

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
:
Buddy's Inc., :
t/a Buddy's DC :
3234 11th Street NW : Protest
Retailer CT - ANC 1A : Hearing
License No. 123008 :
Case #23-PRO-00004 :
:
(Application to :
Renew the License) :
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Wednesday
July 19, 2023

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

PRESENT:

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

ALSO PRESENT:

- JOSE ORELLANA, DC ABCA Staff
CARLY HAMPTON, Licensee
GRANT MASON, Licensee
SEAN MORRIS, Licensee Counsel
GUILHERME ALMEIDA, Protestant
JORDAN NYE, Protestant
MARK RUIZ, Witness
INVESTIGATOR VANESSA PLEITEZ

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

2 1:52 p.m.

3 CHAIRPERSON ANDERSON: And now for
4 the case at hand, Case Number 23-PRO-00004,
5 Buddy's DC, License Number 123008.

6 This is a protest license to renew,
7 Application to Renew the License. So Mr.
8 Orellana, can you please elevate the rights of
9 the parties in this case?

10 MR. ORELLANA: Sure. Carly Hampton,
11 your access has been elevated. Guilherme Almeida
12 and Jordan Nye, your access has been elevated.
13 Sean Morris, your access has been elevated. And
14 that appears to be all, Chairman.

15 CHAIRPERSON ANDERSON: Thank you.
16 We're still waiting for the investigator, Vanessa
17 Pleitez. I do not see the investigator for this
18 case.

19 Or no, who is the investigator for
20 this case? Okay, there she is.

21 MR. ORELLANA: Well, it lists Mark
22 Ruiz.

23 CHAIRPERSON ANDERSON: No, it's Ms.
24 Pleitez.

25 MR. ORELLANA: Okay.

1 CHAIRPERSON ANDERSON: And she's on
2 the case. Good afternoon, everyone. This is a
3 protest hearing to renew a license for Buddy's
4 DC.

5 And so, let's start with the parties
6 to identify themselves, and let's start with the
7 licensee.

8 MR. MASON: I am Grant Mason.

9 MS. HAMPTON: And I am Dr. Carly
10 Hampton.

11 CHAIRPERSON ANDERSON: And you are?

12 MS. HAMPTON: The owners.

13 MR. MASON: The owners of Buddy DC.

14 CHAIRPERSON ANDERSON: And Mr.
15 Morris, please identify yourself for the record.

16 MR. MORRIS: Good afternoon, Mr.
17 Chairman. Good afternoon, members of the Board.
18 Sean Morris of The Morris Law Firm, LLC,
19 appearing as counsel for the applicants.

20 CHAIRPERSON ANDERSON: I apologize,
21 Mr. Morris. I apologize for that, sir. And I
22 didn't know that, so I do apologize.

23 All right, let me have the abutting
24 property owners spell and state your name for the
25 record.

1 MR. ALMEIDA: Good afternoon, Mr.
2 Chairman. My name is Guilherme Almeida. It is
3 G-U-I-L-H-E-R-M-E, last name A-L-M-E-I-D-A.

4 MR. NYE: And I am Jordan Nye, and my
5 name is spelled J-O-R-D-A-N, last name N-Y-E.

6 CHAIRPERSON ANDERSON: Okay, good
7 afternoon. All right. Hold on. Let's see.

8 All right, let me explain to the
9 parties how this process will work this
10 afternoon. This is a protest hearing and the way
11 the process will work, we'll have opening
12 statements by the -- oh, sorry, let me -- rather
13 than me talk, let me first -- you'll have opening
14 statement by myself.

15 Then I will ask if there are any
16 preliminary motions by the parties. Then the
17 Applicant will have an opportunity to give an
18 opening statement.

19 The Protestants will also have an
20 opportunity to give an opening statement.

21 After the Applicants and the
22 Protestants have given an opening statement, we
23 will have our investigator, Ms. Pleitez.

24 She will go through the case report.
25 Once Ms. Pleitez presents her case report, the

1 Board will ask questions of her of her case
2 report.

3 I will ask questions of her about the
4 report. Then the other Board members will have
5 an opportunity to ask questions of her regarding
6 the case report.

7 Once the Board members have had an
8 opportunity to ask questions of her of her case
9 report, then you, Mr. Morris, will have an
10 opportunity to question her about the contents of
11 her case report.

12 Once you have questioned her about the
13 contents of her case report, now, Mr. Almeida or
14 Mr. Nye, who will be asking questions?

15 MR. ALMEIDA: I will.

16 CHAIRPERSON ANDERSON: Okay, so then
17 you will have an opportunity to ask questions of
18 Ms. Pleitez of her case report.

19 And the only reason I'm asking, we're
20 going to have two people asking questions. Now,
21 you can decide if one person wants to cross-
22 examine the witness and then the other person can
23 also cross-examine a different witness, but it
24 has to be consistent, okay?

25 So it's just one person at a time will

1 ask questions.

2 All right, so after Ms. Pleitez
3 provides her case report and after the
4 Protestants have had an opportunity to ask
5 questions, then the Board members can ask follow
6 up questions if the Board members want to.

7 Because it's our witness, I am not
8 going to allow the parties to ask additional
9 questions once the Board has asked questions.

10 All right, so once the Board has
11 concluded its presentation, then Mr. Morris, you
12 will have an opportunity to call witnesses and
13 present documents and witnesses.

14 So you can call your witnesses, then
15 you will present your case. Once you present
16 your case, once you have done -- once you have
17 called your witnesses, then you, Mr. Nye, you
18 will have an opportunity to cross-examine that
19 witness.

20 Once you, Mr. Nye, have cross-examined
21 the witness, then the Board members will have an
22 opportunity to ask questions of the witness.

23 Once the Board members have had an
24 opportunity to ask questions of the witness, then
25 I will give you another opportunity, Mr. Nye, to

1 ask questions of the witness, but the questions
2 you're asking can only be based on the questions
3 that the Board members ask.

4 So it cannot be, oh, I'd forgotten to
5 ask you. If it did not come from one of the
6 questions the Board members had asked, you cannot
7 ask that question.

8 So you will have that opportunity to
9 follow up.

10 And then, Mr. Morris, you'll have,
11 because it's your witness, you will have an
12 opportunity to redirect your witness.

13 So once you are presented, after you
14 have presented all your witnesses, Mr. Morris,
15 then the Protestant will have an opportunity to
16 call witnesses.

17 And the Protestant will call a
18 witness. Once the Protestants have done direct
19 examination, then you, Mr. Morris, will have an
20 opportunity to cross-examine the witness.

21 Then the Board will have an
22 opportunity to ask questions of the witness.
23 Then you, Mr. Morris, will have an opportunity to
24 ask questions of the witness based on the
25 questions that were asked by the Board.

1 And either you, Mr. Almeida, or Mr.
2 Nye, depending on who wants to conclude, you will
3 have the last word in asking redirect questions
4 of the witness.

5 So once we do that, so once we have
6 gone through there, we will have closing
7 arguments. The Applicant will go first, and for
8 closing arguments, I would like you to stay
9 specific what it is you're asking the Board, and
10 then the Protestants will have the opportunity to
11 do closing arguments and the Protestants will be
12 specific in telling us what it is that they are
13 requesting from the Board.

14 Now, any questions before -- any
15 questions by either party? I'll start with you,
16 Mr. Morris. Any questions you have, sir?

17 MR. MORRIS: I don't believe so, Mr.
18 Chairman. Thank you for that explanation.

19 CHAIRPERSON ANDERSON: Okay, Mr. Nye,
20 Mr. Almeida, any questions?

21 MR. ALMEIDA: No. No thank you.

22 CHAIRPERSON ANDERSON: No? I need
23 you, Mr. Almeida and Mr. Nye, if you could turn
24 your volume up because I'm not hearing well.

25 So maybe you can either get closer to

1 the computer or turn your volume up, okay?

2 MR. ALMEIDA: Okay, thank you.

3 CHAIRPERSON ANDERSON: All right.

4 All right. Now, this is a process here. So,
5 basically, this establishment exists and so it's
6 to review a license.

7 Now, are there any agreements? And
8 I'm just trying to find out from the parties if
9 there's a way to shorten the hearing if there's
10 agreement to say, if the Protestants, are they
11 saying to the Board that we don't want you to
12 renew the license or you can renew the license
13 but we want conditions on the license?

14 And I'm just trying to find out if
15 there's agreement to see whether or not we can
16 truncate the hearing or whatever it is we're
17 going to have, we're going to take testimony, but
18 I'm just trying to find out if as far as the
19 Protestant is concerned, are they saying we
20 should not renew the license, are they saying we
21 should renew the license with restrictions?

22 MR. ALMEIDA: So we are not trying to
23 deny the Applicant a license renewal. We would
24 like to reinforce the existing settlement
25 agreement and essentially present why we feel

1 like they are not operating in accordance with
2 the current settlement agreement.

3 CHAIRPERSON ANDERSON: So could we
4 have -- so could we have an agreement at this
5 juncture to say that the Board will renew the
6 license and then we will have testimony on
7 whether or not -- and because irrespective what
8 decision the Board makes, if there's a settlement
9 agreement, that settlement agreement will -- that
10 settlement agreement will always remain with the
11 license.

12 So whatever decision that we make
13 today, that settlement agreement will still
14 remain with the license.

15 And so therefore, it's a matter that
16 we will impose additional conditions on the
17 license along with the settlement agreement.

18 So, you don't have to agree. I'm just
19 asking if the parties agree to say that, well,
20 yes, we agree that the license can be renewed,
21 then the Board will renew the license.

22 Then we'll just have arguments. We'll
23 have testimony on whether or not additional
24 conditions need to be placed on the license.

25 Then we can take testimony on that, or

1 then we can just, we can do a whole hearing and
2 determine whether or not this license should be
3 renewed.

4 It's basically whatever the party
5 wants us to do -- the parties want us to do.

6 MR. ALMEIDA: We do feel that there
7 need to be additional conditions added to the
8 settlement agreement to make it more clear -- I'm
9 sorry, to the license to make it more clear how
10 we feel they should operate.

11 CHAIRPERSON ANDERSON: All right. So
12 what I will do, and Mr. Morris, are you -- I hear
13 that the Protestants are saying they don't have a
14 problem with the renewal of the license, so are
15 the parties then in agreement that the license
16 should be renewed?

17 MR. MORRIS: Well, I think that's
18 probably a question better for the Protestants.
19 Of course, the Applicant would like the license
20 to be renewed with no additional conditions.

21 CHAIRPERSON ANDERSON: Well, and
22 that's the argument, okay? There are two issues
23 that the Board has to make this afternoon.

24 The first issue is whether or not
25 we're going to renew the license. That's the

1 first decision that the Board has to make.

2 And then the second decision that the
3 Board has to make, if the Board decides to renew
4 the license based on the presentation that is
5 made today, should the Board impose additional
6 conditions or does the Board determine that the
7 conditions on the license are appropriate so we
8 don't have to impose any additional ones.

9 So the Protestants have stated that,
10 yes, we are in support of renewing the license,
11 and so I think Mr. Morris, your response is that,
12 yes, I'm in agreement that the license should be
13 renewed. That's what I'm trying to hear from
14 you, sir.

15 MR. MORRIS: Correct. We are in
16 agreement that the license should be renewed.

17 CHAIRPERSON ANDERSON: And that is
18 all -- that is -- and the rest of it -- okay, so,
19 the parties are in agreement that the license
20 will be renewed, so the Board will renew the
21 license.

22 We then will spend the hearing to see
23 whether or not any additional conditions should
24 be imposed on the license.

25 The testimony that you should put on,

1 Mr. Morris, is that based on the current license
2 that we have, based on the record, the current
3 settlement agreement that we have, we believe
4 that no additional restrictions should be placed
5 on the license.

6 And then for you, Mr. Almeida and Mr.
7 Nye, the arguments will then be that we believe
8 that these are the additional restrictions that
9 should be placed on the license and the reason,
10 and based on the testimony that you're giving,
11 why do you believe additional restrictions should
12 be placed on the license, okay? Are we clear?

13 MR. MORRIS: Yes, sir.

14 CHAIRPERSON ANDERSON: All right. So
15 what I'm going to do, I'm still going to have the
16 investigator go briefly through her report and
17 let us know what it is that she found.

18 And then, and I know that a different
19 investigator was assigned to this case and Ms.
20 Pleitez came in last minute and she did a
21 supplemental report.

22 So that's what we're going to do. So
23 this hearing, then, should not take the rest of
24 the evening.

25 I'm already packed. I was getting my

1 snacks like we were going to be here all
2 afternoon, but I'm glad that the parties at least
3 agree to that portion.

4 So what I'm going to do then, I'll ask
5 for you, then, Mr. Morris to give an opening
6 statement.

7 I'll have the Protestant to give an
8 opening statement and then Ms. Pleitez will
9 briefly tell me about the establishment from her
10 perspective.

11 And then we can start. So again, this
12 hearing, though, will be resonate, as far as the
13 licensee is concerned, the Board should not
14 impose additional conditions and the Protestants
15 will tell us what additional conditions that the
16 Board should impose, okay?

17 Any questions before we start?

18 MR. MORRIS: I don't think so. Thank
19 you, Mr. Chairman.

20 CHAIRPERSON ANDERSON: All right. So
21 you can give us an opening statement, Mr. Morris.

22 MR. MORRIS: Thank you, Mr. Chairman.
23 As you know, this matter is before the board on a
24 protest of an abutting property owner regarding a
25 renewal of the Applicant's retailer class CT

1 license.

2 Neither the ANC nor any group of five
3 has protested or otherwise expressed any concern
4 regarding the renewal of the license.

5 But because this protest has been
6 filed, as you know, the Board must determine if
7 the renewal is appropriate, and as we just
8 discussed, whether renewal with any additional
9 conditions is appropriate based on the location
10 and operations of the establishment.

11 The issue most presently before the
12 Board and is one of the factors that the Board
13 must consider regarding appropriateness is
14 whether the establishment will have a negative
15 impact on the peace, order, and quiet of the
16 surrounding vicinity.

17 That's the grounds on which this
18 protest was filed.

19 And in the context of a renewal as
20 opposed to a new application, when the Board
21 considers that appropriateness and that issue,
22 the Board is required to consider the Applicant's
23 compliance history, including their compliance
24 with any existing requirements placed on them by
25 an existing settlement agreement.

1 I think when all the evidence is
2 presented to the Board, it will show that the
3 Applicant has been visited some 20 times by ABCA
4 investigators in the spring and early summer of
5 this year and no violations have been found,
6 including no violations of its settlement
7 agreement.

8 They have not been in violation of any
9 law or regulation related to the sale and service
10 of alcohol, including noise violations since it
11 opened under this new ownership.

12 There have been no substantiated noise
13 complaints during that time, and the Applicant
14 has been responsive in all respects to the
15 concerns and complaints of the Protestant.

16 The evidence will show that the
17 Applicant has been willing to take and indeed has
18 taken steps above and beyond what is required by
19 applicable law and its existing settlement
20 agreement to address concerns and complaints.

21 And I think when all the evidence is
22 heard, especially the investigator's reports,
23 which I think will be very compelling to this
24 Board with respect to the compliance history of
25 this Applicant and the likelihood, or not even

1 likelihood, whether it has in fact had any
2 negative impact on the peace, order, and quiet of
3 the community.

4 It will be overwhelmingly clear that
5 these Applicants are operating their business in
6 a manner that is compliant with the District of
7 Columbia law and ABCA regulations, they are
8 operating within the terms of their existing
9 settlement agreement, and that no further
10 conditions are required to ensure the peace,
11 order, and quiet of the community, and that
12 renewing their license without further conditions
13 is the most appropriate course for the Board to
14 take. Thank you.

15 CHAIRPERSON ANDERSON: Thank you.

16 Mr. Nye?

17 MR. NYE: Mr. Almedia is going to give
18 the opening.

19 MR. ALMEIDA: Yes, I will give the
20 opening statement. Thank you, Mr. Chairman.

21 My name is, again, Guilherme Almedia
22 and my husband and I live at 1106 Lamont Street
23 Northwest.

24 CHAIRPERSON ANDERSON: I apologize,
25 no, I was -- the way your name is written, Mr.

1 Almedia, and Mr. Nye, and so I thought -- all
2 right, so I apologize.

3 Mr. Almeida, go ahead. All right. I
4 was just -- all right, I apologize. Go ahead,
5 Mr. Almeida.

6 MR. ALMEIDA: Thank you. That's okay.
7 As I mentioned, my husband and I live at 1106
8 Lamont Street Northwest, which is abutting the
9 Applicant's establishment at 3234 11th Street
10 Northwest.

11 My family has lived here in this home
12 for 20 years and I have lived in the home for the
13 last 12 of those years.

14 We peacefully coexisted with the
15 previous Applicant licensed establishment, Room
16 11, at the Applicant's address for more than a
17 decade.

18 And today, I'll describe to you the
19 impact the Applicant's new business has already
20 negatively had on our right to peace and quiet in
21 our home, and I'll share with you many of the
22 challenges we've faced since the Applicant moved
23 into the space at 3234 11th Street Northwest.

24 Per the existing settlement agreement,
25 which can be found in the inspector's report,

1 specifically states that, and I quote, there
2 shall be no loud or live music performed in the
3 establishment or played or performed on the patio
4 and/or a sidewalk caf,, and sound emanating from
5 any part of the establishment shall not be
6 audible in residential structures in the vicinity
7 or on the sidewalks across the street from and
8 adjacent to the establishment, end quote.

9 The Applicant has installed and
10 utilized outdoor TVs and speakers and has played
11 music from these sources, as well as sources
12 interior to the establishment, with enough volume
13 and intensity of bass that has been heard on many
14 occasions inside our home.

15 These instances are not only in
16 violation of the settlement agreement, as
17 confirmed to me by Mr. Jonathan Bergman of ABCA
18 Legal, but have had a negative effect on peace,
19 order, and quiet in our home, which directly
20 abuts the establishment and are inappropriate as
21 such.

22 We have experienced noise and
23 vibration inside our home as a result of sound
24 emanating from the interior and exterior
25 speakers, operation of the summer garden beyond

1 the allowable areas, trash collection outside of
2 allowable hours, and illegal construction, the
3 last of which, while not under the purview of
4 ABCA, have negatively impacted us and speak to
5 the Applicant's lack of regard for the rules and
6 regulations that govern individuals and
7 businesses in the District of Columbia.

8 We have had many conversations with
9 the Applicant and their counsel, including during
10 an ABCA-required mediation, and they have not
11 addressed our concerns, but rather have pursued
12 evidence to further exacerbate our issues, as
13 evidenced by the recent application for an
14 entertainment endorsement, which was denied as it
15 was explicitly prohibited by their settlement
16 agreement.

17 There is a growing body of evidence in
18 the scientific community that exposure to chronic
19 noise has lasting negative effects throughout the
20 body, increasing the risk of hypertension,
21 stroke, and heart attacks.

22 We experienced this firsthand since
23 the establishment opened adjacent to our home.
24 We are asking that the Board strictly enforce the
25 existing settlement agreement, which is in place

1 to ensure that the Applicant runs a business that
2 is appropriate and respectful of the
3 predominantly residential setting it has chosen
4 to open in so that we may live in our home with
5 peace, order, and quiet.

6 We request that the Board hold the
7 Applicant accountable to the existing settlement
8 agreement and require the removal of exterior
9 sources of amplified sound and require that
10 levels for amplified music inside the
11 establishment be at a level that results in no
12 music, noise, or vibrations from the
13 establishment be audible or felt in the abutting
14 neighbors' houses, our home at 1106 Lamont Street
15 Northwest.

16 We request that the Board require the
17 Applicant to engage a third-party professional
18 acoustical engineer to analyze and incorporate
19 noise mitigation improvements within the premises
20 to ensure that music, noise, and vibrations from
21 the establishment are not audible or felt beyond
22 the curb of the establishment or any other
23 premises at any time.

24 And finally, we request that the Board
25 amend the existing settlement agreement to make

1 us the abutting property owners a party to the
2 agreement as well.

3 Thank you, Mr. Chairman.

4 CHAIRPERSON ANDERSON: Well, we're
5 not going to make -- we're not going to make you
6 a party of the agreement because you're not a
7 party of the agreement, but what the Ward can do
8 is that we will issue a Board order and the Board
9 order will stand -- and the Board order will
10 stand along with the settlement agreement.

11 So the Board will order, if we decide
12 to make changes, the Board will issue an order to
13 say these are the terms and the conditions, and
14 it's a stronger order than a settlement.

15 But the settlement agreement, as
16 stated before, whatever decision we make today,
17 the settlement agreement will still remain, okay?
18 All right.

19 Ms. Pleitez, I move that you give that
20 supplemental report. Just tell us who you are,
21 ma'am, and how is it that you became involved in
22 this case.

23 INVESTIGATOR PLEITEZ: Hi. I am
24 Investigator Pleitez, Vanessa Pleitez, with ABRA.
25 This case was initially Investigator Christopher

1 Conden, who is no longer with the agency, then it
2 was reassigned to Kevin Pointe, who is now no
3 longer with the Agency.

4 So I received this protest a few weeks
5 ago or a week ago. So I conducted a supplemental
6 protest investigation for a renewal application
7 for Buddy's Inc, t/a as Buddy's DC, which is
8 located at 3234 11th Street Northwest.

9 Buddy's DC is a tavern license and the
10 application is being protested by abutting
11 property owners, Mr. Almeida and Mr. Nye.

12 The protest issues for all parties are
13 adverse -- or for the parties are adverse impact
14 on peace, order, and quiet, and noise from the
15 licensed establishment.

16 On July 7th, 2023, I spoke with Mr.
17 Almeida, who reiterated all of the information
18 that was provided to the former ABCA
19 investigator.

20 Mr. Almeida stated that he and the
21 owners of Buddy have not been able to come to an
22 agreement and that the protest hearing will be
23 moving forward.

24 Mr. Almeida stated that the
25 establishment has speakers located outside of the

1 establishment and he can hear the music inside of
2 his home.

3 Mr. Almeida stated that the
4 establishment has recently installed a jukebox
5 and new speaker system inside of the
6 establishment and he can feel the vibrations
7 inside of his home.

8 Mr. Almeida stated that the
9 establishment has completed illegal construction
10 and received a stop work order from the
11 Department of Buildings (DOB) which he will
12 present as evidence.

13 Mr. Almeida stated that employees of
14 the establishment constantly park their vehicles
15 in the bus zones.

16 He also stated that the establishment
17 was getting their trash picked up outside of
18 regular hours and was advised by -- that this
19 Applicant was advised by the Advisory
20 Neighborhood Commission, the ANC, that that was
21 not allowed.

22 Mr. Almeida did state that since then,
23 they have not had any issues with the trash
24 pickup but would like to note that in the report.

25 Buddy's is located in the Mixed Use 4

1 Zone. According to the zoning regulations, the
2 purpose of the Mixed-Use 4 Zone are to permit
3 moderate density mixed developments and
4 facilities for shopping and business needs,
5 housing outside of the center core of Washington,
6 D.C.

7 According to the District of
8 Columbia's GIS, there are 13 licensed ABRA
9 establishments operating within 1,200 feet of
10 Buddy's DC.

11 Out of the 13 ABRA establishments,
12 five -- ABCA establishments, I'm sorry, five have
13 settlement agreements, six have summer gardens,
14 I'm sorry, sidewalk cafes, and five have summer
15 gardens.

16 According to the District of Columbia
17 GIS system, there are no schools, public
18 libraries, or daycare centers within 400 feet of
19 the establishment.

20 According to Investigator Conden's
21 initial protest report, Buddy's DC is made of a
22 white colored brick.

23 There is a sidewalk caf, in front of
24 the establishment on 11th Street Northwest and a
25 summer garden on the side of the establishment

1 that is right at the corner of Lamont Street
2 Northwest and 11th Street Northwest.

3 The summer garden is closed in by a
4 black fence and the summer garden has two TVs and
5 a speaker inside of the summer garden.

6 Summer garden is partially covered by
7 a roof, and he stated that Buddy's DC has a
8 single bar top directly when you walk into the
9 establishment.

10 There is also seating on the side of
11 the establishment away from the bar top. There
12 is also a kitchen behind the bar top.

13 The inside has plant decorations
14 hanging from the ceiling.

15 So, Buddy's DC has a carryout and
16 delivery endorsement, sidewalk care endorsement,
17 and summer garden endorsement.

18 Buddy's DC's current hours of
19 operation are 6 a.m. to 1 a.m. Sunday through
20 Thursday and 6 a.m. to 2 a.m. Fridays and
21 Saturdays.

22 Buddy's alcoholic beverage sales,
23 service, and consumption are 11 a.m. to 1 a.m.
24 Sunday through Thursday and 11 a.m. to 2 a.m.
25 Fridays and Saturdays.

1 The establishment was monitored 10
2 times from March 15th to March 26th, 2023, by
3 Investigator Conden, and an additional 10 times
4 by ABCA Investigators from May 19th to July 1st,
5 2023.

6 There was no ABCA violations observed
7 during those periods.

8 CHAIRPERSON ANDERSON: Can you go
9 through -- you're saying it was monitored 20
10 times, so I need you to --

11 INVESTIGATOR PLEITEZ: Since March.

12 CHAIRPERSON ANDERSON: I need you to
13 go through each time that it was monitored and
14 tell us what it is, day, the time, and what was
15 observed.

