the  
2 electronic calendar on ABCA's website and  
3 published in D.C. Register in a timely manner as  
4 practical. We're adjourned for the day. Thank  
5 you to all who participated today. Thank you,  
6 board members. And I now direct all board  
7 members to return to Executive Committee for the  
8 action left. Thank you.

9 (Whereupon, the above-entitled matter  
10 went off the record at 2:52 p.m.)  
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In the matter of: Philippe Chow

Before: DC ABCA

Date: 07-12-23

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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Court Reporter

**NEAL R. GROSS**

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