16 INVESTIGATOR PLEITEZ: I can do that.
17 Okay, so it says Wednesday, March 15, 2023, from
18 4:45 p.m. to 4:55 p.m., no ABRA violations found.

19 ABRA Investigator Erin Peterson
20 monitored the establishment. No noise emanating
21 outside of the establishment were observed.

22 Thursday, March 16, 2023, 8:20 p.m. to
23 8:35 p.m. Regulatory inspection was conducted.
24 Photographs taken all around the entire
25 establishment.

1 No noise heard out front of the
2 establishment. Patio doors to the side of summer
3 garden was open.

4 Investigator Conden advised Mr. Mason
5 to close the patio door to the summer garden at
6 10 p.m.

7 Mr. Mason agreed. No music or TV
8 noise was occurring in the summer garden. The
9 summer garden has two TVs and one speaker.

10 The sidewalk caf, has no speakers or
11 TVs. The inside of the establishment has three
12 TVs and a projector and four speakers.

13 Two speakers are for the jukebox and
14 two speakers are for the TV.

15 The kitchen wall is shared with the
16 abutting property owner. The abutting property's
17 first floor is sharing a wall with the
18 establishment.

19 Then it says, Thursday, March 16,
20 2023, 10:51 p.m. to 10:57 p.m., no ABRA
21 violations found.

22 No music, TV, noise observed emanating
23 outside of the establishment. Photographs of the
24 parking signs in the vicinity of the
25 establishment were taken.

1 Then it says Friday, March 17, 2023,
2 11:10 to 11:20 p.m., no ABRA violations found.
3 No music, TV, noise of observed emanating outside
4 of the establishment.

5 Patron voices heard from the summer
6 garden.

7 So, Saturday, March 18, 2023, 10:33
8 p.m. to 10:40 p.m., no ABRA violations found. No
9 music, TV, noise observed emanating outside of
10 the establishment.

11 Approximately five patrons outside on
12 the summer garden. The two TVs in the summer
13 garden were on but no volume was on.

14 The speakers on the summer garden were
15 off.

16 Monday, March 20, 2023, 11 p.m. to
17 11:15 p.m., no ABRA violations found.
18 Establishment was closed.

19 Wednesday, March 22nd, 2023, 10 p.m.
20 to 10:20 p.m., no ABRA violations found.
21 Approximately 10 patrons inside of the
22 establishment.

23 No patrons on the summer garden or
24 sidewalk caf,. No noise emanating from the
25 establishment.

1 Saturday, March 25th, 2023, 12:15 to
2 12:30 p.m., no ABRA violations found. Parking
3 available.

4 No loitering or loud music observed.
5 ABRA Investigator Kevin Pointe monitored.

6 Sunday, March 26th, 2023, 12:00 a.m.
7 to 12:15 a.m., noise complaint made to the ABRA
8 hotline.

9 ABRA Investigator Kevin Pointe
10 responded to the establishment. No ABRA
11 violations found.

12 Sunday, March 26th, 2023, 7:41 to 7:55
13 p.m., no ABRA violations found. Approximately
14 five patrons outside on the summer garden.

15 No noise observed emanating from the
16 establishment.

17 Friday, May 19, 2023, 10 p.m. to
18 10:45, no ABRA violations/ABCA violations, no
19 loud noise, no loitering, no parking issues, no
20 trash concerns.

21 Saturday, May 20th, 2023, 11:30 to
22 11:45, no ABCA violations, no loud noise, no
23 loitering, no parking issues, no trash concerns.

24 Monday, May 22nd, 2023, 3 p.m. to
25 3:15, no ABRA violations, no loud noise, no

1 loitering, no parking issues, no trash concerns.

2 Tuesday, May 23rd, 2023, 3:15 p.m. to
3 3:45 p.m., again, no ABCA violations, no loud
4 noise, no loitering, no parking issues, no trash
5 concerns.

6 Wednesday, May 24, 2023, 3:45 p.m. to
7 4 p.m., no ABCA violations, no loitering, no
8 noise, no parking, and no trash issues.

9 Friday, June 2nd, 2023, 9 p.m. to 9:15
10 p.m., no ABCA violations found.

11 Saturday, June 3rd, 2023, 10:45 p.m.
12 to 11 p.m., again, no ABCA violations, no loud
13 noise, no loitering, no parking issues, no trash
14 concerns.

15 Thursday, June 22nd, 2023, 10:55 a.m.
16 to 11:15 a.m., no ABRA violations found, no loud
17 noise, no loitering, no parking issues, no trash
18 issues observed.

19 And then Friday, June 30th, 2023,
20 11:10 p.m. to 11:50 p.m., no ABRA violations, no
21 loud noise, no loitering, no parking issues, no
22 trash issues observed.

23 And finally, Saturday, July 1st, 2023,
24 7:15 p.m. to 7:35 p.m., no ABCA violations, no
25 loud noise, no loitering, no parking issues, and

1 no trash issues observed.

2 CHAIRPERSON ANDERSON: You can
3 resume.

4 INVESTIGATOR PLEITEZ: Okay. So,
5 according to the initial protest report, the area
6 surrounding Buddy's DC is served by the 52, 54,
7 59, 63, 64, 70, H2, H4, and H8 bus routes and
8 limited residential parking, permit parking from
9 7 a.m. to 8:30 p.m. on 11th Street Northwest
10 directly in front of the establishment on both
11 sides, and 11th Street Northwest.

12 The block in front of the
13 establishment on 11th Street Northwest is
14 primarily residential only parking during weekday
15 business hours.

16 The side street on Lamont Street
17 Northwest is limited to residential permit
18 parking from 7 a.m. to 7:30 p.m.

19 Further north on 11th Street Northwest
20 is limited to our parking for non-residential
21 parking.

22 According to the initial protest
23 report, the DC Office of Unified Communications
24 confirmed that there were five calls for service
25 between March 15, 2022, and March 21, 2023.

1 As of this day, OUC has not provided
2 an updated calls for service request. So as of
3 right now, there have been five calls, like I
4 said, from March 15, 2022, to March 21, 2023.

5 I conducted an ABCA records check and
6 requested updated information for noise
7 complaints from supervisory investigators and was
8 advised that Buddy's DC has one unsubstantiated
9 noise complaint and no ABCA violations since its
10 opening in 2022.

11 CHAIRPERSON ANDERSON: That's it?

12 INVESTIGATOR PLEITEZ: Yes.

13 CHAIRPERSON ANDERSON: Let me ask you
14 something. Are you familiar with, my mind just
15 slipped, the establishment, Johnny's All
16 American? Are you familiar with that
17 establishment?

18 INVESTIGATOR PLEITEZ: I am not, but
19 I do have the license.

20 CHAIRPERSON ANDERSON: I'm just
21 curious what that -- because I see that's not on
22 the same block. It's on the 3200 block of --
23 3226 11th Street Northwest.

24 I'm just trying to figure out what
25 type of establishment is that? What type of

1 endorsements if any does that establishment have?

2 INVESTIGATOR PLEITEZ: You said
3 Johnny's?

4 CHAIRPERSON ANDERSON: Yes, Johnny's.
5 Yes.

6 INVESTIGATOR PLEITEZ: Okay, so
7 Johnny's All American has carry out and delivery,
8 holiday extensions, and side walk caf,
9 endorsement.

10 CHAIRPERSON ANDERSON: Do you know
11 what are their hours?

12 INVESTIGATOR PLEITEZ: Yes, their
13 hours of operation are 7 a.m. to 2 a.m. Sunday
14 through Saturday, so seven days a week.

15 And their sales, service, and
16 consumption hours are 9 a.m. to 2 a.m. seven days
17 a week.

18 I'm sorry, their side walk caf, hours
19 for operation and sales are 10 a.m. to 11 p.m.
20 Sunday through Thursday and 10 a.m. to 12 a.m.
21 Fridays and Saturdays.

22 CHAIRPERSON ANDERSON: Can you tell
23 us, tell me about just the location. Did you
24 tell me what type of zone this was?

25 INVESTIGATOR PLEITEZ: Yes, it's a

1 Mixed-Use 4 Zone.

2 CHAIRPERSON ANDERSON: Okay.

3 INVESTIGATOR PLEITEZ: Primarily
4 residential, but they do have a few
5 establishments within the 400 feet radius.

6 CHAIRPERSON ANDERSON: Okay.

7 INVESTIGATOR PLEITEZ: It's 13
8 establishments within 1,200 feet of the
9 establishment.

10 CHAIRPERSON ANDERSON: I will keep
11 looking to see if I can find the placard notice
12 to see what it is that was being requested from
13 this.

14 INVESTIGATOR PLEITEZ: I'm sorry?

15 CHAIRPERSON ANDERSON: No, I said I
16 was looking to see if I found the placard notice
17 to see what was placarded. Do you have that?

18 INVESTIGATOR PLEITEZ: I don't. I can
19 try to retrieve it.

20 CHAIRPERSON ANDERSON: No, that's --

21 INVESTIGATOR PLEITEZ: If you'd like
22 me to.

23 CHAIRPERSON ANDERSON: No. Any other
24 questions by any Board members? Go ahead, Mr.
25 Grandis.

1 MEMBER GRANDIS: Thank you.

2 Investigator, thank you for a very thorough
3 reporting. You've had a long day with us, so we
4 appreciate you being staying awake as we have,
5 too, so thank you.

6 In the report you submitted, were
7 there any photographs?

8 INVESTIGATOR PLEITEZ: So in the
9 initial protest report, there were. My
10 supplemental report did not include any
11 additional photos other than an updated 1,200 map
12 because the one that was in the previous report
13 was incorrect.

14 It stated that there were only four
15 establishments within 1,200 feet. But it was
16 actually -- I don't know what occurred, but the
17 map was actually 400 feet versus the 1,200 feet,
18 so it made a difference.

19 MEMBER GRANDIS: Yes.

20 INVESTIGATOR PLEITEZ: In 1,200 feet,
21 like I said, there's 13 establishments.

22 MEMBER GRANDIS: The photographs that
23 you're mentioning are part of the investigative
24 report?

25 INVESTIGATOR PLEITEZ: The initial --

1 MEMBER GRANDIS: Yes.

2 INVESTIGATOR PLEITEZ: By the initial
3 investigator.

4 MEMBER GRANDIS: Can you show us those
5 photographs?

6 INVESTIGATOR PLEITEZ: Yes.

7 MEMBER GRANDIS: Thank you.

8 CHAIRPERSON ANDERSON: Mr. Orellana,
9 can you please allow Ms. Pleitez to share her
10 screen?

11 MR. ORELLANA: Access has been
12 granted.

13 CHAIRPERSON ANDERSON: Thank you.

14 INVESTIGATOR PLEITEZ: Okay, can you
15 see it?

16 CHAIRPERSON ANDERSON: Yes.

17 INVESTIGATOR PLEITEZ: Yes? Okay. So
18 this is Exhibit 1.

19 (Whereupon, the document referred to
20 was marked as Exhibit 1 for identification.)

21 One second. So Exhibit 1 is a copy of
22 the protest letter from the abutting property
23 owner.

24 Exhibit 2 is the copy of the zoning
25 information related to the establishment, Mixed-

1 Use 4.

2 (Whereupon, the document referred to
3 was marked as Exhibit 2 for identification.)

4 MEMBER GRANDIS: Is the establishment
5 in this photo?

6 INVESTIGATOR PLEITEZ: No.

7 MEMBER GRANDIS: Oh, okay.

8 INVESTIGATOR PLEITEZ: No, this is
9 just the zoning.

10 MEMBER GRANDIS: Okay.

11 INVESTIGATOR PLEITEZ: Yes.

12 MEMBER GRANDIS: It's a
13 representation, right?

14 INVESTIGATOR PLEITEZ: Yes. It says
15 GIS information related to 1,200 feet, which this
16 is actually 400 feet of the establishment.

17 (Whereupon, the document referred to
18 was marked as Exhibit 3 for identification.)

19 MEMBER GRANDIS: So before you move
20 away from that one, what is that green line
21 pointing to?

22 INVESTIGATOR PLEITEZ: This one? It's
23 just telling you that that's where the
24 establishment is located.

25 MEMBER GRANDIS: So the establishment,

1 okay, and where would the abutting property owner
2 be?

3 INVESTIGATOR PLEITEZ: They would be
4 right here, this strip.

5 MEMBER GRANDIS: Okay, along what
6 street is that?

7 INVESTIGATOR PLEITEZ: This is Lamont.

8 MEMBER GRANDIS: So along Lamont is
9 the abutting property owner's building?

10 INVESTIGATOR PLEITEZ: Yes.

11 MEMBER GRANDIS: Okay, thank you. You
12 can go forward.

13 INVESTIGATOR PLEITEZ: Okay. Exhibit
14 4 is parking signs.

15 (Whereupon, the document referred to
16 was marked as Exhibit 4 for identification.)

17 Exhibit 5 is parking signs.

18 (Whereupon, the document referred to
19 was marked as Exhibit 5 for identification.)

20 Exhibit 6, parking signs.

21 (Whereupon, the document referred to
22 was marked as Exhibit 6 for identification.)

23 This is Exhibit 7, which is the 400
24 feet for schools, libraries, daycare centers,
25 public charter schools, which you can see there

1 is none.

2 (Whereupon, the document referred to
3 was marked as Exhibit 7 for identification.)

4 So, okay, Exhibit 8 says photo of 11th
5 Street facing north, establishment is located
6 towards the left of the image.

7 (Whereupon, the document referred to
8 was marked as Exhibit 8 for identification.)

9 Let's see if I can turn it. There you
10 go.

11 MEMBER GRANDIS: Once again, the stop
12 sign is at the corner of 11th and Lamont?

13 INVESTIGATOR PLEITEZ: Yes, I think
14 the establishment is here.

15 MEMBER GRANDIS: Where is your little
16 cursor thing?

17 INVESTIGATOR PLEITEZ: Yes, it's not
18 in the picture.

19 MEMBER GRANDIS: Okay. Okay. Thank
20 you.

21 INVESTIGATOR PLEITEZ: Yes. This
22 right here, Exhibit 9, it says photo of 11th
23 Street facing south, establishment is located
24 towards the right side of the image.

25 (Whereupon, the document referred to

1 was marked as Exhibit 9 for identification.)

2 So it would be here.

3 MEMBER GRANDIS: Okay.

4 INVESTIGATOR PLEITEZ: But this is
5 further down the block. This right here --

6 MEMBER GRANDIS: Yes?

7 INVESTIGATOR PLEITEZ: -- is Johnny's,
8 I believe.

9 MEMBER GRANDIS: Okay.

10 INVESTIGATOR PLEITEZ: Yes.

11 MEMBER GRANDIS: Okay, we can go on,
12 yes.

13 INVESTIGATOR PLEITEZ: Exhibit 10 is
14 photos facing west on Lamont Street Northwest.

15 (Whereupon, the document referred to
16 was marked as Exhibit 10 for identification.)

17 MEMBER GRANDIS: Okay, so, and this
18 photograph is --

19 INVESTIGATOR PLEITEZ: It's the
20 establishment.

21 MEMBER GRANDIS: Okay, and where would
22 the abutting building be?

23 INVESTIGATOR PLEITEZ: Right here.

24 MEMBER GRANDIS: And there's nothing,
25 we're just saying the walls of each building are

1 touching each other, there's no walkway?

2 INVESTIGATOR PLEITEZ: Correct.

3 MEMBER GRANDIS: Okay. Thank you.

4 INVESTIGATOR PLEITEZ: Okay. This is
5 photos facing east on Lamont Street, which I
6 believe is the opposite, the other side of the
7 street.

8 (Whereupon, the document referred to
9 was marked as Exhibit 11 for identification.)

10 This right here is photos showing the
11 abutting property that shares the same wall as
12 the establishment.

13 (Whereupon, the document referred to
14 was marked as Exhibit 12 for identification.)

15 So that's their home.

16 MEMBER GRANDIS: And where would the
17 establishment be?

18 INVESTIGATOR PLEITEZ: Right here.

19 MEMBER GRANDIS: Okay.

20 INVESTIGATOR PLEITEZ: Okay. 13,
21 that's the abutting property, their home.

22 (Whereupon, the document referred to
23 was marked as Exhibit 13 for identification.)

24 MEMBER GRANDIS: Okay.

25 INVESTIGATOR PLEITEZ: Okay, let's

1 see, 14 says photos of the summer garden of the
2 establishment on 11th Street Northwest.

3 (Whereupon, the document referred to
4 was marked as Exhibit 14 for identification.)

5 15 is photos of the front of the
6 establishment on 11th Street.

7 (Whereupon, the document referred to
8 was marked as Exhibit 15 for identification.)

9 MEMBER GRANDIS: And where was Lamont
10 beyond that?

11 INVESTIGATOR PLEITEZ: It would be on
12 this side.

13 MEMBER GRANDIS: On the right side?

14 INVESTIGATOR PLEITEZ: Past the summer
15 garden.

16 MEMBER GRANDIS: Yes.

17 INVESTIGATOR PLEITEZ: I mean, yes,
18 that's the summer garden. Okay, so 16, this is
19 the inside of the establishment, which is kind of
20 dark.

21 (Whereupon, the document referred to
22 was marked as Exhibit 16 for identification.)

23 17 is photos of the summer garden,
24 which this is Lamont Street right here.

25 (Whereupon, the document referred to

1 was marked as Exhibit 17 for identification.)

2 And then this would have been 11th.

3 MEMBER GRANDIS: And where would, once
4 again, where would the abutting property be?

5 INVESTIGATOR PLEITEZ: Beside this.

6 MEMBER GRANDIS: So that dark area is
7 a wall?

8 INVESTIGATOR PLEITEZ: Let me see. It
9 looks like it's a fence here.

10 MEMBER GRANDIS: Okay.

11 INVESTIGATOR PLEITEZ: All right. So
12 this is Exhibit 18.

13 (Whereupon, the document referred to
14 was marked as Exhibit 18 for identification.)

15 This is where the trash area is,
16 directly beside the summer garden.

17 MEMBER GRANDIS: Does that trash, does
18 that abut the property owners? Or was that a
19 different area? If you don't know, that's fine.

20 INVESTIGATOR PLEITEZ: I'm not sure.

21 MEMBER GRANDIS: Okay.

22 INVESTIGATOR PLEITEZ: I'm not sure.

23 Okay, so Exhibit 19, this is a photo of the
24 kitchen.

25 (Whereupon, the document referred to

1 was marked as Exhibit 19 for identification.)

2 20, this is the calls for service
3 received from OUC.

4 (Whereupon, the document referred to
5 was marked as Exhibit 20 for identification.)

6 And this is the settlement agreement,
7 Exhibit 21.

8 (Whereupon, the document referred to
9 was marked as Exhibit 21 for identification.)

10 MEMBER GRANDIS: So let me ask you,
11 and I know you inherited this particular protest.
12 When you went inside, could you on any picture
13 show us where speakers are?

14 INVESTIGATOR PLEITEZ: Not in any of
15 the pictures.

16 MEMBER GRANDIS: Okay, and did you
17 observe any of this -- did you observe speakers
18 inside the property?

19 INVESTIGATOR PLEITEZ: Well, because
20 of the turnaround of this case, my supplemental
21 case report, I did not go inside of the
22 establishment.

23 MEMBER GRANDIS: Okay. So, okay. And
24 on the outsider, on either side of the summer
25 garden or the side walk caf,, I believe the side

1 walk caf, would actually be closer to the
2 abutting property, is that --

3 INVESTIGATOR PLEITEZ: Yes, the summer
4 garden.

5 MEMBER GRANDIS: Yes, did you notice
6 any speakers in that location?

7 INVESTIGATOR PLEITEZ: When I went to
8 the establishment, the summer garden was closed.
9 I did not see any speakers, but according to
10 Investigator Conden's report, there are two TVs
11 and a speaker -- hold on one second.

12 It says the summer garden is closed in
13 by a black fence and the summer garden has two
14 TVs and a speaker inside of it.

15 MEMBER GRANDIS: Okay, so I think you
16 can close this because I'd like to then turn your
17 attention to the settlement agreement.

18 Can you pull that up? You don't have
19 to show it to me. Can you get to it, though, for
20 yourself?

21 INVESTIGATOR PLEITEZ: Yes.

22 MEMBER GRANDIS: Okay. Are you there?

23 INVESTIGATOR PLEITEZ: Yes.

24 MEMBER GRANDIS: Back then it was
25 called voluntary. Okay, I'm looking at number

1 one, noise suppression. Can you read the first
2 sentence of that for us?

3 INVESTIGATOR PLEITEZ: Yes. Noise
4 suppression. There shall be no loud -- there
5 shall be no loud or live music performed in the
6 establishment or played or performed on the patio
7 or summer garden and/or sidewalk caf,.

8 MEMBER GRANDIS: Okay, thank you.

9 INVESTIGATOR PLEITEZ: The sound --

10 MEMBER GRANDIS: Yes, thank you. So
11 when it says or played or performed on the patio
12 of summer garden and/or on sidewalk caf,, it
13 would seem like to me that there would be no
14 speakers in those areas.

15 INVESTIGATOR PLEITEZ: I'm not sure.
16 What it says is --

17 MEMBER GRANDIS: Played or performed.

18 INVESTIGATOR PLEITEZ: No, it says
19 there shall be no loud --

20 MEMBER GRANDIS: Yes.

21 INVESTIGATOR PLEITEZ: -- or live
22 music performed.

23 MEMBER GRANDIS: Performed on patio.

24 INVESTIGATOR PLEITEZ: It doesn't say
25 anything about played.

1 MEMBER GRANDIS: Where the speakers
2 are. Okay. Okay, so, then read the second
3 sentencing.

4 INVESTIGATOR PLEITEZ: Sound emanating
5 from any part of the establishment shall not be
6 audible in residential structures in the vicinity
7 or on the sidewalk across the street from and
8 adjacent to the establishment on 11th and Lamont
9 Street.

10 MEMBER GRANDIS: Okay, so, when the
11 protest was filed and the documents that you
12 received, were there any protests regarding sound
13 in the abutting property?

14 Is that one of the complaints of this
15 protest?

16 INVESTIGATOR PLEITEZ: Yes. Yes, that
17 is what Mr. Almeida stated.

18 MEMBER GRANDIS: Okay, so, in your
19 listing of the 20 visits, I may have missed it,
20 but did any of the visits go to the Protestant's
21 property and determine whether sound was being
22 audible in the residential structure?

23 INVESTIGATOR PLEITEZ: There was one.
24 Give me one second. So it says on Sunday, March
25 26, 2023, 12 midnight to 12:15, it says noise

1 complaint made to ABRA Hotline.

2 ABRA Investigator Kevin Pointe
3 responded to the establishment. No ABRA
4 violations found.

5 In reference to this specific date, I
6 was not -- I'm not sure if he went inside the
7 home or if he was allowed to go inside the home
8 or not.

9 MEMBER GRANDIS: Right, but --

10 INVESTIGATOR PLEITEZ: But he
11 contacted them.

12 MEMBER GRANDIS: Right. But that's
13 not in there, but what it does say, there is no -
14 -

15 INVESTIGATOR PLEITEZ: ABRA violation.

16 MEMBER GRANDIS: -- ABRA violation
17 when he was inside the establishment.

18 INVESTIGATOR PLEITEZ: Correct.

19 MEMBER GRANDIS: So we really don't
20 have any information from the investigators
21 regarding or not contacting the Protestants
22 specifically about noise in their apartment.

23 INVESTIGATOR PLEITEZ: Correct.

24 MEMBER GRANDIS: Okay. Thank you.

25 Okay, there's a sentence that starts with

1 Applicant will encourage. Can you read that
2 sentence for us, please?

3 INVESTIGATOR PLEITEZ: In the same
4 paragraph?

5 MEMBER GRANDIS: Yes, ma'am. Lower
6 down.

7 INVESTIGATOR PLEITEZ: Applicants will
8 encourage employees and patrons by posting signs
9 or other printed notation to be -- I'm sorry,
10 it's really blurry -- to be considerate of
11 residents in the neighborhood after departing the
12 establishment by keeping conversation and other
13 noises at a level that will not disturb the
14 peace, order, and quiet, and I want to say that
15 word is tranquility of --

16 MEMBER GRANDIS: It is.

17 INVESTIGATOR PLEITEZ: -- it's stamped
18 right there --

19 MEMBER GRANDIS: You did it, yes.

20 INVESTIGATOR PLEITEZ: -- residents in
21 the enjoyment of their homes or generate a noise
22 complaint.

23 MEMBER GRANDIS: So in any of the
24 investigative reports, and including your visits,
25 did you see any signs posted such as being

1 requested here?

2 INVESTIGATOR PLEITEZ: Like I stated,
3 when I went, the summer garden was closed and I
4 did not enter the establishment, and there's
5 nothing noted from the prior investigators.

6 So, I don't feel comfortable answering
7 that question for sure.

8 MEMBER GRANDIS: You don't know?

9 INVESTIGATOR PLEITEZ: I don't know.

10 MEMBER GRANDIS: But it is part of the
11 -- it is part of the voluntary agreement?

12 INVESTIGATOR PLEITEZ: Yes.

13 MEMBER GRANDIS: Okay, thank you. Mr.
14 Chairman, I have no more questions. And thank
15 you, Investigator.

16 INVESTIGATOR PLEITEZ: You're welcome.

17 CHAIRPERSON ANDERSON: Any other
18 questions by any of the Board members? All
19 right, hearing none, Mr. Morris?

20 MR. MORRIS: Chairman, thank you,
21 Investigator Pleitez.

22 Just a few questions, some which will
23 be clarifying in nature, if you'll indulge me.

24 You testified that Investigator Conden
25 and other members of ABCA staff visited the

1 establishment over 20 times over the course of
2 several weeks in March of 2023 and then May
3 through July of this year, is that right?

4 INVESTIGATOR PLEITEZ: Correct.

5 MR. MORRIS: Okay, thank you. Did you
6 at any time conduct any visits to the
7 establishment?

8 INVESTIGATOR PLEITEZ: I went to the
9 establishment twice.

10 MR. MORRIS: Okay. And do you recall
11 what hours of the day those visits were that you
12 went?

13 INVESTIGATOR PLEITEZ: Because of the
14 nature of the timing when I received it, I went
15 during the day.

16 I went, I can tell you right now, give
17 me a second. So I went on Thursday, June 22nd,
18 2023, at 10:55 to 11:15, and then the second
19 time, I went on I want to say, no, it wasn't that
20 date, oh, it was this one, Tuesday, May 23rd,
21 2023, 3:15 to 3:45 p.m.

22 So it was during the day.

23 MR. MORRIS: Thank you. I just wanted
24 just to clarify exactly when you were there.

25 INVESTIGATOR PLEITEZ: So the other

1 visits were from the investigator who had it
2 prior to me, but after the initial person that
3 generated this report, which was Kevin Pointe.

4 MR. MORRIS: Okay. Thank you. And
5 although you visited during the day, several of
6 the visits made to the establishment, several of
7 those 20 visits, were during late night and
8 weekend hours, correct?

9 INVESTIGATOR PLEITEZ: Yes, I want to
10 say that mostly around nighttime.

11 MR. MORRIS: Okay, and at no point at
12 any of those visits, even during late night
13 hours, there were any substantiated claims of
14 loud noise emanating from the summer garden or
15 the establishment itself, right?

16 INVESTIGATOR PLEITEZ: Correct.

17 MR. MORRIS: Okay. And when these
18 ABCA visits occur, neither the licensee or the
19 staff is given any advanced notice that someone
20 might be coming, are they?

21 INVESTIGATOR PLEITEZ: No.

22 MR. MORRIS: Okay. I think you also
23 mentioned that there were five calls for service.

24 Are those, when you say calls for
25 service, is that a complaint that comes into ABCA

1 regarding some issue?

2 INVESTIGATOR PLEITEZ: No, that's the
3 Office of Unified Communications. So it's
4 basically when they call the police, when the
5 police is called, or when they call 3-1-1.

6 MR. MORRIS: Understood. Okay. And
7 would those five calls for service have been
8 included in these 20 investigative visits?

9 INVESTIGATOR PLEITEZ: No.

10 MR. MORRIS: Would they have been
11 additional?

12 INVESTIGATOR PLEITEZ: Because the
13 dates on the -- it's Exhibit 20 if you guys want
14 to look at it.

15 The dates are August 8, 2022, August
16 26, 2022, November 7, 2022, November 19, 2022,
17 and then January 22, 2023.

18 The visits were made in March and in
19 May and July, I'm sorry, May and June of 2023.
20 So all these calls were prior to this.

21 But like I said, I requested updated
22 calls for service, and they have not submitted it
23 to me.

24 MR. MORRIS: Okay. Those five calls
25 for service all pre-dated the protests and were

1 separate and apart from the visits of record and
2 the protest reports.

3 INVESTIGATOR PLEITEZ: Yes, these were
4 MPD calls.

5 MR. MORRIS: Okay, and none of those
6 --

7 INVESTIGATOR PLEITEZ: If you look --

8 MR. MORRIS: Go ahead, sorry. My
9 fault.

10 INVESTIGATOR PLEITEZ: It's okay. No,
11 I was just saying, if you look at the exhibit, it
12 says Agency, and it says MPD.

13 MR. MORRIS: Okay. And just to
14 clarify, none of those calls for service resulted
15 in a violation of any DC law?

16 INVESTIGATOR PLEITEZ: Not that I'm
17 aware of.

18 MR. MORRIS: Okay. All right. So
19 for, in addition to those 20 visits from ABCA
20 staff, there were five calls for service to MPD
21 and with respect to all those visits, there's
22 never been a substantiated noise violation or any
23 ABCA violation at all?

24 INVESTIGATOR PLEITEZ: No.

25 MR. MORRIS: Okay. Now, in these,

1 when the investigative reports, when it says that
2 there were no ABCA violations, that would include
3 a violation of the settlement agreement, wouldn't
4 it?

5 INVESTIGATOR PLEITEZ: Any ABCA
6 violation.

7 MR. MORRIS: Okay. So we just talked
8 a little bit about the noise suppression
9 provisions in the settlement agreement, and it
10 says, as you read into the record, that there
11 shall be no loud or live music performed in the
12 establishment or performed on the patio.

13 So, presumably, at no point during any
14 of those 20 compliance visits was any loud or
15 live music being played on the summer garden. Is
16 that a fair conclusion?

17 INVESTIGATOR PLEITEZ: Well, according
18 to the report, there was no violations found in
19 every visit.

20 MR. MORRIS: Okay, thank you. So if
21 there were loud or live music being played on the
22 summer garden, would you agree that that is
23 already embodied in the existing settlement
24 agreement and would lead to a violation?

25 INVESTIGATOR PLEITEZ: Correct,

1 especially because the settlement agreement
2 states that, it says sound emanating from any
3 part of the establishment shall not be audible in
4 residential structures or in the vicinity, on the
5 sidewalk, across the street from and adjacent to
6 the establishment on 11th Street and Lamont
7 Street.

8 So, if I were to drive by and I can
9 hear the music across the street, it would be
10 technically a settlement agreement violation.

11 The two times that I visited the
12 establishment, the summer garden and sidewalk
13 caf, were not operating.

14 MR. MORRIS: Okay. But other of these
15 20 visits, it was open and operating and no
16 violation was found, is that right?

17 INVESTIGATOR PLEITEZ: According to
18 the report, correct.

19 MR. MORRIS: Thank you. If you'll
20 just give me some, just my indulgence just for a
21 moment.

22 And pre-dating the protest, also, I
23 believe, I just, again, point of clarification,
24 since Buddy's began operating, there have been no
25 other violations or substantiated complaints

1 regarding the method and mode of their
2 operations, is that right?

3 INVESTIGATOR PLEITEZ: Correct.

4 MR. MORRIS: Okay. I don't believe I
5 have any more questions, but if I could just
6 review my notes one moment.

7 CHAIRPERSON ANDERSON: Sure.

8 MR. MORRIS: Thank you. I don't have
9 any other questions for the investigator.

10 CHAIRPERSON ANDERSON: Mr. Almeida?

11 MR. ALMEIDA: Thank you, Mr. Chairman.
12 Would I be able to share my screen to share a
13 video and ask Inspector Pleitez a question?

14 CHAIRPERSON ANDERSON: All right.
15 All right. Mr. Orellana, can you allow Mr.
16 Almeida to share his screen, please?

17 MR. ALMEIDA: Thank you. Okay. So,
18 I will start by asking just a couple questions
19 before I share the video.

20 Inspector Pleitez, could you explain
21 to me why there's no mention of my email complain
22 that I submitted as Exhibit F1 to the Complaint
23 email address for ABCA?

24 CHAIRPERSON ANDERSON: Well, I think
25 you need to be specific in asking her what

1 consists of F1. Nothing is in the record, so you
2 have to, in asking the question, be specific what
3 it is that you are asking her about, because no
4 documents have been moved into evidence, okay?

5 MR. ALMEIDA: I appreciate that.
6 Thank you. Okay, let me open it up. Okay. So,
7 Exhibit F1 that I'm showing here on my screen is
8 a chain of emails that have been submitted as an
9 exhibit where there's a complaint on April 3rd
10 that I submitted at 11:39 p.m. showing that the
11 patio was open 49 minutes past the allowable
12 time, and that includes images and also a video
13 from my front porch security camera.

14 (Whereupon, the document referred to
15 was marked as Protestant's Exhibit F1 for
16 identification.)

17 And there's no mention of that in the
18 report. Can you explain why that is the case?

19 INVESTIGATOR PLEITEZ: As an
20 investigator, I rely on the information that was
21 provided to me by the supervisor that is in
22 charge of keeping the record.

23 And that was not included when I
24 requested it. Therefore, I noted what was
25 provided to me.

1 MR. ALMEIDA: Okay. I would like to
2 enter this into evidence, if that's possible.

3 CHAIRPERSON ANDERSON: Hold on. Mr.
4 Morris, any objection?

5 MR. MORRIS: No objection.

6 CHAIRPERSON ANDERSON: So this is
7 Exhibit what, sir? What exhibit is this, sir?

8 MR. ALMEIDA: F1.

9 CHAIRPERSON ANDERSON: So Exhibit F1,
10 so Protestant's Exhibit F1 has been moved into
11 evidence.

12 (Whereupon, the document previously
13 marked as Protestant's Exhibit F1 for
14 identification was received into evidence.)

15 MR. ALMEIDA: Okay. My next question,
16 I will be sharing an exhibit, Exhibit G, which I
17 submitted.

18 (Whereupon, the document referred to
19 was marked as Protestant's Exhibit G for
20 identification.)

21 And it is a video that I took from
22 inside my home on April 13th, which was the same
23 day that I filed another complaint and had
24 Inspector Ruiz come into my home, which was the
25 first and only time I was able to get an ABRA

1 inspector inside my house to substantiate a
2 complaint.

3 So I'll be sharing a video of the
4 sound from the patio being heard inside my home.
5 And the question to Inspector Pleitez is why
6 that's not mentioned in the report here.

7 (VIDEO PLAYS)

8 MR. ALMEIDA: And I won't --

9 CHAIRPERSON ANDERSON: I'm not
10 hearing anything, so I'm not sure what is it that
11 you're asking us to listen to.

12 MR. ALMEIDA: So you have to turn your
13 volume up to hear it, but what's audible in this
14 video when I shared it with -- I'll replay it,
15 sorry, since I'm talking, I shared it with
16 Inspector Ruiz when he came to my house, is you
17 can hear, in addition to the sound of people's
18 voices, the sound of background music coming from
19 the speakers in Buddy's patio.

20 And I don't understand why there's no
21 mention of this entire interaction that I had
22 with Inspector Ruiz where he confirmed to me that
23 this was a violation, but then nothing shows on
24 any record that that was the case.

25 So, I can play it again if you all

1 don't mind turning the --

2 CHAIRPERSON ANDERSON: I mean, did
3 anyone hear -- I didn't hear anything so that's
4 what I'm just -- my volume is now at 100, so why
5 don't you -- yes, because I didn't hear nothing.

6 MR. ALMEIDA: Okay.

7 (VIDEO PLAYED.)

8 MR. ALMEIDA: Okay, and I would like
9 to enter that into evidence as well, please,
10 Exhibit G.

11 CHAIRPERSON ANDERSON: Mr. Morris?

12 MR. MORRIS: No objections.

13 CHAIRPERSON ANDERSON: Mr. Almeida,
14 what exhibit is this?

15 MR. ALMEIDA: Exhibit G.

16 CHAIRPERSON ANDERSON: Okay.

17 MR. ALMEIDA: Inspector Pleitez, I'm
18 sorry, I didn't give you a chance to answer the
19 question as to why that was not in the record.

20 INVESTIGATOR PLEITEZ: So, I guess my
21 first question, can I ask you a question? SO did
22 you show him the video or was the music on and
23 audible in your house when you arrived at your
24 home?

25 MR. ALMEIDA: It was both. So he

1 heard it in person and I showed him the video,
2 because at the time that I filed the complaint,
3 the volume was even louder than it was when he
4 came to the house.

5 INVESTIGATOR PLEITEZ: Okay.

6 MR. ALMEIDA: And he did say that
7 iPhones are not intended to be recording devices.
8 They tend to suppress background noise, so if I
9 captured it on my iPhone, that it was, in fact,
10 loud.

11 INVESTIGATOR PLEITEZ: Okay. So, as
12 an ABRA investigator, I cannot, like, if it was
13 me and I went to your home, I would not be able
14 to substantiate a noise complaint based on a
15 video that you recorded.

16 I would have to witness it myself.
17 And to answer your question, I'm not Investigator
18 Ruiz.

19 I have not spoken to him, so I cannot
20 answer that question in reference to why it's not
21 in my report.

22 I checked ABRA records and as of this
23 time, there's no ABRA violations noted in the
24 history.

25 MR. ALMEIDA: Okay. I will stop

1 sharing my screen. I have a few questions.
2 Okay. In your visit to the establishment, did
3 you verify if the Applicant was complying with
4 the certificate of occupancy, which lists an
5 inside capacity of 37 and exterior capacity of
6 28?

7 Because the business has its outdoor
8 capacity at occupancy of 28, yet in the images on
9 Page 26 and 28 of the investigator's report,
10 there's at least 10 four tops shown in the summer
11 garden for a total of 40 seats, and two fire pits
12 with an ambiguous number of chairs around them.

13 And in Exhibit H that I submitted, in
14 a conversation with the Department of Buildings,
15 they stated that they alerted the Department of
16 Health and ABCA that the business was potentially
17 exceeding their occupancy load, yet there's no
18 mention of this in the report.

19 INVESTIGATOR PLEITEZ: I'm sorry, was
20 there a question?

21 MR. ALMEIDA: Yes, did you verify that
22 the occupant was complying with their certificate
23 of occupancy?

24 INVESTIGATOR PLEITEZ: Like I stated
25 prior in my testimony, when I visited the

1 establishment, the patio at the establishment was
2 closed.

3 So, no, I did not verify that
4 information.

5 MR. ALMEIDA: I would like to submit
6 Exhibit H for evidence.

7 CHAIRPERSON ANDERSON: What is
8 Exhibit H?

9 MR. ALMEIDA: Exhibit H is a letter
10 from the Department of Buildings that stipulates
11 that ABCA was alerted that the occupant may be
12 exceeding their occupancy load, yet that does not
13 appear anywhere in the report here.

14 CHAIRPERSON ANDERSON: Mr. Morris?

15 MR. MORRIS: I am going to object.
16 This is an email that states that someone at the
17 Department of Buildings said they would alert
18 ABCA that this business may be exceeding their
19 occupancy load, but it doesn't provide any
20 evidence that that notification actually
21 occurred.

22 CHAIRPERSON ANDERSON: Okay, that's
23 fine. All right. So we are not going to -- so
24 this document will not be -- this document will
25 not be a part of the evidence, okay?

1 MR. ALMEIDA: Okay. I do want to
2 point out that Pages 26 and 28 of the inspector's
3 report do show --

4 CHAIRPERSON ANDERSON: Hold on, Mr.
5 Almeida. I thought you said okay. So are you
6 agreeing that it should not be a part of it?

7 I heard you said okay. That's why I
8 made the ruling I did.

9 MR. ALMEIDA: My apologies, Mr.
10 Chairman. I'm okay removing Exhibit H for the
11 reasons that Mr. Morris just mentioned, but my
12 question about the occupancy stands.

13 CHAIRPERSON ANDERSON: You can ask
14 whatever -- you can ask questions you want to
15 ask, sir, and you can -- you asked the
16 investigator a question and she answered to the
17 best of her ability, so she has answered the
18 question.

19 And Mr. Morris had objected to the
20 documentary evidence. You said that you'd
21 withdraw it and so it has been withdrawn.

22 So that's not a part of the evidence.
23 Okay, go ahead, sir.

24 MR. ALMEIDA: Okay. My next question
25 is, there is no mention in your report, why is

1 there no mention in your report that the
2 occupant's mechanical system and summer garden
3 has both a stop work order and a danger sign
4 posted by the Department of Buildings as
5 indicated by Exhibit C, which I will share.

6 (Whereupon, the document referred to
7 was marked as Protestant's Exhibit C for
8 identification.)

9 And there's no mention that that is
10 the reason why there's no activity on the summer
11 garden, because they are in fact shut down by the
12 Department of Buildings at the summer garden.

13 Is there a reason why that is not in
14 the report?

15 INVESTIGATOR PLEITEZ: Yes, those are
16 documents that you did provide to me. However,
17 without me having confirmation from the
18 Department of Buildings, I was unable to submit
19 that as my evidence because I couldn't verify it.

20 MR. ALMEIDA: It is physically posted
21 on the space. So it's something that should have
22 been visible to you when you visited the
23 establishment.

24 So I would like to submit Exhibit C
25 into evidence, please.

1 CHAIRPERSON ANDERSON: And, I'm
2 sorry, what is -- can you enlarge it, please,
3 sir?

4 MR. ALMEIDA: Yes, Exhibit C is a
5 notice of infraction from the Department of
6 Buildings that stipulates the stop work order and
7 the associated fines for the work that was
8 completed at the property without permits.

9 CHAIRPERSON ANDERSON: Mr. Morris?

10 MR. MORRIS: I'm going to again
11 object, and I'm going to also interpose a
12 continuing objection over this line of
13 questioning.

14 This is not a Department of Buildings
15 hearing, and whether or not there was an issue
16 with the Department of Buildings issue at any
17 point has nothing to do with the renewal of this
18 license.

19 And I'll also just like to point out
20 that it seems that this line of questioning is
21 more probative of Mr. Almeida's confusions with
22 regard to ABRA investigators as opposed to the
23 licensee's compliance with its settlement
24 agreement.

25 We have a settlement agreement that

1 we've already talked about here that everything
2 we're talking about here, we've determined would,
3 if indeed, were substantiated, would have been a
4 violation of the noise suppression provision.

5 We have testimony from the
6 investigator that there was, that there have been
7 no substantiated complaints.

8 And my understanding, based on the way
9 the Chairman put forth the way this hearing was
10 going to go today was whether there needed to be
11 an amendment of the settlement agreement, not
12 whether we should be having a discussion of
13 whether in fact in the past this Applicant may
14 have violated their settlement agreement.

15 This is not an enforcement hearing.
16 It is a renewal hearing. If there are issues
17 with regard to violations of the settlement
18 agreement, the manner in which that would be
19 conducted is through an enforcement, and it would
20 show cause.

21 It is not appropriate for a renewal.
22 And as Mr. Chairman said, the conclusion has
23 already been reached that this license should be
24 renewed, and the only issue before the Board is
25 whether additional provisions in the settlement

1 are needed to protest the rights of the
2 Protestant.

3 And it seems that all the --
4 everything that we've been talking about here is
5 whether in fact ABRA should have found violations
6 of the settlement agreement in the past.

7 So, with that having been said, I'm
8 going to just, I'd like to interpose a continuing
9 objection and ask the Protestant to limit their
10 questions to issues regarding things that the
11 Applicant should do above and beyond what is
12 already in the settlement agreement to protect
13 their rights as an abutting property owner.
14 Thank you, Mr. Chairman.

15 CHAIRPERSON ANDERSON: I can clearly
16 see, Mr. Morris, in one sense that if there are
17 violations of a settlement agreement, this is not
18 the proper forum to bring violations, I mean, in
19 the sense that their enforcement action, and I
20 was looking at, I was myself looking at the
21 settlement agreement, and the settlement
22 agreement does have a provision where the party
23 has an opportunity to attempt the issue, to
24 report the issue prior to.

25 Ms. Pleitez has testified that when

1 she went to view at least the two times that she
2 went to view the property that the settlement
3 agreement, I'm sorry, the summer garden was
4 closed.

5 I have not heard that there has been
6 any -- and Ms. Pleitez, you did not see this sign
7 when you went to view -- when you went -- the two
8 times you went to see the property, is that
9 correct?

10 INVESTIGATOR PLEITEZ: I don't recall
11 seeing anything, but I will say that because the
12 patio was closed and there was no one at the
13 establishment, I did not approach to physically
14 look at what was posted or wasn't posted.

15 So, it may have been posted, but I do
16 not recall seeing anything.

17 CHAIRPERSON ANDERSON: All right.
18 I'm not going to allow this document to be part
19 of the record. I don't think it's relevant to
20 the decision that we have to make.

21 So, I'm not going to allow this
22 document to be moved into evidence. Okay. All
23 right. Let's move on.

24 Do you have any other questions you
25 want to ask?

1 MR. ALMEIDA: I do. I do.

2 CHAIRPERSON ANDERSON: Okay.

3 MR. ALMEIDA: Ms. Pleitez,
4 Investigator Pleitez, sorry, you mentioned that
5 there's two hour parking and residential parking
6 in the vicinity.

7 Were you able to speak with the
8 Applicant about where their employees park during
9 their shifts?

10 INVESTIGATOR PLEITEZ: That report was
11 generated by a previous investigator. I have
12 not. I spoke to the owners of the establishment
13 over the phone initially, but I did not ask them
14 about the parking because it was already included
15 in the previous protest report.

16 MR. ALMEIDA: Were you able to
17 physically verify that there was in fact no
18 school within the 400 foot radius shown in
19 Exhibit 7 of your report?

20 INVESTIGATOR PLEITEZ: Yes, like I
21 stated to you when we spoke, our GIS map does not
22 show that there is a school within 400 feet of
23 the establishment.

24 MR. ALMEIDA: I would like to share an
25 image that I took from the DC GIS that does show

1 that there's a school, Harriet Tubman Elementary
2 School, within 400 feet of the establishment, if
3 that's okay, Mr. Chair.

4 CHAIRPERSON ANDERSON: Well, all
5 right, let me ask -- all right, hold on, hold on,
6 hold on. Ms. Pleitez, can you explain, tell us
7 about this, the GIS. Tell us about that.

8 INVESTIGATOR PLEITEZ: So the
9 establishment is centered in the middle of the
10 GIS and it has to be within 400 feet radius of
11 the establishment.

12 If you were to point or MapQuest,
13 let's say, the directions between the
14 establishment and the school, it may be within
15 400 feet, but it is not in a 400-foot radius of
16 the establishment.

17 And I can show you the GIS map that
18 was provided to us by the legal department, which
19 is what I presented in my report. Well, Conden
20 presented in his report.

21 CHAIRPERSON ANDERSON: I have some
22 resistance. I mean, Harriet Tubman School
23 preceded this establishment.

24 So I guess what you are basically
25 saying is that the ABC would have issued a

1 license to, I think this establishment, Brothers,
2 that's the name of the establishment they took
3 over, I think, the settlement agreement, the
4 settlement agreement, I'm sorry, not brothers,
5 it's Room 11, now from 2012.

6 So, I'm not going to allow any
7 testimony on your demarcation of whether or not
8 you disagree with the 400 feet.

9 The Agency has already established
10 that, okay, going back as 2012, that there's no
11 schools within 400 feet of the establishment.

12 And based on my previous work, I am
13 familiar with Harriet Tubman, and I know that
14 Harriet Tubman, that elementary school has been
15 in that area prior to 2012.

16 So I'm not going to -- so if our GIS
17 system said that there's not a school within that
18 -- based on our demarcation, I'm not going to
19 have testimony on your -- I'm not going to
20 present any evidence on -- because you disagree
21 with that.

22 All right, so let's move on from
23 there.

24 MR. NYE: Chairman Anderson, the only
25 reason we're pointing that out is because there

1 is obviously a flaw in the investigative report
2 saying that there's not a school within 400 feet.

3 And so, what we're trying to put out
4 here is we're asking for the investigator here to
5 point out to us why there are these flaws in the
6 report, and could there be other flaws in the
7 report?

8 And that's why this was opened.

9 CHAIRPERSON ANDERSON: But Mr. Nye,
10 this is what -- all right, this case has gone
11 back 2012. Okay, because the settlement
12 agreement that we're talking about goes back to
13 2012 when the other establishment, Room 11.

14 So in order for Room 11 to have
15 received this license, it was clear that there
16 was not a school within 400 feet of the
17 establishment.

18 Because if a school -- so what you're
19 saying to us -- so I'm not even talking about
20 this case report or this investigation.

21 You're stating that when this license
22 was -- when the initial license was issued, at
23 least in 2012, that that's based on this
24 settlement, that it's talking about the
25 settlement agreement that we're talking about

1 today, that this license should not be issued,
2 because you're saying that -- yes, that's what
3 you're saying, sir, because if -- all right.

4 MR. NYE: The current report says the
5 same thing that that settlement agreement says.
6 The report should be updated.

7 The report should indicate that there
8 is a school within 400 feet. They were
9 grandfathered in because they were given a
10 license. We're not denying that --

11 CHAIRPERSON ANDERSON: And it doesn't
12 matter. Well, no, all right --

13 MR. NYE: Because it shows that the
14 report is flawed.

15 CHAIRPERSON ANDERSON: Mr. Nye, Mr.
16 Nye, if the liquor -- all right. This is how we
17 issue liquor licenses, sir.

18 If the license, if they're prior to
19 the school, then the license is grandfathered in
20 if it's there before the school.

21 If the school is there, we're not
22 going to grant the license, okay? So basically
23 what you're saying is that you disagree with our
24 measurement.

25 What we're saying, what I'm saying to

1 you, is that the Agency has established that
2 there is not a school within 400 feet.

3 And I think what Ms. Pleitez stated,
4 it depends how it's measured, sir. We have a
5 formula that makes a determination.

6 I think what Ms. Pleitez basically
7 said is that if you were to do a MapQuest, it
8 probably gives you a different interpretation,
9 but how it is that we measure it, that's how we
10 measure the distance for all cases.

11 This is appropriate. So I'm not going
12 to entertain any more testimony whether or not
13 there is a school within this location.

14 I'm not going to, so let's move on
15 from there because this is not an issue that
16 we're going to discuss today.

17 So let's move on from that issue.
18 We're going back to 2012 when -- I'm sorry, and I
19 don't know when this license was issued, but what
20 I have in front of me is the settlement agreement
21 when the parties -- and I don't know if this is
22 the first time the license was --

23 So I'm not sure if this is when -- I'm
24 not sure if this is when the -- if this was the
25 initial license or was this a renewal in 2012,

1 but -- and it's the same argument that I said to
2 you, sir.

3 The settlement agreement that you have
4 goes back to 2012, and unless we terminate the
5 settlement agreement, this settlement agreement
6 will continue indefinitely with this license.

7 So this settlement agreement will
8 remain with this license until it is terminated.
9 So all I'm stating is that based on our
10 measurement, there is no school within 400 feet
11 of this establishment.

12 Let's move on from that issue, okay?
13 All right.

14 MR. NYE: Indulgences.

15 CHAIRPERSON ANDERSON: And I just
16 want to correct the record and I also want to, I
17 just want to mention one other thing in the
18 record.

19 If there was another -- if there was
20 another -- if there's another establishment that
21 pre-dated the school, so therefore, we would have
22 an exception to the rule, because there was
23 another liquor license within the 400 feet.

24 So therefore, as we progress,
25 especially with having charter schools in DC

1 today, so you have a lot of charter schools in
2 your neighborhoods, and you will have liquor
3 licenses in these, within the 400 feet of the
4 school.

5 However, the reason why a license
6 would be issued is because these liquor licenses
7 were grandfathered in because they existed in the
8 community prior to the school.

9 So whether or not there is a school --
10 whether or not there is a school within 400 feet
11 of this establishment, it is not relevant to our
12 case today, okay?

13 MR. NYE: We agree that it's not
14 relevant, we were just trying to point out the
15 issues in the report.

16 CHAIRPERSON ANDERSON: All right.
17 Any other questions? Any other questions, sir?

18 MR. ALMEIDA: Not at this time, Mr.
19 Chairman.

20 CHAIRPERSON ANDERSON: All right.
21 Thank you very much. Any questions, oh, I'm
22 sorry. All right. So, both sides have asked
23 questions.

24 Based on the conversations here, any
25 questions by the Board members before I move, the

1 Board rests its case?

2 Hearing none, Ms. Pleitez, thank you
3 very much for your presentation today. You are
4 now free to go. Thank you.

5 All right. What time is it? We
6 started, all right, so Mr. Morris, do you wish to
7 call a witness, sir?

8 And one of the things I'm going to do,
9 I'm going to try to take a break every two hours
10 if this matter goes on.

11 So just letting everyone know that
12 I'll try to schedule a break, maybe a five- or
13 ten-minute break every two hours.

14 This hearing started I believe at
15 1:50, so if we're still going on at 3:50, which
16 we will probably end up taking a break just
17 because, just to do that, okay?

18 So everyone says people want to go to
19 the bathroom or anything like that. So I'll try
20 to have a break every two hours.

21 All right, so, Mr. Morris, do you have
22 a witness you wish to call, sir?

23 MR. MORRIS: Yes, thank you, Mr.
24 Chairman. My first witness I would like to call
25 is Mr. Grant Mason.

1 CHAIRPERSON ANDERSON: Where's Mr.
2 Grant Mason? Okay, Mr. Mason, can you raise your
3 right hand, please? Do you swear or affirm to
4 tell the truth and nothing but the truth?

5 Go ahead. There's a delay, all right,
6 but your witness, sir. Okay, go ahead.

7 MR. MORRIS: Thank you, Mr. Chairman.
8 Thank you, Mr. Mason. Mr. Mason, are you one of
9 the owners of this establishment, Buddy's?

10 MR. MASON: Yes, I am.

11 MR. MORRIS: Can you very briefly
12 describe the concept of Buddy's for the Board?

13 MR. MASON: Buddy's is a neighborhood
14 sports bar. We call ourselves more than a sports
15 bar because we offer different cuisine than
16 normal sports bars would offer.

17 But it's centered around community.
18 It's affectionately named after my father. And I
19 see this space as being kind of the center block
20 of the 11th Street corridor, which is filled with
21 restaurants and bars.

22 And the concept is about bringing
23 people together. And I think that so far we've
24 done our best at doing that, being very inclusive
25 and very welcoming, and also very considerate of

1 the community in which we're in.

2 And so, we strive to make sure that we
3 could exist in this space.

4 MR. MORRIS: Thank you.

5 MR. MASON: Can you hear me?

6 MR. MORRIS: Yes, thank you. Again,
7 thank you. And why did you choose this location
8 and neighborhood to open Buddy's?

9 MR. MASON: I frequented the
10 neighborhood prior to the pandemic. During the
11 pandemic, a particular establishment closed, so
12 we're looking at, what, over almost three years
13 at this point.

14 It sat vacant for quite a while. I
15 was able to get in contact with the owner of the
16 property and I gave them a pitch of what I wanted
17 to do with it.

18 He was very welcoming to it, and it
19 seemed as though the neighborhood has been very
20 much so.

21 It's been a pleasure with people who
22 really enjoy coming, getting food, getting drink,
23 communing with each other, and I think that so
24 far, we've met some resistance, obviously, in
25 particular, these two gentlemen,

1 But we're trying. We're trying really
2 hard to make in a business that's very difficult
3 as it already is. But so far, so good. People
4 seem to like it.

5 MR. MORRIS: And can you explain to
6 the Board the importance of the summer garden in
7 particular to your business concept?

8 MR. MASON: The summer garden is
9 really great because we sit on a corner and it
10 allows a lot of visibility.

11 It's also a place that people really
12 enjoy sitting outside. It's our new world that
13 we live in and because of where we are, that
14 corner is a big corner in the neighborhood.

15 And it has always been. It's always
16 been a big corner. The previous business used
17 it.

18 And they had some issues with these
19 same two -- well, as well, so this is not a new
20 thing we're facing.

21 MR. MORRIS: And you mentioned that
22 the reception of the community has been positive?

23 MR. MASON: Yes. Very much so.

24 MR. MORRIS: And does that reception
25 include the operation of the outdoor patio and

1 the summer garden?

2 MR. MASON: Yes.

3 MR. MORRIS: And am I right that you
4 circulated a petition in the community to gauge
5 the community's support for the summer garden and
6 your operations out there?

7 MR. MASON: Yes, we did.

8 MR. MORRIS: Okay, and am I right that
9 approximately 150 people in the neighborhood
10 signed the petition?

11 MR. MASON: Yes.

12 MR. MORRIS: I'm going to see if I can
13 technologically do this, Mr. Chairman, but if I
14 have the ability to share my screen --

15 CHAIRPERSON ANDERSON: Mr. Orellana,
16 can you please allow Mr. Morris to share access?

17 MR. ORELLANA: Access has been
18 granted.

19 MR. MORRIS: Okay, bear with me just
20 a moment. Okay, I don't know, is this visible?
21 If it's not, I apologize.

22 CHAIRPERSON ANDERSON: We gave you
23 access. Now you have to --

24 MR. MORRIS: Yes, and I'm getting a
25 message that it's not allowing me to share it.

1 CHAIRPERSON ANDERSON: Mr. Orellana,
2 he said that he granted you access so you should
3 not -- Mr. Orellana, can you please check again,
4 please, since he said he's getting that?

5 MR. MORRIS: Well, if I can't, we'll
6 discuss it by testimony. This is a document
7 that's been marked as an exhibit and it's been
8 submitted to the Board.

9 It's been marked as Applicant's
10 Exhibit 1.

11 CHAIRPERSON ANDERSON: Well, I think,
12 also, as you know, before I'm going to put it
13 into evidence, we have to have testimony on the
14 document before I --

15 MR. MORRIS: Understood. Understood.

16 MR. NYE: Testimony on this -- my
17 question is, you would agree that the license
18 should be renewed.

19 The petition itself doesn't seem
20 relevant, nor can it be confirmed where these
21 signatures came from, what time period it came
22 from.

23 And so we'd ask that, we'd object to
24 this and this line of questioning at this time.
25 And even so asking that this be allowed to have

1 loud music would be a petition for, that would be
2 in direct violation of this settlement agreement
3 that they have in place.

4 CHAIRPERSON ANDERSON: Mr. Morris,
5 and I had a question, myself, too, while we are
6 here, the Protestants have agreed to renew the
7 license, and what I want this to be focused on is
8 whether or not there should be additional
9 conditions on the license outside of what is in
10 the settlement agreement.

11 So, okay --

12 MR. MORRIS: That's fine, Mr.
13 Chairman. As long as the Protestants are
14 similarly limited in their questioning.

15 CHAIRPERSON ANDERSON: Yes, but I'm
16 saying --

17 MR. MORRIS: I'm fine with that.

18 CHAIRPERSON ANDERSON: But I'm just
19 saying is that, okay, the community loves your
20 restaurant, loves the establishment, that's fine.

21 All they're asking for is additional
22 conditions. Now, if they hadn't agreed to renew
23 the license, then, yes, this line of questioning
24 would be perfectly fine because you would be
25 showing that they are an outlier in the

1 community.

2 But again, because they are the
3 abutting property owner, they do have standing to
4 protest this license.

5 But I think that, I get it, but we can
6 move on from this line of questioning. I think
7 your time is better served with your witness
8 telling us why this is an asset or not an asset
9 to the community and why is it that they believe
10 that they're complying with the settlement
11 agreement, that there should be no additional
12 conditions.

13 I think that's what I want to hear.

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

15 CHAIRPERSON ANDERSON: I am going to
16 sustain the objection. So let's move on.

17 MR. MORRIS: Just very respectfully,
18 Mr. Chairman, I just want to say this, testimony
19 with regard to the use of the summer garden is
20 directly probative to the issue of further
21 restrictions to the ability of the Applicant to
22 use their summer garden.

23 We do have provisions in the existing
24 settlement agreement that talk about no loud or
25 live music performed in the summer garden.

1 And to the extent that these
2 Protestants want to further restrict beyond what
3 is already in the settlement agreement with
4 regard to the use of the summer garden, the
5 importance of the summer garden, both to the
6 Applicants and to the service of the community,
7 is probative of that issue.

8 Because if the Protestants seek the
9 Board to impose much more severe restrictions on
10 the ability of this Applicant and licensee to use
11 their summer garden and to be a welcoming place
12 to members of the community, who maybe are more
13 comfortable sitting outside and maybe want to
14 enjoy an outdoor summer garden, if that's
15 restricted, then the reception and the interest
16 in the community in using that summer garden to
17 its fullest extent and to its fullest benefit is
18 probative.

19 So that just, respectfully, Your
20 Honor, I mean, Your Honor, Mr. Chairman, so you
21 understand what I'm getting at when I ask that
22 question.

23 CHAIRPERSON ANDERSON: That's fine,
24 you can ask some minor questions. I mean --

25 MR. MORRIS: Thank you.

1 CHAIRPERSON ANDERSON: -- you can go
2 ahead, but we don't need to spend half a day with
3 that, sir, okay?

4 MR. MORRIS: Okay. And since you
5 opened in November of 2022, is that right?

6 MR. MASON: Yes.

7 MR. MORRIS: And since you opened,
8 have you received any complaints from any other
9 members of the neighborhood with regard to your
10 use of the summer garden or with respect to noise
11 emanating from the premises?

12 MR. MASON: No I have not. We also
13 have abutting neighbors on the other side of us
14 as well, that connects just as these abutting
15 neighbors do.

16 And they have taken no issue, nor have
17 they complained of the sound being an issue. In
18 all honesty, we have taken mitigating measures to
19 make sure that the sound could not reach a level
20 that could be a real nuisance in the community.

21 And I think that has shown why when
22 everyone comes out we reduce the sound on the
23 speakers to where they can't even go over a
24 certain level.

25 We've also been in their home to make

1 sure that with a reader, trying to make sure that
2 we're being good neighbors.

3 We've gone out of our way in an effort
4 to make sure of that.

5 MR. MORRIS: Okay, do you have any
6 live music in the summer garden? Have you ever
7 had any live music in the summer garden?

8 MR. MASON: We have not. We don't
9 have live music. We're not allowed to. We don't
10 have loud music.

11 I mean, people's voices are the
12 loudest things that have ever been on that summer
13 garden.

14 It's never been anything louder than
15 someone's voice. So that's why we don't have any
16 violations.

17 MR. MORRIS: What about music being
18 played at the summer garden?

19 MR. MASON: Nothing that's above --
20 there's no sound emanating that's above anyone's
21 voice. Never. There's nothing that's loud.

22 MR. MORRIS: Okay. And the interior
23 of the establishment has a jukebox, am I right?

24 MR. MASON: Yes.

25 MR. MORRIS: And is that jukebox

1 serviced by a third party?

2 MR. MASON: It is serviced by a third
3 party, yes.

4 MR. MORRIS: And have you worked with
5 that third party to ensure that the volume is
6 kept at a manageable level?

7 MR. MASON: Yes.

8 MR. MORRIS: Okay. And have you also
9 taken steps to mitigate any bass that might
10 emanate from speakers within the interior of the
11 establishment?

12 MR. MASON: Yes. The speakers are
13 hung in the ceiling. There's a wall that
14 separates the sound to get through in order to
15 get to the wall that's on, that's abutting the
16 speakers.

17 The bass has been removed from the
18 speakers because he said that they could feel
19 vibrations.

20 So, yes.

21 MR. MORRIS: Okay. And since you've
22 opened, have you ever been cited by either ABCA
23 or any other DC agency regarding noise emanating
24 from the summer garden?

25 MR. MASON: No.

1 MR. MORRIS: Have you been cited for
2 any noise emanating from the interior of the
3 premises?

4 MR. MASON: No.

5 MR. MORRIS: Have you been cited for
6 any other noise related violation?

7 MR. MASON: No.

8 MR. MORRIS: Have you ever even
9 received a warning?

10 MR. MASON: No.

11 MR. MORRIS: Thank you. I don't have
12 any other questions for Mr. Mason. I'd like to
13 ask a few questions of Dr. Hampton if I could
14 next.

15 CHAIRPERSON ANDERSON: No, sir, you
16 will get a chance later on to --

17 MR. MORRIS: Thank you.

18 CHAIRPERSON ANDERSON: All right,
19 who's going to do the cross-examination? Mr.
20 Almeida? All right, Mr. Nye.

21 MR. NYE: I will.

22 CHAIRPERSON ANDERSON: Okay, so, Mr.
23 Nye, do you have any questions of Mr. Mason?

24 MR. NYE: Yes. So, Mr. Mason, okay,
25 sorry, Mason, I got confused there for a second,

1 Mr. Mason, can you just confirm there are two
2 large screen televisions on the property line
3 outside, right?

4 MR. MASON: They are not on the
5 property line, they are on our property, but yes,
6 there are two large TV screens.

7 MR. NYE: And the backs of them face
8 our property?

9 MR. MASON: Yes.

10 MR. NYE: Okay. And they're on the
11 summer garden, right?

12 MR. MASON: Yes.

13 MR. NYE: Okay, and in between them,
14 there is a speaker, an extra speaker, that is
15 used to amplify the noise from those TVs, right?

16 MR. MASON: That is correct. There is
17 a speaker there.

18 MR. NYE: And that speaker is what
19 plays the noise for the TVs. The TVs don't play
20 the noise themselves, right?

21 MR. MASON: No, the TVs have sound on
22 them themselves.

23 MR. NYE: Oh, so they play in
24 addition. The TVs have sound and the speaker has
25 sound together?

1 MR. MASON: They do. They can. And
2 they have been played simultaneously while we've
3 been in your home.

4 MR. NYE: Okay. And the speakers for
5 the TVs, which are backwards facing us, those
6 speakers are facing towards us, right, on the
7 TVs?

8 MR. MASON: They are facing down.
9 They don't face backwards. They face down.

10 MR. NYE: Okay. And you're saying
11 there is never an instance that that sound got
12 loud enough that we could hear it from our house?

13 MR. MASON: I'm not saying that there
14 was never an instance. If we stayed within 10-15
15 feet of each other, I'm certain that if you walk
16 out on your patio or you're standing at your
17 front door, you could hear noise, yes.

18 MR. NYE: Was there ever an instance
19 where you could hear the noise from across the
20 street on the sidewalk?

21 MR. MASON: I'm not there 24 hours a
22 day, but there have been things put in place that
23 prevent that from happening.

24 So in the beginning, when we first
25 started, which we're talking about November or

1 December, prior to us coming to your home and
2 doing those things, there may have been a time
3 where something was allowed to get loud, but they
4 were changed so it would not happen again.

5 MR. NYE: Okay. Indulgences while I
6 pull up a video that we've already provided to
7 share.

8 Actually, if you watch this video,
9 which was taken on December 10th of this year, of
10 2022.

11 (VIDEO PLAYED.)

12 MR. NYE: You'll notice the video was
13 taken across the street from the garden, is that
14 correct?

15 MR. MASON: Yes, that is correct, and
16 you can clearly see, there is no one out there.
17 There is no sound that is playing, also.

18 MR. NYE: But the TV itself, you can
19 hear the TV, right?

20 MR. MORRIS: Objection. Mr. Chairman,
21 I'd like to interpose an objection here. First
22 of all, it has not been established where the
23 noise is coming from.

24 We have a cell phone video that is
25 taken standing on a corner. There is no way to

1 determine where that noise is coming from, first
2 of all.

3 And second of all, the Chairman has
4 already limited this to additional restrictions.
5 This is again an effort by Mr. Nye and Mr.
6 Almeida to prove that the settlement agreement
7 that's currently in place was violated.

8 This is not an enforcement hearing.
9 The hearing here is to determine whether
10 additional provisions are required.

11 If, and we'll just assume arguendo for
12 the purposes of this, if indeed that noise was
13 emanating from the establishment to the extent it
14 was audible across the street, which is not
15 established and is not proven by the video here,
16 if it were, it might be probative of whether
17 there is a violation at that time of the existing
18 settlement agreement.

19 It has no bearing whatsoever on
20 whether additional restrictions are required to
21 be placed on this licensee.

22 So I'd object to this line of
23 questioning. I'd object to any further
24 questioning regarding this video.

25 CHAIRPERSON ANDERSON: All right, I'm

1 going to go back to the settlement agreement,
2 okay? This settlement agreement says there
3 should be no loud or live music performed in this
4 establishment or played or performed on the
5 patio, summer garden, or sidewalk caf,.

6 Sounds emanating from any part of the
7 establishment shall not be audible in residential
8 structures in the vicinity or in the sidewalk
9 across the street from the adjacent
10 establishment.

11 And maybe, am I hearing chattering?
12 Is that what I'm hearing? Or am I hearing
13 something else?

14 I mean, if I'm hearing chatter, if I'm
15 hearing people sitting on the sidewalk and I'm
16 hearing chatter, and it's the middle of the day,
17 I'm not sure.

18 So when we talk about sound, I think
19 people, I think most people are talking about
20 entertainment in the sense that we're playing
21 some music or some type of entertainment.

22 I'm not sure that anyone contemplates
23 that if we're talking about neighborhood chatter,
24 people sitting on a patio.

25 I don't know. So maybe I am confused

1 because I'm reading the settlement agreement that
2 we're talking about.

3 I think that my interpretation of the
4 settlement agreement is that we're talking about
5 music from an entertainment perspective, not
6 chatter.

7 MR. NYE: Mr. Chairman, if I may, this
8 is television. If you listen to it carefully,
9 you'll hear that it is the news and that they're
10 playing television loud enough to obviously
11 attempt the patio, as he stated, loud enough to
12 be heard across the street.

13 And we'll play it again. But the
14 reason why it is relevant and why it is important
15 is one of the conditions that we'll be asking is
16 that they remove these televisions and remove
17 these speakers, which is not in their current
18 settlement agreement.

19 What we're asking for is these are a
20 violation, and what they're asking is that they
21 be able to keep them and they're not going to use
22 them or they're not going to violate as long as
23 ABRA does not -- ABCA is not there to be able to
24 catch them doing it, we're asking that this is a
25 violation, shows a violation.

1 The speakers themselves are amplified
2 noise. Mr. Mason just said, I can't be there all
3 the time.

4 So our lives are going to be affected
5 by the fact that there's loud televisions with
6 speakers.

7 We're asking as a condition that they
8 be not allowed to have speakers on that patio.

9 If it was just chatter, if it was just
10 chatter, we wouldn't be here. If there was
11 nobody on the patio, here, play again for
12 Chairman.

13 MR. MASON: Can you please show us a
14 recent video, please?

15 MR. MORRIS: And I'm going to again
16 object.

17 CHAIRPERSON ANDERSON: All right.
18 Hold on. Hold on.

19 MR. MORRIS: I'm going to object to
20 them playing this video again.

21 CHAIRPERSON ANDERSON: Mr. Morris,
22 hold on one minute. All right. Mr. Mason?

23 MR. MASON: Yes, sir.

24 CHAIRPERSON ANDERSON: You have a
25 competent attorney representing you, sir. You

1 can only speak if your attorney asks you a
2 question, sir.

3 You are not allowed to speak if you
4 are not asked a question by your attorney during
5 this time, sir.

6 MR. MASON: Yes, sir.

7 CHAIRPERSON ANDERSON: All right.
8 Mr. Almeida and Mr. Nye, only one person can
9 speak. Not two. Just one.

10 MR. NYE: Okay.

11 CHAIRPERSON ANDERSON: All right.
12 There was an objection by Mr. Morris.

13 MS: I'm going to interpose a
14 continuing objection to show this video. We
15 don't know when this video was taken.

16 There is no indication of where the
17 noise is emanating from. And again, even
18 assuming, for purposes of this discussion, if the
19 noise were emanating from the summer garden of
20 Buddy's, it would be a violation potentially of
21 the current settlement agreement.

22 And there does not need to be any
23 revision or additional restriction above and
24 beyond what is in the existing settlement
25 agreement.

1 And I'm going to object to Mr. Nye and
2 Mr. Almeida's continuing effort to turn this
3 protest hearing into an enforcement hearing and
4 to turn it into a critique of ABCA's ability to
5 enforce settlement agreements and their ability
6 to undertake proper investigations and to
7 critique their determination of whether a
8 violation of a settlement agreement exists or
9 not.

10 This is a protest of a renewal, and
11 we're talking today about whether additional
12 restrictions in a settlement agreement are
13 required.

14 Now, everything that Mr. Almeida and
15 Mr. Nye are presenting to the Board, they are
16 potential evidence of a past violation of an
17 existing settlement agreement.

18 They are absolutely not probative
19 whatsoever of whether additional restrictions are
20 required.

21 And it's frankly a waste of this
22 Board's time. If they would like there to be
23 enforcement of a violation, then their method of
24 doing that is to file a complaint with ABCA for
25 an investigator to come out to find a violation

1 and they are to be issued a show cause order.

2 That is ABCA's providence, not Mr. Nye
3 or Mr. Almeida's. It is ABCA's providence to
4 determine if the existing settlement agreement is
5 being violated or has been violated and to issue
6 a show cause.

7 It is not appropriate to use this
8 Board's time in a renewal hearing that the
9 Chairman has already said should be limited to
10 whether additional restrictions are necessary,
11 i.e., that the existing settlement agreement does
12 not prohibit the things that they are complaining
13 about, and therefore additional restrictions are
14 needed.

15 Everything that they have presented,
16 like there be noise within their home, and I'll
17 submit to the Board that that video wasn't able
18 to show any evidence of where the noise was
19 coming from, either.

20 So, I would just ask the Board,
21 please, in the interest of the economy of this
22 Board and in the interest of respecting what this
23 hearing is today, to limit Mr. Nye and Mr.
24 Almeida's efforts to try to turn this into an
25 enforcement hearing, or to try to turn it into

1 some indictment over whether ABCA can adequately
2 enforce an existing settlement agreement.

3 It's just, it's not suitable and it's
4 not appropriate given the limitations, given the
5 nature of this hearing and the limitations that
6 Mr. Chairman has put on the scope of this
7 hearing.

8 CHAIRPERSON ANDERSON: One of the
9 reasons why I, as the Chair, always advise
10 parties to settle a matter is because at the end
11 of the day we have -- this is your home and this
12 is your business and you have to co-exist.

13 And if the parties have settlement
14 agreements, then both parties, there's some give
15 and take, and most parties are happy at the end
16 of the day.

17 But then unfortunately, when the Board
18 has to make the decision, whatever decision has
19 been made by the Board, one side is going to be
20 happy or might not be happy, but we're not going
21 to have the same type of relationship at the end
22 of the day.

23 Simply because stuff becomes
24 contentious. Because we make a decision and we
25 move on and these parties, they still have to

1 coexist.

2 And so that's one of the reasons I as
3 Chair have always supported the parties settling
4 their matters, because at least at the end of the
5 day, they can come to a meeting of the mind.

6 I am going to sustain the objection.
7 The reason I'm going to sustain the objection is
8 because I don't know where the sound is coming
9 from, sir.

10 Yes, you have a video. I'm hearing
11 noise from across the street. I have no idea if
12 it's coming from this establishment or where it's
13 coming from.

14 And I think one of the things that,
15 and I think Ms. Pleitez had also testified
16 earlier, although you might experience noise, and
17 noise, it's not substantiated of the ABRA
18 investigator and how we normally do it.

19 One investigator is in your apartment
20 and one investigator is in the establishment and
21 both parties have to agree that the noise that's
22 heard in your apartment is the same noise that's
23 being generated in the establishment.

24 And so, although you might be hearing
25 noise, if our investigator cannot come to the

1 apartment, to your house, and substantiate it,
2 then it's not an ABRA violation.

3 So, I just want to say that to you.
4 That's how violations are stated. So I know you
5 stated before that Mr. Ruiz came and he heard the
6 noise in your apartment, I'm sorry, in your
7 house, but it wasn't established that the noise
8 was coming from their establishment.

9 That's the only way --

10 MR. NYE: But --

11 CHAIRPERSON ANDERSON: That's the
12 only way. That's the only way. So even if it
13 was -- even if the noise was coming from the
14 establishment, unless the investigator, unless
15 there's one investigator in the establishment and
16 they both concur that this is the same noise,
17 then there's no violation.

18 So I think, as I've said before, I
19 sustain the objection because there's noise but I
20 don't know where the noise is coming from. It's
21 not --

22 MR. NYE: I can lay that foundation,
23 Chairman Anderson.

24 CHAIRPERSON ANDERSON: I'm sorry,
25 sir?

1 MR. NYE: I can lay that foundation
2 through questioning.

3 CHAIRPERSON ANDERSON: No, but what
4 I'm saying, you can't lay the foundation because,
5 do you have testimony to say the same noise that
6 someone was in the property recording the same
7 noise that you're hearing from across the street?

8 Because if it's only one sided, we
9 don't know where this noise is coming from. So
10 that's part of the problem that we're having.

11 So, yes, you can provide recordings,
12 but I don't know if this is the same noise that's
13 coming from inside of the establishment.

14 Only an ABRA investigator is
15 substantiating this complaint because they have
16 to be there at the time to substantiate that the
17 noise that you're hearing is that noise that's
18 coming from the establishment.

19 MR. NYE: Okay.

20 CHAIRPERSON ANDERSON: All right,
21 let's move on.

22 MR. NYE: Mr. Mason, are there any
23 other televisions on the street within 400 feet
24 of Buddy's?

25 MR. MASON: Yes.

1 MR. NYE: Where is the television on
2 the street?

3 MR. MASON: There's a television on --
4 Johnny's All American has a television, right
5 next door.

6 MR. NYE: In December of 2022, was
7 there ever a television on the street anywhere
8 else?

9 MR. MASON: I don't know what else was
10 there in December of '22.

11 MR. NYE: Okay. Did you ever notice
12 a television outside anywhere else in December of
13 '22?

14 MR. MASON: I know that we have
15 televisions. I can't speak to anything in
16 December.

17 MR. NYE: You haven't noticed one,
18 though?

19 MR. MASON: You said what?

20 MR. NYE: To your knowledge, there
21 isn't one other than yours in December?

22 MR. MASON: I can't speak to December.

23 MR. NYE: Okay, and to --

24 MR. MORRIS: Objection, that
25 mischaracterizes testimony.

1 CHAIRPERSON ANDERSON: I'm sorry, is
2 there an objection?

3 MR. MORRIS: Mr. Nye, I believe, is
4 mischaracterizing the testimony. Mr. Mason has
5 testified that in December of 2022, he didn't
6 know either way whether any other televisions.

7 He did not know say to his knowledge
8 there were none. So it's a mischaracterization
9 of the testimony.

10 CHAIRPERSON ANDERSON: Mr. Morris,
11 this is cross-examination, and I believe that
12 your --

13 MR. MASON: Well --

14 CHAIRPERSON ANDERSON: Hold on. Hold
15 on. Mr. Mason, when I'm speaking, no one's
16 supposed to speak, okay, sir?

17 You will be able to speak when I'm
18 done speaking. Then if there's an objection, I
19 will make a determination whether or not you
20 should or shouldn't answer.

21 And so therefore, please do not speak,
22 okay? But as I stated before, this is cross-
23 examination.

24 I believe that the client, Mr. Mason,
25 you have answered the question, and let's move

1 on.

2 We don't need to be quibbling about
3 it, I think. Okay, so let's move on. All right.

4 MR. NYE: When did you install the
5 speaker outside?

6 MR. MASON: The speaker was installed
7 on December 10th.

8 MR. NYE: And that's in 2022?

9 MR. MASON: Yes.

10 MR. NYE: Okay. And as you stated
11 before, you have taken mitigating methods to
12 reduce the sound from that speaker and from those
13 televisions, is that right?

14 MR. MASON: Yes.

15 MR. NYE: Okay. And one of those
16 methods you said was to restrict the sound going
17 out of those devices, is that right?

18 MR. MASON: Yes.

19 MR. NYE: But as you stated before,
20 you're not always at the --

21 MR. MASON: The sounds have been
22 altered so that they cannot go past the next
23 volume. So whether I'm there or not, they cannot
24 be played over a certain volume.

25 MR. NYE: And so the types of events

1 that you intend to play over these televisions,
2 they'll be sporting events, right?

3 MR. MASON: Yes.

4 MR. NYE: And sporting events, people
5 are usually pretty rowdy and loud at those
6 events, right?

7 MR. MASON: They can be, but that's
8 not necessarily the case.

9 MR. NYE: Okay. And so how would you
10 mitigate people being rowdy and loud looking at
11 two televisions with speakers in order to
12 accommodate the current settlement agreement?

13 MR. MASON: I can't mitigate anyone
14 being rowdy and loud in a conversation that they
15 have with someone else.

16 That has nothing to do with me.

17 MR. NYE: And prior to, did Room 11,
18 the prior establishment, did they have
19 televisions out on the patio?

20 MR. MASON: I don't believe so. I
21 don't know what they had on the patio at the
22 time. They've been closed for three years at
23 this point. I have no idea.

24 MR. NYE: Okay, so do you know if they
25 had speakers on their patio?

1 MR. MASON: I have no idea. They've
2 been closed for over three years. I don't know
3 what they did or did not have.

4 MR. NYE: Currently, you can't use
5 your summer garden patio, right?

6 MR. MASON: I can use my patio. I
7 can't use a certain area of my patio.

8 MR. NYE: What area can't you use?

9 MR. MASON: Underneath the part that's
10 covered because the covering itself, I can't use
11 the part that's covered.

12 MR. NYE: And why can't you use that?
13 You were going to explain. Why can't you use
14 that?

15 MR. MASON: I can't use the part
16 that's covered because we're waiting for a
17 signoff from an inspector.

18 MR. NYE: Okay, and that area that's
19 covered, that has the televisions under it,
20 right?

21 MR. MASON: Yes, that is true.

22 MR. NYE: And so currently, are you
23 even using those televisions?

24 MR. MASON: Yes.

25 MR. NYE: Okay.

1 MR. MASON: I can --

2 MR. NYE: And do you play sound from
3 them?

4 MR. MASON: Say what now?

5 MR. NYE: Do you play sound from them?

6 MR. MASON: There is sound that
7 emanates from those televisions.

8 MR. NYE: And when you expect to have
9 40 people on the patio, the sound is going to
10 have to be louder when you reopen it, right?

11 MR. MASON: No. The televisions show
12 what needs to be shown. The sound itself has no
13 indication other than people being quiet to be
14 able to listen to it.

15 If the sound is turned completely up,
16 which we established by coming to your home, you
17 still can't hear it over someone's voice.

18 MR. NYE: So that leads us up to why
19 do you need the speaker anyway? If you're saying
20 people are going to be too loud to hear the sound
21 of the televisions anyway.

22 MR. MASON: I'm not saying they're
23 going to be too loud. You're saying they're
24 going to be too loud.

25 MR. NYE: Okay, so back to my

1 question, why do you need the speaker?

2 MR. MASON: The speaker --

3 MR. NYE: Why do you need the speaker
4 and the television speakers? Why do you need all
5 of them?

6 MR. MASON: The speaker is there for
7 the guests' enjoyment. It's not always sound.
8 It's not always sports playing.

9 There's not always things playing on
10 the television that emanate with the speaker.

11 The speaker is not to be loud, so we
12 made sure that it cannot be loud.

13 MR. NYE: So my question was if people
14 are being loud and you have 40 patrons on the
15 patio, and the speaker is playing and they can't
16 hear the words or the sounds that are being
17 played from it, why do you need the speaker
18 anyway?

19 MR. MASON: I can't speak to them
20 being loud. That's their choice if they're loud.
21 I can only put signs up like I have, asking them
22 to be mindful, that we have neighbors, and that's
23 it.

24 Their voices, I can't stop people from
25 raising their voices. I can only ask them to be

1 quiet as though, just like I have, and I've
2 continued to.

3 MR. NYE: So is it necessary to run
4 your business to have this speaker, to have
5 amplified noise coming out of that speaker on
6 your patio?

7 MR. MASON: It is necessary to run my
8 business, yes.

9 MR. NYE: Why is that?

10 MR. MASON: Because it provides an
11 opportunity for patrons to enjoy the summer
12 garden while listening to news or whatever it is
13 at a very low level.

14 It's important for them to hear what's
15 coming from them. Then they will police
16 themselves by letting people know to quiet down
17 so that they can hear the things.

18 MR. NYE: So you're saying the patrons
19 will police themselves, that they're going to be
20 quieting down so they can hear the noise?

21 MR. MASON: Yes. I've seen it happen
22 before. It can only go to a certain volume. If
23 somebody wants to hear something, they'll ask
24 someone to reduce their noise level if it's that
25 loud.

1 But in most cases, very seldom, if
2 ever, it is that loud. It may have happened
3 where someone's voice was loud.

4 I can't speak to it never happening.
5 It's not anything that we're disseminating.

6 MR. NYE: Has Mr. Almeida, my husband,
7 contacted you in the past telling you that the
8 speaker is too loud and that we can hear it
9 inside our house?

10 MR. MASON: Yes, he has contacted me.

11 MR. NYE: Okay, and do you remember
12 how many times that's happened?

13 MR. MASON: It's been several times.
14 One key time, and why we've gotten to this place,
15 is because he sent me a message saying that it
16 was beating like a club, in which the ABRA
17 investigator walked in there maybe 10 minutes
18 later and said I can't hear your -- I can't hear
19 anything coming from here until I get inside,
20 which he messaged me again after that complaining
21 again while the investigator was still in the
22 space.

23 At that time, I figured out that --

24 CHAIRPERSON ANDERSON: Hold on, hold
25 on, Mr. Nye, please give him an opportunity to

1 answer.

2 MR. MASON: At that time, I realized
3 that no matter how low I play my music or how low
4 it is, you guys were always going to find
5 something.

6 So that's why we're here, because
7 we're the quietest people in the corridor. We're
8 the only ones that have to deal with this.

9 MR. NYE: Do you know if that
10 inspector ever came into our house and listened
11 to our levels of what's going on in our house?
12 Do you know if that happened?

13 MR. MASON: I don't know who has been
14 in your house, but you said that that
15 investigator, that there has been an investigator
16 in your house, and there's been an investigator
17 in my place.

18 And still, they don't think that the
19 noise we're playing is an issue. And that's why
20 we came in your house in the first place, to try
21 to make sure that we could keep it at a level,
22 but that has not worked, amongst other things.

23 MR. NYE: So, but you've also sought
24 an entertainment license, is that right?

25 MR. MASON: Yes, we have.

1 MR. NYE: And what kind of
2 entertainment do you want to seek?

3 MR. MASON: We want to be able to do
4 trivia nights, we'd be able to do karaoke, we'd
5 be able to do comedy shows.

6 There are a bevy of things that fall
7 under the entertainment license that we need an
8 endorsement to do.

9 And we were under the impression that
10 we would be able to get those things because they
11 don't require the music to be loud or live, not
12 music.

13 And so we should be able to do those
14 things, but we were informed that we could not
15 get those without an entertainment endorsement.
16 So we applied for one.

17 MR. NYE: Isn't it true at one point,
18 you said you wanted to get a deejay inside your
19 space?

20 MR. MASON: We would love to be able
21 to have a deejay in our space at some point in
22 time, on a Friday or Saturday night, every
23 occasionally, yes. We would like that.

24 MR. NYE: So currently, the jukebox
25 system that you installed in your space, isn't it

1 true that Mr. Almeida, my husband, reported to
2 you that that system creates vibrations that we
3 can feel in our house, isn't that true?

4 MR. MASON: Yes, he reported it, and
5 I immediately called the company and had them
6 reduce and take the bass completely out of it
7 immediately.

8 MR. NYE: And so don't you think --

9 MR. MASON: Which is part of our
10 settlement agreement, right? If you call us --

11 MR. NYE: I'm sorry. Finish your
12 statement. Finish your statement.

13 MR. MASON: No, I was saying, which is
14 part of the settlement agreement. If you call
15 us, we have something like 30 days to amend it,
16 and I've done things within 24-36 hours.

17 You guys text me, I do the best I can
18 to make sure that it doesn't happen again.

19 MR. NYE: Hasn't Mr. Almeida provided
20 you resources to get sound mitigation between the
21 two properties?

22 MR. MASON: He has sent some things
23 over to me. I have taken the steps that I have
24 taken so far and those steps have come into a
25 place where we have no issue from anyone other

1 than you guys about noise and we have neighbors
2 that we ask that live on the side of us that are
3 closer to the sound than you are and they don't
4 have a problem with it.

5 MR. NYE: So have you ever reached out
6 to anyone to mitigate the sound in between the
7 two properties?

8 MR. MASON: Yes.

9 MR. NYE: Who did you reach out to?

10 MR. MASON: I've reached out to the
11 people who put the speakers up in the first place
12 to make sure that the sound did not carry.

13 And the practices in which you make
14 sure they don't is how the speakers were hung so
15 that it would.

16 So I don't know what else I can do at
17 this point.

18 MR. NYE: Did they do anything to the
19 speakers after you reached out to them?

20 MR. MASON: Yes.

21 MR. NYE: What did they do?

22 MR. MASON: I can't speak to the
23 things, but I know that whatever has been done,
24 it has generated no noise complaints for us.

25 MR. NYE: The system itself, it plays

1 loud music, right?

2 MR. MASON: It plays music.

3 MR. NYE: It plays music that's loud
4 enough that people can dance to it, right?

5 MR. MASON: No, people don't really,
6 I can't say that, I mean, maybe they can dance to
7 it.

8 Depending on, considering the speakers
9 are five feet from them, yes, they can hear them.

10 MR. NYE: And people pick the songs
11 that they want to play. They can play any type
12 of music, is that right, on that system?

13 MR. MASON: That's true.

14 MR. NYE: Okay, so they could play
15 music that produces a really heavy bass on that
16 system.

17 MR. MASON: But there is no bass in
18 the speakers. So, I mean, like I said, I don't
19 know what else to do.

20 MR. NYE: And you make revenue off of
21 that system, don't you?

22 MR. MASON: I do make revenue off of
23 that system. It's a very minimal amount. It is
24 more for the guests' pleasure than it is for the
25 revenue.

1 MR. NYE: Isn't it true that at one
2 point when we asked you about the system, that
3 you stated that you needed the system to make
4 revenue and that it was more important to make
5 revenue than to take out the system. Is that
6 true?

7 MR. MASON: No, that's not true.

8 MR. NYE: So other than asking the
9 company that installed the system to fix the
10 system, what other remedial methods have you
11 taken to reduce the sound and vibration between
12 the two properties?

13 MR. MASON: That is it.

14 MR. NYE: Okay. Would you be willing
15 to reach out to other experts to do that?

16 MR. MASON: Yes, if I had someone
17 other than you guys complaining about noise, yes,
18 I would, I definitely would.

19 But you guys started complaining about
20 noise when the TVs went up before there was
21 anything.

22 So at this point, it's kind of tough
23 for me to believe what I hear from you in regards
24 to noise.

25 MR. NYE: Okay. So one of the things

1 that we're asking for is a condition that you
2 have to seek out methods to reduce the sound in
3 between.

4 And what you're saying to me right now
5 is that you're not willing to do that.

6 MR. MASON: I'm not saying that, I'm
7 saying that I've already done that several times
8 over and that's why I don't have any noise
9 violations.

10 I am the quietest person in that
11 corridor.

12 MR. NYE: You're not quiet answering
13 my question, which is that, if there were
14 additional conditions, would you follow them?

15 If there is a condition that you have
16 to --

17 MR. MASON: If there were additional
18 conditions, I would definitely follow them, just
19 like I've tried to make sure that I've followed
20 everything.

21 MR. NYE: Okay. Just like you
22 followed all the conditions of your settlement
23 agreement?

24 MR. MASON: Yes.

25 MR. NYE: Okay. Indulgences. Isn't

1 it true that you recognized there was a sound
2 issue and that you and Carly, or Dr. Hampton,
3 came to our home, in an effort of trying to
4 reduce the sound, right?

5 MR. MASON: We know that you -- we
6 know that you made us aware that you felt like
7 there was an issue, and so we made sure that we
8 came over directly to you to address it with you.

9 MR. NYE: And the two of us, the four
10 of us, we tried to decibel read and making
11 readings of those sound levels, is that right?

12 MR. MASON: Yes, we have.

13 MR. NYE: And are you aware that the
14 decibel reading in the video that you submitted,
15 as taken from our front porch, was indicating
16 that you were at the very time in violation of
17 the DC noise ordinance 2701?

18 MR. MORRIS: I'm going to again
19 object, Chairman, to lines of questioning that
20 are intended to establish that there has been a
21 past violation.

22 Mr. Chairman has already said this is
23 going -- that the questioning should be limited
24 to additional conditions that need to be put into
25 the settlement agreement to address the

1 Protestants' concerns.

2 It is not a hearing on whether there
3 was a previous violation.

4 MR. NYE: Mr. Chairman, if I may
5 respond briefly? The reason why this is
6 important is, as noted, they have a settlement
7 agreement, and as noted, they are addressing the
8 fact that there are violations to that.

9 We're not enforcing those violations.
10 Obviously, those were not in the ABCA
11 investigation. What we're showing here is that
12 there's a blatant disregard for the current
13 settlement agreement, which is why additional
14 conditions are absolutely necessary on their
15 licensing agreement.

16 We need something here that is
17 enforceable beyond what the settlement agreement
18 says, because it is so blatant that there were
19 some TVs that were solved, noise that's elevated
20 above allowed, and we also don't have an
21 investigative report that shows what happened
22 inside our home.

23 So without those facts, we have to
24 show that there are constant violations going on,
25 that there's a disregard.

1 Additionally, if you look at the
2 disregard of why their patio is currently shut
3 down, there's a disregard of rules and
4 regulations overall repeatedly.

5 They're not using a permit, having a
6 business that they're not going to follow the
7 rules here consistently, it shows that there's a
8 pattern here.

9 The reason why we have to show that
10 this pattern exists is that the Board can make
11 the correct determination that these conditions
12 are absolutely necessary for this liquor license.

13 We obviously want this business to
14 thrive and do well. We want this business. And
15 there has been a business there for years.

16 This is a totally different type of
17 business than what's been in this community and
18 neighborhood.

19 This is a mixed-use neighborhood, as
20 I said, with residences on both sides. And what
21 we're dealing with here is a situation where
22 somebody moved into a space that was a bar and
23 installed speakers, installed television screens,
24 cranked up the volume, and now wants to have a
25 deejay and have a party and turn it into what is

1 essentially a club.

2 What we're pointing out here is that
3 shouldn't be allowed and that the edging the
4 edging here of doing the things that they want to
5 do is concerning to us and why the Board needs to
6 put the restrictions on.

7 So showing the violations is important
8 to show the Board that their conditions are
9 absolutely necessary above and beyond what their
10 settlement agreement is now.

11 MR. MORRIS: Mr. Chairman, if I can
12 respond briefly. First of all, I object to the
13 characterization of what the Applicant has
14 planned.

15 First of all, this is not a hearing on
16 an entertainment endorsement. An entertainment
17 endorsement hasn't been placarded.

18 If it is placarded, these Protestants
19 would have a right to protest that and maybe that
20 issue could come before the Board.

21 So that is absolutely immaterial. And
22 then the idea that just because this business
23 wants to apply for an entertainment endorsement
24 and perhaps occasionally have a deejay that
25 they're trying to turn into a club is absolutely

1 lacking in any foundation whatsoever.

2 And I'll also point out that Mr.
3 Almeida and Mr. Nye will have an opportunity to
4 put on a case here as part of their protest.

5 Their cross-examination of Mr. Mason
6 is not an opportunity for Mr. Nye to himself
7 testify.

8 And again, and I will repeat myself,
9 the Chairman has specifically limited the scope
10 of this hearing to whether additional
11 restrictions are necessary, whether the existing
12 settlement agreement is insufficient to provide
13 protection to these Protestants.

14 The evidence that they continue to put
15 on is that apparently they believe ABRA
16 enforcement is insufficient to protect them, not
17 the settlement agreement is insufficient to
18 protect them.

19 If they have an issue with ABRA
20 enforcement, they should go to their ANC, they
21 should go to somebody else, but it is not the
22 fault of the existing settlement agreement.

23 And we have an ABRA protest report
24 where there were 20 visits from ABRA
25 investigators, different times of day, different

1 times of year, all throughout the spring and
2 summer.

3 We also have five police reports.
4 None of them revealed a violation of this
5 settlement agreement.

6 Now, if Mr. Nye and Mr. Almeida want
7 to take issue with ABRA's ability to enforce the
8 terms of settlement agreements, they're welcome
9 to do that.

10 This is not the place to do that. And
11 Mr. Nye is apparently unwilling to limit the
12 scope of his questioning according to the
13 chairman's directives.

14 CHAIRPERSON ANDERSON: This is cross-
15 examination. And I think that Mr. Nye and Mr.
16 Almeida, you are seeking an opportunity to
17 present your case.

18 So I need you to limit your questions
19 to questions that were asked on direct.

20 So let's kind of wrap this up because
21 I think we're moving far field from questions
22 that were asked on direct.

23 You will have an opportunity to
24 present your case and present what you believe
25 that you want us to hear and what decision you

1 want us to make.

2 But we are in cross-examination.
3 Cross-examination is not a point where a witness
4 can present their case in chief.

5 And I think that we're kind of moving
6 towards that, sir, all right? So I need us to
7 get back to your cross-examination and you'll
8 have an opportunity to present your case when
9 it's your time to present your case, okay? Let's
10 move on.

11 MR. NYE: Indulgences.

12 CHAIRPERSON ANDERSON: Do you have
13 any other questions that you need to ask?

14 MR. NYE: Indulgences.

15 CHAIRPERSON ANDERSON: Thank you.
16 Any questions of Mr. Mason by any of the Board
17 members? All right. Do you need to redirect,
18 Mr. Morris?

19 MR. MORRIS: I do not. I'm willing to
20 call my next witness.

21 CHAIRPERSON ANDERSON: All right.
22 Thank you. All right. How long do you think
23 this witness I going to be, sir?

24 I want to take a break, but I will try
25 to take the break -- is this your last witness

1 here?

2 MR. MORRIS: This will be my last
3 witness and I believe the amount of time that Dr.
4 Hampton will testify will be largely determined
5 by the scope of the cross-examination, as it was
6 with Mr. Mason.

7 CHAIRPERSON ANDERSON: All right, so
8 we'll do this witness and then we'll take a break
9 after this witness.

10 I don't want to necessarily -- or
11 unless the Board wants to break at this junction.

12 Or should we just push through? I'm
13 trying to get -- the Board is going to take a
14 break.

15 So it's 4:20. I'm sorry, it's 4:20.
16 We're going to take a break until 4:30. So we're
17 off the record until 4:30.

18 (Whereupon, the above-entitled matter
19 went off the record at 4:20 p.m. and resumed at
20 4:30 p.m.)

21 CHAIRPERSON ANDERSON: All right.
22 You have another witness you wish to call, Mr.
23 Morris?

24 MR. MORRIS: Thank you, Mr. Chairman.
25 Next witness I have is Dr. Carly Hampton.

1 CHAIRPERSON ANDERSON: Dr. Hampton,
2 can you raise your right hand, please? Do you
3 swear or affirm to tell the truth and nothing but
4 the truth?

5 MS. HAMPTON: Yes, I do.

6 CHAIRPERSON ANDERSON: All right,
7 your witness.

8 MR. MORRIS: Thank you, Mr. Chairman.
9 Dr. Grant, you're one of the owners of Buddy's as
10 well, correct?

11 Dr. Grant, I'm sorry, Dr. Hampton.

12 MS. HAMPTON: Yes, I am. Yes.

13 CHAIRPERSON ANDERSON: And what is
14 your relationship with Grant Mason, the other
15 witness and the other owner here today?

16 MS. HAMPTON: He is my fianc,.

17 CHAIRPERSON ANDERSON: Okay. Can you
18 give the Board a little background on yourself
19 and your background?

20 MS. HAMPTON: Yes, so I am a DC
21 native. I grew up in southeast DC. I went to
22 high school in northeast.

23 I went to North Carolina A&T for
24 undergrad and Old Dominion and got my doctorate
25 in physical therapy.

1 During that time, I felt I had moved
2 all about the country for my different clinical
3 rotations and I ultimately felt like I needed to
4 be back home.

5 Things were looking different. Things
6 were changing. And I wanted to move back to the
7 city I grew up in, and so here I am living in DC
8 in northwest and working downtown and opened
9 Buddy's.

10 MR. MORRIS: Okay, and what is your
11 day-to-day role at Buddy's?

12 MS. HAMPTON: Essentially, it's like
13 everything that needs to be done, whether it's
14 social media or if I need to run food to a table,
15 pretty much anything but cooking food and making
16 drinks.

17 Essentially, more of like a managerial
18 role, making sure that we have supplies that are
19 needed, making sure customers are comfortable,
20 people have what they need, and dealing with
21 different complaints, dealing with complaints
22 from our next door neighbor, email, addressing
23 emails, things of that nature.

24 Kind of a lot of everything except,
25 again, cooking food and making drinks.

1 MR. MORRIS: And again, and along with
2 Mr. Mason, have you had a role in making outreach
3 to the community with regard to sort of offerings
4 that the community wants Buddy's to have?

5 MS. HAMPTON: Correct, I am the one
6 who actually came up with the petition to see if
7 this is something that the community wants, if
8 they are, because we did hear from our next door
9 neighbors.

10 It was apparent that they were not for
11 us having the televisions. Mr. Nye and Mr.
12 Almeida only, actually.

13 And so, I created the petition to see
14 if, okay, is this an actual issue? Do we need to
15 see what other people in the neighborhood feel?

16 And a strong majority of people were
17 for that. So asking individuals when they come
18 in not only about the environment that they're in
19 but the entertainment as far as the televisions
20 and the music that we provide, also asking them
21 what other things would they like to see from us,
22 because again, we are essentially new to this.

23 I'm a physical therapist and it was a
24 sense of like, okay, let's see what the majority
25 of the community wants. So kind of surveying,

1 getting feedback, and moving about.

2 Some people want to see the State of
3 the Union address, so we put it on. We had a
4 neighbor who had, his business being presented on
5 Bloomberg on HBO with John Leguizamo or what have
6 you.

7 And he wanted to have a little watch
8 party for that. And so we hosted that at our
9 space for them, too, hence, what Grant said
10 earlier, we're more than a sports bar.

11 We've hosted Councilwoman Nadeau at
12 our space for her to have office hours where
13 people in the community could come in and sit
14 down with her one on one and express their
15 concerns and their needs.

16 Because again, we're more than a
17 sports bar. We're a place that is built to be
18 inclusive.

19 Everyone should feel welcome. People
20 from different backgrounds and those things. And
21 again, more than just a sports bar.

22 MR. MORRIS: And is having a vibrant
23 summer garden important to your business?

24 MS. HAMPTON: Very much so.

25 MR. MORRIS: Okay, and have you worked

1 with Mr. Mason to take steps to make sure that
2 any noise emanating from the summer garden
3 doesn't disturb your neighbors or other people in
4 the community?

5 MS. HAMPTON: Yes, we have.

6 MR. MORRIS: Okay. Briefly, I think
7 Mr. Mason already testified a little, but can you
8 describe some of the things that you've done to
9 try to make sure that any noise emanating from
10 the summer gardens is kept to an absolute
11 minimum?

12 MS. HAMPTON: Yes, in addition to what
13 Grant had spoke about in terms of limiting the
14 sound level so that no one outside of us, even
15 us, can even turn up the volume over a certain
16 level.

17 It's been set by an audiovisual
18 person. Most of us are not tech savvy, so we
19 don't know how to jump over that, so that has
20 been set.

21 We also bought a decibel reader and
22 met with Mr. Nye and Mr. Almeida to measure
23 sounds from our speakers with the volume
24 completely up, standing directly under the
25 speakers, holding it, standing on their porch,

1 and also going into their home, in their living
2 room, where their window is, leaning over as far
3 as I could, listening to see if I could get a
4 reading on the sounds from outside as well.

5 MR. MORRIS: Okay, yes, and you
6 testified that you have controls on the volume so
7 your staff isn't able to turn it up any louder.

8 And you were able to --

9 MS. HAMPTON: Correct. They can turn
10 it down.

11 MR. MORRIS: Okay, is that something
12 that you undertook in response to some of the
13 concerns raised by Mr. Almeida?

14 MS. HAMPTON: Correct, because of the
15 concerns they had.

16 MR. MORRIS: And similarly, with
17 removing the bass from the speakers?

18 MS. HAMPTON: Correct.

19 MR. MORRIS: And similarly, with
20 lifting the speakers off the floor and mounting
21 them in the ceilings so they wouldn't cause
22 vibrations in the walls?

23 MS. HAMPTON: Correct because that
24 was, we were informed that was the best way to
25 mitigate vibration and sound, so we took those

1 steps, yes.

2 MR. MORRIS: Okay. Now, all of these
3 things that you undertook voluntarily and in an
4 effort to both comply with your settlement
5 agreement but also just to be good neighbors to
6 Mr. Almeida and Mr. Nye, right?

7 MS. HAMPTON: Yes, and we've done even
8 more than that, yes.

9 MR. MORRIS: Okay, and you've
10 communicated directly with Mr. Almeida by text
11 message and phone, correct?

12 MS. HAMPTON: Correct.

13 MR. MORRIS: And he has both yours and
14 Mr. Mason's cell phone number, doesn't he?

15 MS. HAMPTON: Correct.

16 MR. MORRIS: And he's able to text you
17 when he has complaints or concerns or things, he
18 hears things, right?

19 MS. HAMPTON: Correct.

20 MR. MORRIS: Okay. Now, I think you
21 acknowledge and I think we all agree that there
22 are occasional times that we don't do everything
23 exactly as we're supposed to or things are
24 outside of our control, including people speaking
25 loudly or maybe staying on the patio later than

1 they're supposed to.

2 Now, there have been a few instances
3 where people have been on the summer garden past
4 11 p.m., correct?

5 MS. HAMPTON: Yes.

6 MR. MORRIS: And have you taken steps
7 in those instances to try to move them along and
8 get them to wrap up?

9 MS. HAMPTON: Yes, we do not serve
10 after the hours that are allowed on our license
11 what we're allowed to serve on the garden.

12 So we cut all service off. We'll
13 remove the food items. We'll even turn the
14 televisions off, because again, the patio is
15 closed.

16 We do everything but forcibly remove
17 people. We inform them the patio is closed.
18 Yes.

19 MR. MORRIS: Okay, and there have been
20 a couple of times that Mr. Almeida has complained
21 about people cheering during sporting events
22 coming from the summer garden, right?

23 MS. HAMPTON: Yes.

24 MR. MORRIS: Okay.

25 MS. HAMPTON: There was once, yes.

1 MR. MORRIS: Okay, and viewing the
2 submissions made by Mr. Almeida, it looks like
3 two of those instances were April 1st and April
4 3rd of this year. Does that sound right?

5 MS. HAMPTON: I mean, oh, okay, yes,
6 Final Four. Oh, okay, yes.

7 MR. MORRIS: I'm sorry, during the
8 Final Four basketball games and during the NCAA
9 championship game, people were a little bit
10 louder than normal?

11 MS. HAMPTON: So, correct. However,
12 Mr. Almeida had sent a message saying that people
13 were outside cheering very loudly.

14 However, at that time, I literally
15 went outside and there were three people sitting
16 at a table. No one else was at the patio.

17 There were about three people at the
18 table with a cup of water. There was no cheering
19 or anything going on because the game was over.

20 Mr. Almeida, unfortunately, I feel
21 that he may -- I don't know. His interpretation
22 of the sound is his own, because again, he
23 complains once that the sound was very loud, and
24 to his knowledge was thumping like a club.

25 As I began to write a response to him,

1 because at this moment, I was in the space. The
2 woman from ABRA had walked in, an investigator,
3 informing us that we were not loud.

4 She couldn't hear anything. She was
5 getting ready to leave. Mr. Almeida sent another
6 text message saying that it's still thumping like
7 a nightclub.

8 And to my response, it was like, okay,
9 I'm not going to respond, because to me, I don't
10 feel like he's being truthful because ABRA just
11 left and he's saying this.

12 And the same thing occurred with him
13 complaining about cheering when the game was over
14 and there was literally only three people on the
15 patio.

16 MR. MORRIS: Thank you. And this
17 instance that you just described where Mr.
18 Almeida texted you and said it was thumping like
19 a club, how long ago was that?

20 MS. HAMPTON: This was on the March
21 25th. That was the day. Yes, and you can even
22 see from the text messages, because I did not
23 respond.

24 MR. MORRIS: Have you had any direct
25 communication with Mr. Almeida since that time?

1 MS. HAMPTON: Yes, I mean, we've had
2 direct, because again, he abuts our property. So
3 I saw him, I'm not sure, a few weeks ago.

4 MR. MORRIS: Okay. Have there been
5 other instances where Mr. Almeida has complained
6 to you about problems he thinks were caused by
7 Buddy's but which had nothing to do with your
8 operations?

9 MS. HAMPTON: Yes, I think he had
10 concerns with rodents. Because before we even
11 opened, when there were renovations going on, we
12 had a conversation about how his retainer wall in
13 his front yard was collapsing because the rats
14 were tunneling through his ground and stuff like
15 that.

16 MR. MORRIS: What about noise and
17 things emanating from your space?

18 MS. HAMPTON: Yes, there was an
19 instance where he was texting like several days
20 in a row in terms of there's been a really loud
21 noise.

22 It was like 6 a.m. every single day.
23 We went to the space. Because he was saying
24 people were working.

25 No one was working at 6 a.m. We go

1 into the space. Nothing is happening. We tell
2 him we don't know where the sound is coming from.

3 We can't hear it every morning at
4 6:00, only for him to text us back stating that
5 it was his own coffee pot malfunctioning.

6 MR. MORRIS: Okay. Now, Mr. Mason has
7 talked a little bit about some of the steps
8 you've taken to try to mitigate noise and
9 mitigation vibration.

10 These aren't specifically required by
11 your settlement agreement, but you do know your
12 settlement agreement does require you to reduce
13 noise coming from the premises, right?

14 MS. HAMPTON: Correct.

15 MR. MORRIS: Okay. And it also has a
16 requirement that you post signs around the
17 establishment asking your patrons to be
18 considerate?

19 MS. HAMPTON: Yes, I have.

20 MR. MORRIS: And you've done that?

21 MS. HAMPTON: Correct. They are
22 inside and outside the establishment,
23 specifically underneath the televisions.

24 There's a sign underneath each
25 television that states for patrons to please be

1 mindful and respectful of our next door neighbors
2 and to keep the noise levels down.

3 And that's also inside the bar as
4 well.

5 MR. MORRIS: Okay, and as part of this
6 process, without going into specifics, as part of
7 this process, you have expressed a willingness to
8 enter into an amended settlement agreement with
9 the ANC that would hopefully address some of Mr.
10 Almeida's concerns, is that right?

11 MR. NYE: Objection.

12 MS. HAMPTON: Correct.

13 CHAIRPERSON ANDERSON: I'm sorry, was
14 there an objection, sir?

15 MR. NYE: Yes, there's an objection
16 here. I don't understand how the process of
17 amending the settlement agreement at this time is
18 relevant to what's before this hearing right now.

19 MR. MORRIS: I'll withdraw the
20 question. I wasn't going to go into any
21 specifics as those would be confidential
22 settlement negotiations anyway, so I'll withdraw
23 the question.

24 CHAIRPERSON ANDERSON: Fine, let's
25 move on.

1 MR. MORRIS: I don't have any other
2 questions for Dr. Hampton. I'll turn it over to
3 the cross-examination.

4 CHAIRPERSON ANDERSON: Mr. Nye or Mr.
5 Almeida, who's going to do it? Who's going to
6 ask?

7 MR. NYE: I'm going to cross.

8 CHAIRPERSON ANDERSON: Go ahead, Mr.
9 Nye.

10 MR. NYE: Dr. Hampton, just for the
11 record, you admit that there are times that we've
12 complained to you that it's been too loud, right?

13 MS. HAMPTON: Correct.

14 MR. NYE: And do you acknowledge that
15 there have been times that the music has been too
16 loud?

17 MS. HAMPTON: Not necessarily. I know
18 there are times where you have complained that
19 the music was loud.

20 I was not in the space and so I have
21 reached out to our manager who was there because,
22 again, you guys are our neighbors, and if it's
23 affecting you, I want to make sure that it's not.

24 So I have reached out to the staff to
25 inform them to turn the music down. Every single

1 time they're just like, it's not loud.

2 I don't care, turn it down, because
3 you guys said it was. And then there were times
4 where you have complained and I was physically in
5 the space and it's not loud, to the point that
6 even Mr. Almeida, he came in during the
7 Councilwoman Nadeau's meet and greet with
8 everybody in the community, he sat in the space
9 and also informed me that the sound really isn't
10 an issue, that there was the vibration was his
11 concern.

12 So he said, it's not loud in here.

13 MR. NYE: How often are you at
14 Buddy's?

15 MS. HAMPTON: I'm sorry?

16 MR. NYE: How often are you at
17 Buddy's?

18 MS. HAMPTON: Essentially, almost
19 every single day. Yes, I work and then I go
20 there.

21 MR. NYE: When do you work?

22 MS. HAMPTON: I'm sorry?

23 MR. NYE: When do you work?

24 MS. HAMPTON: I work Tuesday through
25 Friday.

1 MR. NYE: At Buddy's?

2 MS. HAMPTON: No, I work as a physical
3 therapist during the day as well. I do both.
4 Buddy's doesn't open until 5 p.m., so, yes.

5 MR. NYE: Are you there every night?

6 MS. HAMPTON: Not every single night,
7 but the majority. And it's not like I'm there
8 from open to close.

9 MR. NYE: Okay. So when do you
10 typically leave?

11 MS. HAMPTON: There's no set time.
12 Some days I'm there until 2:30, 3:00, when we're
13 in the process of closing because we spent an
14 hour or two cleaning. So it just varies on the
15 day.

16 MR. NYE: Can you estimate how many
17 times you were there until closing?

18 MS. HAMPTON: I mean, in what time
19 frame? It's been seven, eight months, so it's
20 hard for me to kind of pin it down.

21 MR. NYE: Are you there every Friday
22 and Saturday night until close?

23 MS. HAMPTON: Not every single, no.

24 MR. NYE: Okay. So when you and Grant
25 aren't there on every Friday and Saturday night,

1 who's in charge?

2 MS. HAMPTON: So we have a bar manager
3 and we also have another partner.

4 MR. NYE: What's your bar manager's
5 name?

6 MS. HAMPTON: His name is Alonzo.

7 MR. NYE: Alonzo what?

8 MS. HAMPTON: McFall.

9 MR. NYE: And he's there every Friday
10 and Saturday?

11 MS. HAMPTON: No, not essentially, no.

12 MR. NYE: Okay.

13 MS. HAMPTON: It varies.

14 MR. NYE: And are you two the only two
15 owners of Buddy's?

16 MS. HAMPTON: Essentially, yes.

17 MR. NYE: Who are the other owners?

18 MR. MASON: There are no other owners.

19 MS. HAMPTON: Yes.

20 CHAIRPERSON ANDERSON: Oh, hold on,
21 hold on, hold on, hold on. Mr. Mason, remember
22 when you were testifying, I never heard Dr.
23 Hampton open her mouth and say one thing, sir.

24 MR. MASON: Yes.

25 CHAIRPERSON ANDERSON: I'm asking you

1 to do the same thing. When she is testifying,
2 you have already had your moment. Please, sir,
3 please do not speak. Thank you.

4 MR. NYE: Who are the other owners,
5 Dr. Hampton?

6 MS. HAMPTON: There are no other
7 owners.

8 MR. NYE: Okay, so your LLC is made up
9 of just you and Mr. Mason?

10 MR. MORRIS: I'm going to object.
11 This is beyond the scope of direct and has
12 nothing to do with the issue. It's totally
13 irrelevant.

14 CHAIRPERSON ANDERSON: Why are we
15 going down this road, Mr. Nye? Why are we going
16 down this road? Why?

17 MR. NYE: Well, my concern is that
18 there's other people who are consistently stating
19 that they're one of the owners of the restaurant,
20 and I'm trying to figure out if people are
21 managers or owners and what kind of authority
22 they have.

23 And so the concern here is that if
24 someone else is, if Carly and Grant are coming
25 forward today and saying, well, we're going to

1 able to manage this, if there's another owner out
2 there that's not involved in this process that's
3 saying, well, I can do whatever I want because
4 I'm an owner, that's what I'm just trying to
5 figure out here.

6 We don't know because it hasn't been
7 disclosed to us who the actual owners are or if
8 there are investors or somebody who has a power
9 there to overturn any of the things they are
10 saying that they have done.

11 CHAIRPERSON ANDERSON: You don't need
12 to respond. I'm going to overrule the objection.
13 Let's move on from there.

14 As far as, I don't see there's any
15 question that the people in front of us are
16 owners. It's irrelevant.

17 And as far as your concern, Mr. Nye,
18 if there are other folks who are owners and if
19 ABRA shows up and the person says that they're an
20 owner, and if we go back to the office and they
21 are not licensed, then that's a violation, all
22 right?

23 So let's move on from there. Okay.

24 MR. NYE: Thank you, Chairman.
25 Indulgences. No further questions.

1 CHAIRPERSON ANDERSON: Thank you.
2 Any questions by any of the Board members? Thank
3 you. Yes, Mr. Short?

4 MEMBER SHORT: Thank you, Mr.
5 Chairman. Dr. --

6 CHAIRPERSON ANDERSON: Hampton.

7 MEMBER SHORT: Dr. Hampton?

8 MS. HAMPTON: Yes.

9 MEMBER SHORT: Do you know the date
10 that the original owners who opened up the corner
11 there, do you know the date?

12 MS. HAMPTON: Are you talking about --
13 are you referring to Room 11?

14 MEMBER SHORT: No, I'm speaking of,
15 yes, Room 11.

16 MS. HAMPTON: I don't know. I think
17 they opened in 2012 or something like that. Yes.
18 I'm not sure.

19 A settlement agreement is in 2012, so
20 it was either '11 or '12, I'm not too sure.

21 MEMBER SHORT: Okay, I think that
22 you're right. I remember when they came before
23 us also and the concerns the neighborhood had.
24 So that's the reason I asked that question.

25 Thank you very much for your answer.

1 That's all I have, Mr. Chair.

2 MS. HAMPTON: Okay.

3 CHAIRPERSON ANDERSON: Thank you. Do
4 we have any more questions by any of the Board
5 members? All right, Mr. Nye, do you have any
6 questions for the witness based on the question
7 that Mr. Short asked?

8 MR. NYE: No.

9 CHAIRPERSON ANDERSON: Mr. Morris,
10 any redirect?

11 MR. MORRIS: Just one question for Dr.
12 Hampton. Dr. Hampton, you understand, even if
13 you are not present at the establishment, you are
14 as the owner of the establishment, you are bound
15 to ensure that the settlement agreement is
16 followed and that all the provisions that you put
17 in place to ensure that the settlement agreement
18 and the noise provisions in that settlement
19 agreement are followed is your responsibility?

20 MS. HAMPTON: Correct, and that's part
21 of the management making sure that everyone is
22 aware of that.

23 MR. MORRIS: Thank you. I don't have
24 any other questions of Dr. Hampton.

25 CHAIRPERSON ANDERSON: All right.

1 Thank you very much. Do you have another
2 witness, sir?

3 MR. MORRIS: I do not, Mr. Chairman.
4 The Applicant's case is complete.

5 CHAIRPERSON ANDERSON: Thank you.
6 All right. All right, Mr. Nye or Mr. Almeida,
7 how do you plan to present your case?

8 MR. NYE: Yes, I'm going to ask Mr.
9 Almeida questions.

10 CHAIRPERSON ANDERSON: All right, Mr.
11 Almeida, can you raise your right hand, please?

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

14 MR. ALMEIDA: I do.

15 CHAIRPERSON ANDERSON: Your witness.

16 MR. NYE: Can you please, Mr. Almeida,
17 can you please state your name for the hearing?

18 MR. ALMEIDA: My name is Guilherme
19 Almedia.

20 MR. NYE: What do you do for work?

21 MR. ALMEIDA: I am an architect.

22 MR. NYE: And where do you work?

23 MR. ALMEIDA: I work at Hickock Cole.

24 It's a local architecture firm here in D.C. I've
25 been there for about 14 years.

1 MR. NYE: And how long have you lived
2 in this neighborhood?

3 MR. ALMEIDA: I've lived in this
4 neighborhood for about 12 years. And prior to
5 that, I, well, I moved to DC when I was 18 years
6 old and went to Catholic University.

7 So I haven't really lived very far
8 from here since then.

9 MR. NYE: Okay. And how long has your
10 family had this house?

11 MR. ALMEIDA: This house has been in
12 my family for 20 years.

13 MR. NYE: Okay, and prior to Buddy's
14 coming in, were you aware of the business that
15 was in place at the location as to where?

16 MR. ALMEIDA: Yes, Room 11, it was a
17 business that I frequented a lot and had a great
18 relationship with the owners of the
19 establishment, going so far as to connect them
20 with some of my best friends who have done
21 architectural work for them since they have left
22 the neighborhood.

23 MR. NYE: And did you ever have any
24 issues with Room 11 as a business?

25 MR. ALMEIDA: Nothing beyond the

1 normal neighborly relationship. Sometimes their
2 trash would get smelly and they would clean it
3 up.

4 There were a couple times when the
5 establishment was closed that the employees
6 decided to rock out at 4 a.m. and they'd turn the
7 music up very loud.

8 And I went over there and they stopped
9 doing it. So we had a very civil relationship, a
10 very neighborly relationship that continues to
11 this day.

12 And so when the Applicants say that
13 they did not have a good relationship with me,
14 that was a surprise and, yes.

15 MR. NYE: So when Room 11 was in
16 business, did they have these speakers on the
17 garden patio?

18 MR. ALMEIDA: No, they did not. They
19 did not have speakers and the patio was in fact a
20 smaller footprint than it is currently.

21 MR. NYE: What was the footprint?

22 MR. ALMEIDA: It previously had a
23 landscape border of about three feet that went
24 along two sides of the patio and it was not
25 enclosed with a roof structure.

1 MR. NYE: What was the occupancy at
2 the time when Room 11 was there?

3 MR. ALMEIDA: The occupancy is I
4 believe 28, which is still what it is today.

5 MR. NYE: And currently, how many
6 seats are on the patio next door now?

7 MR. ALMEIDA: Well, currently there
8 are no seats on the patio because the patio is
9 closed. So all the seating on the patio has been
10 removed.

11 MR. NYE: Prior to being closed, what
12 was the seating that Buddy's had in place?

13 MR. ALMEIDA: In the investigator's
14 report, there are 40 plus seats.

15 MR. NYE: And so, that's a significant
16 increase, right, from Room 11's occupancy, is
17 that right?

18 MR. ALMEIDA: Correct.

19 MR. NYE: And was there any speakers
20 of any sort in front or on the side, outside, at
21 Room 11?

22 MR. ALMEIDA: No, the only speakers
23 they had were inside the establishment.

24 MR. NYE: So they had a sound system
25 inside. Did you ever, other than the few

1 instances, the two instances that you complained,
2 did you ever have any issues with the speaker
3 system inside?

4 MR. ALMEIDA: No.

5 MR. NYE: Can you discuss the
6 differences of the interior that Room 11 had to
7 the interior that Buddy's has now?

8 MR. ALMEIDA: Yes, the Room 11 space
9 was broken up into two spaces because it's
10 previously two retail buildings that were only
11 combined by a couple of doorways, whereas the
12 Buddy's space now is one large, continuous space.

13 MR. NYE: And how did that happen?

14 MR. ALMEIDA: Well, there was an
15 extensive renovation that Buddy's undertook last
16 year.

17 MR. NYE: And so currently it's one
18 space.

19 MR. ALMEIDA: Correct.

20 MR. NYE: And the investigator's
21 report, they said there was one bar. Is that
22 true?

23 MR. ALMEIDA: That's true.

24 MR. NYE: Okay. And other than sound,
25 is there anything else that affects your living

1 in this house, living next door to Buddy's?

2 MR. ALMEIDA: Yes, there are vibration
3 issues, which can be a result of a myriad of
4 things, the way wall assemblies are built, the
5 way floor assemblies are built, the way the
6 building is structured, when structural work was
7 done to the building, how it was done, how it was
8 undertaken.

9 And then on top of that, we have been
10 experiencing smell related issues, a non-
11 compliant kitchen exhaust that was recently
12 installed up against our property line.

13 MR. NYE: So was that kitchen exhaust
14 there when Room 11 was there?

15 MR. ALMEIDA: No, it was not.

16 MR. NYE: Who installed it?

17 MR. ALMEIDA: The Applicants.

18 MR. NYE: Okay. And can you discuss
19 times when you complained of noise or vibration
20 issues with Buddy's?

21 MR. ALMEIDA: Yes.

22 MR. NYE: If you could go
23 chronologically, that would be helpful.

24 MR. ALMEIDA: There were several
25 instances that I shared in emails and text

1 messages, but I can list out the dates. Let me
2 get that.

3 On January 15th at 9:59 a.m., February
4 8th, 10:50 p.m., February 10th at 11:31 p.m.,
5 February 18th at 12:16 a.m., February 19th at
6 12:14 a.m., March 4th at 6:54 p.m. from the
7 patio, March 4th at 10:57 p.m., March 25th at
8 11:49 and again at 1:10.

9 MR. NYE: Are these documented? Are
10 these incidents documented in the complaints you
11 made?

12 MR. ALMEIDA: They're documented in
13 text messages or emails.

14 MR. NYE: Okay, so you have the text
15 messages. Can you pull up the text messages?
16 I'm just going to enter them while we question
17 them.

18 MR. ALMEIDA: Okay, I will share
19 Exhibit 4b. Whoops.

20 MR. NYE: And what is 4b?

21 MR. ALMEIDA: 4b is text messages
22 between myself and the Applicant over that period
23 of time. And then there is also a PDF that was
24 submitted with email communications, Exhibit 4a.

25 MR. NYE: We're going to ask that 4d

1 be entered into evidence.

2 MR. ALMEIDA: 4b.

3 MR. NYE: 4b, I'm sorry.

4 CHAIRPERSON ANDERSON: Mr. Morris?

5 MR. MORRIS: I don't necessarily have
6 an objection, but I would, I'm just going to
7 object then ask that a foundation be laid for the
8 admission of these documents.

9 CHAIRPERSON ANDERSON: We're just
10 talking about 4a. So what documents are being
11 asked to be moved into evidence?

12 MR. NYE: We're asking that just 4b,
13 which is text messages between the parties, which
14 Mr. Almeida just said these are the text messages
15 between him and his parties, and he introduced
16 it.

17 CHAIRPERSON ANDERSON: Then 4b is
18 text messages, Mr. Morris.

19 MR. MORRIS: Again, I just would like
20 to request a foundation as to where these came
21 from, just some establishment of authenticity.

22 MR. NYE: Okay.

23 CHAIRPERSON ANDERSON: Mr. Nye, sir,
24 I mean --

25 MR. NYE: I can send these --

1 CHAIRPERSON ANDERSON: These text
2 messages, are these text messages that Mr.
3 Almeida sent?

4 MR. NYE: Yes, they are text messages
5 between the parties, between Mr. Almeida and
6 Carly and Grant.

7 CHAIRPERSON ANDERSON: These are text
8 messages between -- that Mr. Almeida sent?

9 MR. NYE: Yes.

10 CHAIRPERSON ANDERSON: And responded
11 to. Is that correct?

12 MR. NYE: Yes.

13 CHAIRPERSON ANDERSON: All right.
14 This is 4a? Okay, I'll move 4a into evidence.

15 MR. ALMEIDA: I'm sorry, it's 4b.

16 MR. NYE: 4b.

17 CHAIRPERSON ANDERSON: I'm sorry, 4b.

18 MR. NYE: Thank you.

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

20 CHAIRPERSON ANDERSON: You --

21 BY MR. NYE:

22 Q Moving on. Now, these are the text
23 messages. Were there emails?

24 A Yes, there were also emails. The
25 emails are --

1 Q 4A.

2 A Exhibit 4A, yes. There were emails.

3 Q 4A. And are these emails, the emails,
4 look at them. Are these emails in the same
5 condition as they were when you had them before?
6 Or have they been changed in any way?

7 A No. These are the emails that I
8 submitted in April for our original hearing date.

9 Q But these emails are between you and
10 the applicants, right?

11 A Correct. With exception, yes. The
12 last email contains a letter from the neighbors
13 adjacent to us as well.

14 Q Okay. So, that letter has names of
15 other neighbors on it?

16 A Correct.

17 MR. NYE: Okay. I'd ask to admit the
18 emails and the letter as 4A into evidence.

19 CHAIRPERSON ANDERSON: Mr. Morris.

20 MR. MORRIS: I don't have any
21 objection.

22 CHAIRPERSON ANDERSON: So, what
23 exhibits are these again? These are 4 what?

24 MR. NYE: 4A. We submit it as 4A.

25 CHAIRPERSON ANDERSON: Exhibit 4A

1 moved into evidence.

2 (Whereupon, the above-referred to
3 document was received into evidence as
4 Protestants' Exhibit 4A.)

5 BY MR. NYE:

6 Q Now discussing the, and not going into
7 the specifics of the letter, but are, can you
8 briefly describe to us what the April 19th letter
9 in 4A is depicting?

10 A The letter that we sent to Grant and
11 Carly on April 19th. And it's signed by several
12 neighbors, including the neighbors that are
13 adjacent to me at 1108 Lamont Street, outline
14 several things that many of us witnessed that we
15 wanted the applicant to correct or, you know, had
16 basically took issue with. So the --

17 Q Was that including noise?

18 A That is including noise, yes.

19 A That is including noise, yes.

20 Q Okay. Thank you.

21 A Yes.

22 Q How many neighbors signed on to that
23 letter?

24 A There were three neighbors at 1108
25 Lamont Street, next door. And then two neighbors

1 that live down the block.

2 Q And, I'm going to have to go back to
3 where we were at. So, does this, this list of
4 all the instances that you said earlier where you
5 made complaints, do these emails and text
6 messages cover those, showing the evidence of
7 those, of the complaints?

8 A I believe they do. I'm just looking
9 to see whether in the, there were further
10 exhibits that I attached at a later date that
11 highlight other occurrences. But for the most
12 part these emails are a big bulk of it.

13 Q Now how many times have you called
14 ABCA in relation to noise complaints, or
15 vibration?

16 A I think I've called ABCA three or four
17 times. One time I spoke with Inspector Kevin
18 Fuente. And I explicitly stated that there was
19 noise inside my house. But he did not come to my
20 house, or in fact even ask me what my address
21 was.

22 So, the only time I was able to get an
23 inspector in my home was when I got Inspector
24 Ruiz on the phone. And it was very early on a
25 Thursday. It was about 7 o'clock on a Thursday.

1 And I insisted that he come into my
2 home in order to hear what I was hearing. But
3 that was the only time I was able to get an ABCA
4 inspector to come into my home.

5 Q Did you ever restrict an ABCA
6 representative from coming into the house?

7 A No, I did not.

8 Q Would you have welcomed an ABCA
9 representative to come into the house?

10 A Absolutely.

11 Q And can you tell us anything else
12 about your interactions with the ABCA
13 representative?

14 A Well, I just, I have found ABCA to be
15 frankly unresponsive, including to, you know, the
16 night that I called about the patio being open
17 beyond the allowable hours and got a, left a
18 voice mail. Didn't hear back.

19 So, I wrote an email that I didn't
20 hear back from for several days later. So in
21 that particular instance there was no way that
22 ABCA was unsubstantiated, because they didn't
23 respond to me until several days later.

24 Q So, have you tried to enforce the
25 settlement letter, the settlement agreement

1 that's in place currently?

2 A The only time I was able to have a
3 direct conversation was when Inspector Ruiz came
4 to my house on, I believe it was April, oh excuse
5 me, I'm sorry, April 13th, I believe, which was a
6 Thursday. Yes. April 13th.

7 Prior to that I was making an effort
8 to just communicate with the applicants, and not
9 go to ABCA every single time. But I now
10 understand that that is the route I should take.

11 Q Now, have you ever recorded or had the
12 ability to record noise coming from the TVs or
13 the sound system on the patio, loud enough that
14 you could hear across the street?

15 A Yes. That was the video we watched.

16 Q What date was that?

17 A Oh, that was December 10th. I'm
18 sorry. Was that December 10th?

19 Q Without replaying the video. Is --

20 A Yes. December 10th, 2022.

21 Q And in your, to your knowledge where
22 was that sound coming from?

23 A It was very clearly coming from the
24 televisions in the Buddys patio.

25 Q Is there any way it could be coming

1 from anywhere else?

2 A No. Because there's no, there's no
3 other televisions nearby that would have been
4 audible from my cell phone.

5 Q Well, did you perceive that? Did you
6 perceive where the sound was coming from?

7 A Yes. I mean, I crossed the street
8 specifically to take that video for that purpose.
9 So --

10 Q And did you inform the applicants of
11 what, when that took place?

12 A Yes, we did.

13 Q And have there been times when the
14 applicants have been responsive to your requests,
15 if ever?

16 A Just a couple of times. I would say
17 more often than not they do respond to my text
18 messages. But the problem is not solved. So,
19 there is a physical response, but not a solution.

20 Q Has there been issues with the
21 applicants not being there when somebody, when
22 the noise sometimes happens? No physically being
23 at the location?

24 A Yes. I mean, I think there are
25 sometimes when they're not at the bar.

1 Q And is that when it's loud?

2 A There have been occasions when it's
3 been loud and they haven't been at the bar, yes.

4 Q And what if anything do you know, has,
5 is the vibration still going on? Is it still
6 affecting you?

7 A It's lessened from when the initial
8 round of complaints came in. But it still does
9 occur at times. And we have not heard, other
10 than that the bass was taken out of the speaker,
11 that there were any other mitigation measures
12 taken into account.

13 And as an architect I know, you know,
14 the various different avenues that vibration and
15 sound can take. And so, I, it's very known to me
16 that there's a whole host of things that can be,
17 and typically are done to establishments like
18 this to absorb and mitigate vibration and sound.

19 Q And what are those things? And what
20 would you recommend?

21 A Vibration isolating mountings,
22 absorptive material, whether in walls, in
23 ceilings. A lot of the things have to do with
24 the way spaces are built as well. You have to
25 build for acoustic isolation. If you don't then

1 it's much harder to mitigate these things.

2 So if, for example you mount a speaker
3 on the underside of a beam that's holding a
4 structural brick wall, and that structural brick
5 wall is attached to my house, then that is going
6 to reverberate into the structure of my house.

7 And it's difficult to solve these
8 problems. But there are ways. It just takes a
9 professional and, you know, effort.

10 Q Have you suggest, have you ever
11 suggested or tried to help the applicants in
12 mitigating this?

13 A Yes. After our ABCA sponsored
14 mediation I wrote an extensive email that I took
15 quite a bit of time to research, and reached out
16 to industry colleagues to understand how they
17 could, you know, in a sort of reasonable cost
18 effective manner engage a party to determine what
19 the issues are in their space, and how to
20 mitigate them, so that we don't have these issues
21 on our end.

22 And we did not hear back from Mr.
23 Mason in response to that very extensive email,
24 which is actually in Exhibit 4A that we've
25 already submitted as evidence.

1 Q And how much time have you devoted to
2 dealing with these issues?

3 A It's taken up a lot of my time. I
4 mean, when you are in your home and you're
5 hearing the wall thump when your head is on the
6 pillow it's very much an all-consuming thing. It
7 makes it very difficult to find the peace and
8 tranquility that you need to live in your home,
9 right.

10 These are not, this isn't just a
11 passing sound. When it occurs it can be heard,
12 you know, quite extensively in our house. And is
13 very difficult to deal with, particularly in the
14 evenings when you're trying to sleep.

15 Q And when the music was loud on the TVs
16 what if anything could you hear from in the
17 house?

18 A When the music is loud on the TVs,
19 including when Ms., I'm sorry, Dr. Hampton and
20 Mr. Mason came into our home to do the decibel
21 reading, we could hear it in our living room.

22 So there's, because of the proximity
23 there's really not a scenario where any speakers
24 on that patio won't be audible in our home, which
25 again, per the settlement agreement you're not

1 allowed to hear amplified sound in our home. And
2 whenever those speakers are on you can hear it in
3 our home. So --

4 Q Can you describe the speakers? How
5 they're faced and how they're mounted? And how
6 they would project sound?

7 A They're speakers. The issue for the
8 patio is not how they're mounted. It's that
9 they're in close proximity to the windows of our
10 living spaces, right.

11 So, if you have a speaker that's ten
12 feet away from your house, from your window into
13 your living room, when you're sitting in the
14 living room you're going to hear it, even with,
15 you know, double paned windows that we have in
16 our house.

17 Q Can you hear what is being said on the
18 televisions?

19 A Yes. Yes. You can hear the Arby's
20 commercial when it's playing on the TV. You can
21 hear the game. You can hear the announcer. So
22 imagine sitting in your living room and hearing
23 somebody else's TV going on at all times. And
24 you have no ability to control it, other than to
25 leave your house.

1 Q And, yes, tell me more about how it's
2 affected you emotionally and physically.

3 A It's been very difficult, particularly
4 in the context of the applicant telling me that
5 I'm a liar, and making this up. I have started
6 seeing a therapist to try to cope with this.

7 It's been very difficult engaging, you
8 know, with being at home, frankly. Because, you
9 know, this is my sanctuary, and the place that
10 I'm supposed to go for rest. And when you come
11 home and there's noises that you can't control,
12 you've no silence, no quiet, that has been
13 really, really difficult.

14 I have spent hours and hours away from
15 work trying to work through these things. And,
16 you know, frankly just dealing with some of the
17 emotional issues that have come from it.

18 I don't have anywhere else to go.
19 This is my home. At the end of the day I can't
20 close the door and go home and sleep somewhere
21 else. This is the place that I have. So --

22 Q And you already, I mean, do you have
23 any personal bias against Buddys? Or is there
24 any sort of truth to the fact that you would want
25 to do this to go after Carly or Grant, or

1 anything for that reason?

2 A No. Absolutely not. I was very happy
3 when I saw a business going in next door.
4 Because the previous business was a business that
5 I spent a lot of time in.

6 Part of the reason why I live in this
7 neighborhood is because it's nice to be able to
8 walk out your door, and interact with neighbors
9 and places.

10 That is why we're not, I have never
11 approached this protest as us trying to deny them
12 a liquor license. This is about the conditions
13 that allow us to coexist peacefully. And having
14 music being played so that it can be heard inside
15 our home is just not one of those conditions.

16 So we absolutely want them to do well.
17 We frequent all the businesses in our
18 neighborhood. I might be a little bit too old to
19 go to Wonderland at this point, but generally we
20 frequent all the businesses in the neighborhood.

21 And we're not looking for them to
22 close. We want them to thrive and be a part of
23 the community. But we are also a part of the
24 community. And this is our home. So --

25 Q Okay. And what if anything, what

1 conditions are we, are you asking for today that
2 you think the Board can impose that would better
3 this relationship?

4 A Well, I think it's clear after the
5 amount of time that we've had to come to terms.
6 You know, we've postponed the hearing at one
7 point when they engaged Mr. Morris, because we
8 felt like we were going to potentially have a
9 better avenue for communication.

10 And the applicants have stated to us
11 that, and to everybody here that they're business
12 doesn't work without speakers on the patio. But
13 we, our home does not work with their music in
14 our home.

15 So, yes. We need those speakers to
16 not be playing music outside. And we need
17 whatever music plays inside to stay inside their
18 space. They're welcome to do whatever they want
19 in their space, as long as it stay in their
20 space, and not in our space.

21 Q I mean, have we ever, have you ever
22 done anything, or anyone in this household ever
23 done anything to affect their ability to do their
24 business?

25 A No. I have contacted the Department

1 of Buildings about the building related issues
2 that we are facing as a result of the
3 construction next door.

4 And that I'm sure has impacted their
5 business. But that's not something I did. That
6 is the reality of where we are.

7 Q Okay. And currently the patio is not
8 being used, right?

9 A Correct.

10 Q And what is your concern when the
11 patio is going to be re-opened?

12 A My concern is that the speakers will
13 be playing music, people will be out there. The
14 speakers will elevate the tone of the patio. And
15 we will be hearing louder and louder noise inside
16 our home.

17 Q And specifically talking about the
18 sporting events, can you talk about that and how
19 people react? And how that isn't conducive to
20 this current settlement agreement?

21 A Well, I think there's a whole lot of
22 language in the settlement agreement that talks
23 about being respectful, and keeping volumes at a
24 reasonable level. But, you know, a sporting
25 event riles people up, right.

1 And so, we have, when we saw the
2 speakers go up we were worried. And in fact were
3 proven right when we witnessed loud cheering late
4 at night on the patio that we could hear in our
5 bedroom. So yes, that's our concern with the
6 current setup.

7 Q And just finally, this isn't something
8 that's happened just once or twice? This
9 happened several times, right?

10 A No. I think as you'll all see by the
11 text messages that we submitted, and the dates
12 that we provided, that this has not happened just
13 once.

14 And so, you know, I foolishly thought
15 that the conversation with them was going to be
16 something of importance. But now I understand
17 that, you know, the ABCA formal process is the
18 vehicle through which we are able to present our
19 concerns a little bit better to the Board.

20 MR. NYE: No further questions.

21 CHAIRPERSON ANDERSON: Mr. Morris.

22 CROSS EXAMINATION

23 BY MR. MORRIS:

24 Q Thank you, Mr. Chairman. Thank you
25 Mr. Almeida. You testified that you called ABCA

1 several times to complain about noise emanating
2 from Buddys. Does that, is that right?

3 A That's correct.

4 Q And was it your contention by making
5 those calls that you believed that noise
6 emanating from Buddys was a violation of D.C.
7 law?

8 A No. That it was a violation of their
9 settlement agreement.

10 Q So if, the existing settlement
11 agreement, correct?

12 A Correct, the existing --

13 Q So, if there were noise indeed
14 emanating from the premises, as you complained to
15 ABCA, it's your contention that that would be a
16 violation of the existing settlement agreement?
17 Is that right?

18 A Correct. The noise being heard inside
19 my home, yes.

20 Q Okay. When is the last time you
21 called ABCA and reported a potential violation?

22 A The last time I called ABCA I believe
23 was, give me a second, I believe it was the April
24 13th date, when Inspector Ruiz came to my home.

25 Q Okay. And did you ever follow-up with

1 Inspector Ruiz, following that visit?

2 A I did. In fact, I emailed him several
3 times, and called him and left a voice mail, and
4 never heard back from him. And I also included
5 him as one of my witnesses. But he is not here
6 today.

7 Q So none of the calls that you made to
8 ABCA, and none of the, including this visit from
9 Inspector Ruiz resulted in a citation or
10 violation to Buddys, either of D.C. law or a
11 settlement agreement? Is that right?

12 A To my knowledge, yes. I called and
13 requested information on that, and was not given
14 any. So, because I don't see it in the
15 inspector's report that's what I'm assuming.

16 Q Okay. You submitted a couple of
17 exhibits. One I just want to note. The letter
18 that you submitted in Exhibit 4A-5, you testified
19 that these other neighbors signed off on it.

20 A Correct.

21 Q Did you draft that letter?

22 A I did draft the letter, yes.

23 Q Okay. Now I noticed that the letter
24 was unsigned. Is there a signed version?

25 A No. I mean, I communicated all of

1 this through email. So, I don't have, I mean, I
2 don't have my own physical signature on it. If
3 that's something that the Board needs I'm happy
4 to get them.

5 Q Okay. I just, well, do you have any
6 other proof that these individuals actually
7 consented to their names being put on that
8 letter, or shared your concerns?

9 A Well, I mean, I have my word, because
10 I'm testifying under oath. But I also have my
11 email communications. And I guess I could pursue
12 phone records. But I'm happy to get these people
13 to contact you.

14 If there was any issue with the
15 veracity of the letter when it was sent back in
16 April 19th, I would have appreciated it being
17 brought up, not in the hearing.

18 Q Okay. Just wanted to clarify that.
19 You also testified that you've reached out to the
20 applicants via text message and email on several
21 occasions to complain about noise and vibrations,
22 and time of trash collection, right?

23 A Correct.

24 Q And the trash collection issue was
25 addressed and is no longer an issue, right?

1 A Correct, yes. The Department of
2 Consumer and Licensing Protection issued fines to
3 their previous trash collection service. And I
4 believe they have a new trash collection service
5 now.

6 Q Okay. And the applicants have been
7 responsive to you with regard to the other
8 concerns, right, responded to your emails?

9 A Well, they did respond to my email.
10 But their response was basically telling me that
11 I was complaining about something that never
12 happened. And so, I had to respond with several
13 additional dates and proof that it actually did
14 happen more than once.

15 Q Okay. Now, I'm looking at the text,
16 the string of text messages. And I see a text
17 message on January 15th complaining about the,
18 about music emanating from the space.

19 And Grant Mason responds and says that
20 the jukebox company had set it up, and that he
21 would turn it off. Is that an accurate depiction
22 of that exchange?

23 A That's accurate. I believe that what
24 occurred was that the jukebox had just been
25 installed, and the system was not set up properly

1 yet. So, it turned on on its own early in the
2 morning, and we could hear it clearly in our
3 bedroom.

4 Q Okay. And there's also messages on
5 February 10th where you complain about the bass
6 coming through the wall. And Grant Mason
7 responds talking about meeting to discuss it. Is
8 that right?

9 A Correct, yes.

10 Q And Mr. Mason testified that he came
11 to your home and there was a decibel reader.
12 That also occurred?

13 A That did occur. That's the instance
14 we were talking about where in the exhibit that
15 you submitted the decibel reading outside on our
16 porch is actually higher than what's allowable by
17 the D.C. noise ordinance.

18 Q Okay. Just trying to establish the
19 fact that Ms., Dr. Hampton and Mr. Mason have
20 responded to your text messages, and said they
21 would turn down the music. That's all accurate,
22 right?

23 A It is. However, when they came to my
24 house and heard the music in my house, their
25 conclusion was that it was fine that you could

1 hear it in my house.

2 Q Okay.

3 A Even though the settlement agreement
4 says you should not be hearing anything inside
5 the adjacent properties.

6 Q Okay. So --

7 A They engaged, while they engaged us,
8 and we tried, there was not a conclusion that was
9 satisfactory. Because again, hearing music in
10 our home is not allowed per the settlement
11 agreement.

12 And is not something that would be
13 conducive to us having any peace and quiet in our
14 home. And that is evident in the, another video
15 that you submitted that was taken inside my home.
16 So --

17 Q But is it fair to say that your
18 complaint is with what you believe to be the
19 unresponsiveness, I think that was your word,
20 from ABCA investigators?

21 A Unresponsive in terms of, oh, I'm
22 sorry, from ABCA investigators?

23 Q Yes.

24 A It has been very difficult to get an
25 ABCA investigator to come here when I call. That

1 is a part of it for sure.

2 Q Okay. So it's less the issue of the
3 provisions in the settlement agreement, and then,
4 and your ability to enforce it. Isn't that
5 right?

6 A And also the applicant's understanding
7 that it's okay for some of these things to occur.
8 Again, the settlement agreement says no sound
9 should be heard in adjacent structures. But the
10 applicant has made it clear that they think
11 that's okay. And that's just a part of city
12 living.

13 Q Okay. I don't, have you, you talked
14 about these text messages, and submitted the
15 exhibit with text messages that end in late March
16 of this year. Have you complained to the
17 proprietors of Buddys since March?

18 A No. Because it has been, since their
19 patio was closed by the Department of Buildings
20 it has been much calmer here. So, that has been
21 part of the thing that has alleviated some of
22 this in recent months is that the patio is not
23 able to be utilized, because it was deemed a
24 danger by the Department of Buildings.

25 Q But the issues with vibration and

1 sound emanating from the interior of the premises
2 have been addressed?

3 A I believe at this point that they
4 might have been addressed. Again, I don't know.
5 Because other than what was just shared during
6 this hearing I don't have concrete sort of this
7 is what we did. We just took the bass out of the
8 speaker.

9 I think that I would have to go back
10 through my dates to see whether I think, I don't
11 think that we had experienced the vibration
12 inside in any meaningful way since the bulk of
13 the text messages that you see there. So --

14 Q So it's fair to say that the, all the
15 measures that Mr. Mason and Dr. Hampton have
16 taken has addressed your concerns, and to the
17 point where it hasn't been in an issue in some
18 four months. Is that right?

19 A For the vibration that could be the
20 case. It could also be that they knew there was
21 a hearing coming up and I was recording. So, I
22 don't know.

23 Q Okay. But you've remained living in
24 the space for the last four months, right?

25 A Correct.

1 Q Okay. Thank you. And so, your
2 concern is what might occur if the patio is
3 reopened?

4 A Yes. Because it already has occurred
5 in the past.

6 Q Okay. And --

7 A It's already occurred in the past, and
8 it could occur in the future again.

9 Q And notwithstanding that your
10 complaints regarding all those issues has never
11 resulted in so much as a warning to these
12 proprietors. Isn't that right?

13 A That is right, which again is
14 perplexing to me. Because Inspector Ruiz came to
15 my home and said he could hear it inside my home.
16 So, I do not know why that did not result in a
17 complaint. And I do not know why he's not here
18 when I listed him as one of my witnesses.

19 MR. MORRIS: Thank you. I don't have
20 any other questions for Mr. Almeida. Thank you.

21 CHAIRPERSON ANDERSON: Mr. Almeida,
22 were, did you hear, and I'm speaking of the
23 hearing that Mr. Ruiz is no longer working for
24 the Agency? And also, I don't recall signing a
25 subpoena that you provided to the Agency for us

1 to produce a witness.

2 Now, if parties want a witness to be
3 produced then a subpoena needs to be filed and I
4 would sign off on it. And I don't recall seeing
5 a subpoena from you requesting an Agency witness.

6 THE WITNESS: We did not submit a
7 subpoena. I did not realize that was necessary.
8 ABCA Legal told me that I didn't even need to
9 list him as one of my witnesses because he would
10 be here. So --

11 MEMBER HANSEN: Because we thought --

12 CHAIRPERSON ANDERSON: And you were
13 told at the beginning of the hearing that Mr.
14 Ruiz, the reason why Ms. Pleitez testified today,
15 because she went out, is that he no longer works
16 for the Agency, sir.

17 THE WITNESS: Are you thinking of Mr.
18 Condon. Because I think Mr. Ruiz still does work
19 for ABCA. Mr. Condon was the original inspector.
20 Mr. Ruiz was just the inspector that came to my
21 home on April 13th.

22 CHAIRPERSON ANDERSON: I believe that
23 Mr. Ruiz left. All right. Let me not, I'm not
24 involved in personnel. But I thought that Ms.
25 Pleitez testified this morning why she is the

1 investigator, how, why this case was assigned to
2 her. So, she's the third investigator who has
3 been on this case, sir. All right.

4 Let me, I have a question I want to
5 ask you. When was the last time you heard, or do
6 you know when is it that, if you know, the patio,
7 that they were unable to use the patio since
8 when?

9 THE WITNESS: Since March 23rd. They
10 used it for a little bit after the stop work
11 order was issued. But then DOB came back around
12 and made sure that they stopped using it. I
13 don't know exactly what that date was off the top
14 of my head.

15 CHAIRPERSON ANDERSON: But it was, all
16 right. I stand corrected. Mr. Ruiz is still an
17 employee at the Agency. But as I said before, I
18 don't recall, at least I haven't signed a
19 subpoena for you requesting a specific witness.
20 All right.

21 So but your testimony today is that
22 over the last four months you have not been aware
23 of any violations or perceived violations by this
24 establishment. Is that correct?

25 THE WITNESS: Of the vibration.

1 (Simultaneous speaking)

2 THE WITNESS: We have heard general
3 music in our home from the patio.

4 CHAIRPERSON ANDERSON: What do you
5 call general music, sir?

6 THE WITNESS: Just whatever is playing
7 on the TV or on the speakers.

8 CHAIRPERSON ANDERSON: And have you
9 filed a, have you raised a complaint with the
10 licensee during this period to say that you have
11 heard noise in your establishment?

12 THE WITNESS: No, we have not.

13 CHAIRPERSON ANDERSON: And why have
14 you not?

15 THE WITNESS: We felt like we had so
16 much already. But now I guess we realize we
17 didn't.

18 CHAIRPERSON ANDERSON: I'm just
19 asking. I don't know what you did. I'm just
20 asking you.

21 THE WITNESS: I mean, to be perfectly
22 frank, Mr. Chairman, this has been a very
23 draining experience. So, I've kind of taken the
24 last few months to try to not be quite as on
25 about it as I was when I was really experiencing

1 the bulk of the vibration coming through the
2 walls.

3 So, I would love to be in a position
4 where I don't ever have to think about what's
5 going on next door. That's what I would like
6 here. That's how my life was before. And that's
7 how I would like for it to be.

8 CHAIRPERSON ANDERSON: So tell me,
9 what type of business was Room 11.

10 THE WITNESS: It was a wine and
11 cocktail bar. So they initially had started out
12 right on the corner, because again as I mentioned
13 it was two spaces that kind of, eventually they
14 expanded into one.

15 So, when it was first just the one
16 corner space they had a very small bar, maybe
17 like eight or nine seats at the bar, and maybe,
18 you know, a handful of tables, like 20 tables, or
19 not 20 tables, 20 seats at a handful. No, even
20 less than a handful of tables.

21 And they served wine and cocktails.
22 And it was very hip vibe. They played music. It
23 was a very active sort of, you know, like hip
24 vibrant space.

25 So, I would say, it's my impression

1 that it's not too dissimilar from what Mr. Mason
2 and Ms., Dr. Grant are trying to do, but for the
3 sports viewing component of it, right.

4 Of course at a bigger scale, because
5 the space now has been renovated to be much
6 larger, more open. And as I mentioned before the
7 patio physically expanded as well. And it's
8 covered now.

9 So previously the patio wasn't
10 covered. So it wasn't always, it wasn't in use
11 quite as frequently right, because it was subject
12 to weather and all of that. So, that's the type
13 of establishment that they have.

14 CHAIRPERSON ANDERSON: And your -- you
15 have also testified that you have been, you had
16 frequented Room 11?

17 THE WITNESS: Correct, yes. I had
18 spent more money there than I would have like to
19 admit in my young age.

20 CHAIRPERSON ANDERSON: All right. So
21 you said they played music. So how did it play
22 music? How, what, because I'm told that these
23 owners are using a jukebox. So, how was music
24 played in this other, that facility?

25 THE WITNESS: So, I think the, my

1 apologies. I think they just had ambient music
2 inside. You know, there was no heavy base. It
3 was not extremely loud. It was just enough to
4 sort of set the mood of the bar.

5 But, you know, the bulk of the noise
6 that was in there was, by far it was people's
7 voices, not sounds, not heavy bass, no like
8 dancey type music. More, you know, loungy,
9 cocktail bar, wine bar type music.

10 CHAIRPERSON ANDERSON: All right. I
11 don't have any other questions. Any other
12 questions by any other Board members? Go ahead,
13 Mr. Short.

14 THE WITNESS: Oh, I think you're
15 muted.

16 CHAIRPERSON ANDERSON: I can't hear
17 you, Mr. Short.

18 MEMBER SHORT: Mr. Almeida, what year
19 exactly did you move in to your home?

20 THE WITNESS: 2011.

21 MEMBER SHORT: 2011. So, that's the
22 same year that the Room 11 opened up, correct?

23 THE WITNESS: Yes.

24 MEMBER SHORT: Did you ever come down
25 and testify when Room 11 opened up?

1 THE WITNESS: No, I did not.

2 MEMBER SHORT: Okay. And the owner of
3 Room 11 was, he was up in his age a little bit
4 wasn't he? Was he --

5 THE WITNESS: Yes. Oh, I'm sorry. He
6 was, oh, you're thinking of Paul Rubert. He was
7 one of the owners of the bar, yes. He was the
8 major investor.

9 MEMBER SHORT: I remember him coming
10 in to get the, open it up. But I'll just say
11 this. When you lived at Catholic University how
12 was the noise level down there?

13 THE WITNESS: Oh, it was so quiet.

14 MEMBER SHORT: All the time?

15 THE WITNESS: Oh, yes. I mean, it's
16 bucolic over there, right.

17 MEMBER SHORT: I know it very large,
18 right down the street from the Washington
19 Hospital Center and Veterans, and so you got
20 ambulances going up and down the street all night
21 long. I do know that. Right up and down
22 Michigan Avenue.

23 THE WITNESS: True.

24 MEMBER SHORT: Okay. And so, it just,
25 that was a busy area. Correct?

1 THE WITNESS: Yes. I mean, there's
2 city sounds, right, ambulances --

3 MEMBER SHORT: All right. Okay. Let
4 me ask you this. Before you went to Catholic
5 University what type of neighborhood did you live
6 in, and what was the noise levels?

7 THE WITNESS: I'm sorry. Say that
8 again. You broke up a little bit.

9 MEMBER SHORT: Did you ever live in a
10 city before you moved to your current address,
11 other than Catholic University?

12 THE WITNESS: Yes. I have lived in
13 the heart of Rome for a year when I was in
14 college. I lived in --

15 MEMBER SHORT: Let's talk about the
16 United States.

17 THE WITNESS: Okay. All right.

18 MEMBER SHORT: Similar cities to
19 Washington, DC.

20 THE WITNESS: Well, I've been here
21 since I was 18years old. And prior to that I
22 lived in South Florida for a few years. And then
23 before that I didn't live in this country. So, I
24 think D.C. --

25 MEMBER SHORT: Well, I got that.

1 South Florida isn't that quiet in most
2 neighborhoods. If you were in one of the, Fort
3 Lauderdale, or West Palm Beach or, they're not as
4 quiet as out in the country. So, did you live in
5 the city or did you live in the country?

6 THE WITNESS: At that point I lived in
7 a like a suburb. So, there was, it was very
8 quiet. There was no --

9 MEMBER SHORT: So normally you are
10 very used to quiet, calm type atmosphere. So,
11 that must have been kind of a shock to you to
12 move to Lamont Street and 11th Street, wasn't it?

13 THE WITNESS: No. Because I'm
14 originally from Sau Paulo. And I've lived in
15 major capitals, with exception of my time in
16 Florida. That was like a little blip of my
17 lifetime. So, I'm pretty used to cosmopolitan
18 city living.

19 MEMBER SHORT: Well, I'll just say
20 this, 11th Street is a pretty main drag. And
21 then you're bordered by Georgia Avenue. And you
22 got 14th Street. And I know that the ambulances
23 and fire trucks are all night long on 11th
24 Street, especially on weekends.

25 But at any rate, I'm just trying to

1 get your feeling about you moving into 11th and
2 Lamont Street the same time that a establishment
3 opens up. And now you want the same noise as you
4 were when you were in Sao Paulo? Is that what
5 you want? Same noise levels when you lived in
6 Europe?

7 THE WITNESS: I mean, I think the same
8 noise levels we had when it was Room 11 is the
9 fair thing to say.

10 MEMBER SHORT: What's that again?

11 THE WITNESS: I think the fair thing
12 to say is that we want the same noise levels we
13 had when it was the previous establishment, which
14 was Room 11.

15 MEMBER SHORT: And you are okay with
16 that?

17 THE WITNESS: Yes. Yes. We are okay
18 with that. Absolutely.

19 MEMBER SHORT: Well, I'll just say
20 this to you, sir, welcome to Washington, DC.
21 I've been here for 76 years. Welcome to
22 Washington, DC. I worked for the Fire Department
23 for 33 years. I know a lot about the city and
24 your area.

25 There used to be a streetcar

1 turnaround there at 11th and Monroe Street. The
2 streetcar used to come. So that was a very, 11th
3 Street's always been busy. And so, how many
4 nightclubs were on 11th Street when you moved
5 into your now residence?

6 THE WITNESS: Just Wonderland is the
7 only bar that was, that I think is probably
8 categorized as a nightclub I think. But they do
9 not play music outside as an example.

10 MEMBER SHORT: Okay. Well how many
11 others? Because the testimony today we got was
12 there are several within 400 feet of --

13 THE WITNESS: So, they are mostly
14 restaurants. And I would say not all of them
15 play music outside. And not all of them directly
16 abut a residential zone, such as the one that I
17 live in. Or even a residential building for that
18 matter.

19 Some of them are sort of more
20 standalones. Some of them are retail spaces
21 within mixed use buildings where the rules are
22 different. So, there's not quite as many of I
23 think direct comparisons of our situation here.

24 MEMBER SHORT: My last question, my
25 last question. Do you think that you will ever,

1 ever be a, let's just say just get used to living
2 in Washington, DC in a area where you have
3 several, not one, but several businesses,
4 restaurant or those types of --

5 Do you think you will ever get used to
6 that? Or do you think that maybe the others
7 should close and make it quiet so you can be
8 happy?

9 THE WITNESS: I don't think that's a
10 fair thing to say. Because I've lived in --

11 MEMBER SHORT: Well, that's a
12 question. Can you answer the question?

13 THE WITNESS: Yes. I love living in
14 the city, in D.C., in this neighborhood for as
15 long as I have. I lived in DuPont Circle at one
16 point which, on 17th Street, which has lots of
17 businesses and rowdiness.

18 But there's a certain, it's, I'm not
19 here to say that there should be no businesses on
20 11th Street. That's, I didn't move into this
21 neighborhood thinking that it was going to be
22 bucolic. But --

23 MEMBER SHORT: Mr. Almeida, we've been
24 here for a long time today. And I thank you for
25 your honest and kind words, and your testimony

1 today. Welcome to Washington, DC. Thank you
2 very much for your testimony.

3 THE WITNESS: Thank you.

4 MEMBER SHORT: That's all I have, Mr.
5 Chair.

6 CHAIRPERSON ANDERSON: Yes, Mr. Short.
7 Any other questions by any other Board members?
8 Go ahead, Mr. Grandis.

9 MEMBER GRANDIS: Thank you, Mr.
10 Chairman. Mr. Almeida --

11 CHAIRPERSON ANDERSON: I'm sorry. Go
12 ahead, Mr. Grandis. I didn't call your name. I
13 want to make sure that I'm recognizing you for
14 the record.

15 MEMBER GRANDIS: And you have, sir.
16 Thank you. Mr. Almeida, the issue you have
17 brought before, you all brought before us today
18 has, is not a new issue to us. And we appreciate
19 when a licensee and a resident try to resolve
20 this type of issue.

21 And I think it sounds like each, the
22 licensee and you all each have tried to resolve
23 this issue. But do not have an agreement that
24 it's resolved for each of you.

25 So, we've been hearing about sound.

1 And then we hear about vibration. Do you know if
2 any of the discussions you've had has talked
3 about getting a licensed sound engineer? Because
4 that is something that is not unusual in D.C.
5 when businesses abut residential.

6 So, I know we've heard testimony about
7 adjusting the volume. But do you know if you all
8 have ever had discussions seeing, working
9 together on getting a sound engineer?

10 THE WITNESS: Yes. So during our ABCA
11 mediation that was one of the things that we
12 discussed. And I followed up with, in the email
13 that we submitted as an exhibit was specifically
14 that, hiring a acoustic professional to be able
15 to assess the situation and make recommendations.

16 MEMBER GRANDIS: And what happened?
17 I'm sorry.

18 THE WITNESS: There was no follow-up
19 from the applicant's part after that.

20 MEMBER GRANDIS: Okay.

21 CHAIRPERSON ANDERSON: I'm, hold on.
22 Hold on. Hold on. Mr. Grandis, please. I need
23 to withdraw that question that you just asked.
24 We should not be talking about what happened at
25 mediation.

1 MEMBER GRANDIS: No. I didn't mean
2 the mediation. I wasn't asking. I was asking
3 about the sound engineer. But he brought that
4 up. I agree with --

5 CHAIRPERSON ANDERSON: But in response
6 to, yes. So, I need that to, yes. Yes. Not to
7 touch that issue.

8 MEMBER GRANDIS: Well, I'll address it
9 --

10 CHAIRPERSON ANDERSON: And, Mr.
11 Morris, I need you to keep me on my toes, sir.
12 You need to make sure I'm paying attention, Mr.
13 Morris. And you need to --

14 MR. MORRIS: It's late in the day for
15 all of us, Mr. Chairman. But I'll do better.
16 Thank you.

17 CHAIRPERSON ANDERSON: I can't do
18 everything. So, you need to object. And it's,
19 in all fairness we're not supposed to discuss
20 what happened in the mediation or the settlement
21 at the --

22 MEMBER GRANDIS: My question was about
23 sound engineer, not about negotiations.

24 CHAIRPERSON ANDERSON: But I, I know.
25 But --

1 MEMBER GRANDIS: Yes. I agree with
2 you. And I appreciate your advice, sir. Often
3 there is concern about sound when it's actually
4 vibration. And perhaps having a vibration
5 specialist look at this may come up with a very
6 easy solution for each side, to allow them to
7 have the entertainment they want, and as well as
8 not having vibrations going through your building
9 wall, possibly to yourself.

10 So, I just wanted to make sure that
11 you all were aware that this is not a new issue
12 in Washington, DC. One of the beauties of
13 Washington, DC is that we can live in every
14 neighborhood. And every neighborhood can have
15 night life. And that's really wonderful.

16 So, I'm just bringing up a suggestion
17 on perhaps, because it does sound like each of
18 you all want to live in harmony. And maybe this
19 a way to try to get to there. Thank you, Mr.
20 Chairman.

21 CHAIRPERSON ANDERSON: Thank you. Any
22 other questions by any other Board members? Any
23 other questions by the other Board members? All
24 right. Mr. Morris, any questions based on the
25 questions that were asked by the Board?

1 MR. MORRIS: No thank you, Mr.

2 Chairman. I don't have any further questions.

3 CHAIRPERSON ANDERSON: Any redirect,
4 Mr. Nye?

5 MR. NYE: No. But I did just notice
6 that Mr. Ruiz popped in. And then now is not
7 here. So --

8 CHAIRPERSON ANDERSON: And the, all
9 right. Well, let's deal with one thing at a
10 time. All right. Any, do you have any other,
11 any redirect? Any other questions for Mr. --

12 MR. NYE: No.

13 CHAIRPERSON ANDERSON: -- Almeida?
14 all right. Is there another witness that you
15 wish to call?

16 MR. NYE: It would be Mr. Ruiz who
17 just popped in and then left. I don't know what
18 happened there.

19 CHAIRPERSON ANDERSON: All right. So
20 you planned to call Mr. Ruiz as a witness? Is
21 that correct?

22 MR. NYE: We had. And if he's not
23 here then that is. But it was interesting he was
24 --

25 CHAIRPERSON ANDERSON: I'm, all right.

1 It's the beauty of technology and the beauty of
2 text messages, and trying to figure out what's
3 going on. And at the same time looking at the, I
4 have, I've had an opportunity previously to
5 browse your PIP.

6 And I did not see all of that earlier.
7 So, I think they uploaded the documents now. And
8 so, I heard you mention a witness, Mr. Ruiz. But
9 the previous documents that were uploaded for me
10 to look at, I did not see that witness list.

11 And so, now that I was told that Mr.
12 Ruiz was hanging around there. But he was not
13 aware that he was being called as a witness. I
14 think he was just being curious to listen to the
15 hearing.

16 I'm now looking at your PIP. And I
17 see that he is listed as a witness. So, if you
18 are calling him as a witness it appears that Mr.
19 Ruiz is available. And I will ask that he, his
20 rights be elevated so he can testify. Are you
21 calling him as a witness?

22 MR. NYE: Yes. Right here in the
23 courtroom.

24 CHAIRPERSON ANDERSON: All right. So,
25 Mr. Ruiz, can you come back on camera, please?

1 All right. And as I said before, you know, when
2 we do all these hearings virtually I'm trying to
3 do a whole bunch of things at the same time.

4 That when we meet in person I have the
5 legal, my lawyers are sitting behind me, telling
6 me what I'm doing right, doing wrong. So now
7 that we're doing these virtually, and I will say
8 that I have to depend on text messages to speak
9 to the lawyers. I'll say that.

10 So, I'm going to speak to our lawyers
11 to make sure that I'm not, everything's going --
12 Anyway, all right. So, Mr. Ruiz, can you raise
13 your right hand, please?

14 WHEREUPON,

15 MARK RUIZ

16 was called for examination by Counsel for the
17 Protestants and, having first been duly sworn,
18 assumed the witness stand, was examined and
19 testified as follows.

20 CHAIRPERSON ANDERSON: You're on mute,
21 sir. Yes, sir. And let me correct the record.
22 It appears that from what, from your appearance
23 here you are still employed at ABCA. And, you
24 know, I think I put out there that you were no
25 longer working for the Agency. That is my error.

1 And so I want to correct the record
2 that as far as I'm concerned with you being here,
3 you are still an employee in good standing at
4 ABCA. All right.

5 THE WITNESS: Yes. It's the start of
6 my shift actually. So --

7 CHAIRPERSON ANDERSON: Okay. Mr. Nye,
8 this is your witness, sir.

9 MR. ALMEIDA: Okay. I'll be examining
10 Mr. Ruiz. So, Mr. Ruiz, is it true that when you
11 came to our home on Thursday, April the 13th --

12 CHAIRPERSON ANDERSON: I'm sorry, Mr.
13 Almeida.

14 CHAIRPERSON ANDERSON: Can you
15 establish for the record who is Mr. Ruiz?

16 MR. ALMEIDA: Oh, okay, yes. Mr. Ruiz
17 is an ABCA inspector.

18 CHAIRPERSON ANDERSON: No, no, no, no.
19 You ask him who he is, sir.

20 MR. ALMEIDA: I'm sorry.

21 MR. NYE: Ask him who he is.

22 MR. ALMEIDA: I'm new to this. Mr.
23 Ruiz, could you describe who you are, and what
24 you do, and why you're here?

25 THE WITNESS: Yes. I'm an

1 investigator at the Alcoholic Beverage and
2 Cannabis Administration. And I'm here because I
3 conduct investigations in the District of
4 Columbia for license, alcohol license
5 establishments.

6 DIRECT EXAMINATION

7 BY MR. ALMEIDA:

8 Q Thank you, Mr. Ruiz. Do you remember
9 coming to our home on Thursday, April 13th, 2023?

10 A Yes.

11 Q Okay. Is it true that when you came
12 to our home you confirmed to me that you could
13 hear the amplified sound from the patio inside
14 our home?

15 A I did not hear it from inside. I
16 believe you showed me a video that day from
17 another incident that showed you the video. I
18 did mention when I was walking in that I could
19 hear noise from the patio.

20 Q Okay. So, you're saying now that you
21 did not hear noise inside my home when we were
22 sitting there talking about it?

23 A No. I don't recall hearing noise.

24 Q Okay. Can you explain why there is no
25 mention of my email complaint to you on March

1 18th, I'm sorry, that describes the two days when
2 the patio was open beyond the allowable hours on
3 March 18th and April 3rd?

4 A No mention where exactly?

5 Q Anywhere in the investigator's report.
6 There's no record of me filing that complaint.

7 A I don't keep records of complaints.
8 I respond to complaints to my management. If
9 there's no violation there's no report written.
10 And if this was a protest investigation I didn't
11 write the report. So, I could have no control of
12 what was placed into it.

13 Q Okay. So when you did visit the
14 establishment did you verify if the applicant was
15 complying with their certificate of occupancy?

16 A For that particular day?

17 Q Or any of the time that you visited
18 the establishment?

19 A So yes. I believe there was two times
20 during that time. First time was because of a
21 complaint for the after hours of the summer
22 garden or sidewalk caf,. And that, I did make a
23 visit to the establishment.

24 Met with the owner, asked to review a
25 settlement agreement and the license. Reviewed

1 the settlement agreement with them in person to
2 go over the hours of their sidewalk caf,, and
3 informed them of, you know, they have to pay
4 attention to those rules.

5 And then the next day, next time was
6 in regards to music being played on the speakers.
7 And then, you know, we talked about the
8 settlement agreement having some restrictions in
9 there.

10 And then when I went to the
11 establishment after speaking with you I met with
12 the owner again. We looked at the settlement
13 agreement in regards to that.

14 There was music being played at the
15 time when I went to the establishment. It was at
16 a conversational level, and which, you know, I
17 discussed with the owner in the settlement
18 agreement, if I remember correctly, I don't have
19 it in front of me, it states loud music cannot be
20 played in the area.

21 And I just instructed him to monitor
22 his sound levels, ensure it's not played, you
23 know, beyond that area. Because it's not
24 supposed to be heard across the street or
25 adjacent, across the street or adjacent, 11th

1 Street I believe it is you're on. Right, Lamont.

2 But prior to speaking to him I did
3 check. I did go across the street to check if I
4 could even hear the music. And again, it was
5 conversational level. It could not be heard
6 across the street.

7 So at that time I didn't, I basically
8 educated him to make sure he understood what
9 exactly is required of him in the settlement
10 agreement, of his license and his hours. And did
11 advise him that future could cause to be
12 violated, could cause to get a violation. After
13 that --

14 Q Sorry. Go ahead.

15 A After that I monitored a couple of
16 times. And didn't notice violations. In fact we
17 had issues with a neighboring establishment. But
18 after that I didn't receive any more complaints
19 to look up. And I did monitor a couple of times.
20 And they were being compliant.

21 Q Can you describe to me the standard
22 with which you as an inspector are trained to
23 substantiate a complaint when you go in someone's
24 home?

25 A For a noise complaint?

1 Q Correct.

2 A So basic standard is that when we go
3 into a person's home and we hear noise, whether
4 it's bass vibration or music, then that would
5 indicate a violation of 25725.

6 Q So that's it? If you hear anything
7 then you can substantiate a complaint?

8 A Yes. It's noise, vibration caused by
9 amplified sound.

10 Q Okay. All right. It's surprising to
11 me that you were unable to substantiate the
12 complaint when we met. Because --

13 CHAIRPERSON ANDERSON: Sir, Mr.
14 Almeida, please ask the question, sir.

15 MR. ALMEIDA: No. That's fine. I
16 think that's everything that I have for Inspector
17 Ruiz. Thank you, Mr. Chairman.

18 CHAIRPERSON ANDERSON: Mr. Morris, any
19 questions for Mr. Ruiz? You're on mute, Mr.
20 Morris.

21 MR. MORRIS: Thank you. No, I don't
22 have any questions for Mr. Ruiz. Appreciate him
23 joining us. Thank you.

24 CHAIRPERSON ANDERSON: Mr. Ruiz, how
25 many times did you personally monitor this

1 establishment, sir?

2 THE WITNESS: In the past couple of
3 months probably four times I've been by the
4 establishment.

5 CHAIRPERSON ANDERSON: And are you on
6 the evening shift?

7 THE WITNESS: I am. I work 5:30 p.m.
8 to 4:00 a.m. Sunday through Thursday, Monday
9 through Thursday.

10 CHAIRPERSON ANDERSON: And so normally
11 when you, if you, you're, and the four times you
12 monitored it, you've monitored it during the
13 evening? Is that correct?

14 THE WITNESS: Correct. They've been
15 usually around, after 11:30 p.m., between 11:30
16 p.m. and midnight.

17 CHAIRPERSON ANDERSON: And during this
18 previous time that you have monitored the
19 establishment have you personally observed any
20 ABCA violations, sir?

21 THE WITNESS: No.

22 CHAIRPERSON ANDERSON: Okay. Any
23 other questions by, any questions by any Board
24 members of Mr. Ruiz? All right. Then, sir,
25 thank you. Mr., I'm sorry. This is Mr.

1 Almeida's witness. Mr. Morris, any questions of
2 Mr. Ruiz based on the questions that I asked?

3 CROSS EXAMINATION

4 MR. MORRIS: Just one, Mr. Chair.

5 CHAIRPERSON ANDERSON: Based on the
6 questions that I asked.

7 BY MR. MORRIS:

8 Q Exactly. I just have one quick
9 follow-up. Is the four times that you checked on
10 this establishment, would any of them have been
11 reflected in the protest reports? Or would those
12 have been additional to those?

13 A I can't say. I'm not sure exactly
14 when this protest investigation occurred. It
15 was, the times I went were in the month of April
16 and May. And I'm not sure if it was being
17 conducted. I wasn't notified or asked about it.

18 Q Okay. So, but you were not, you did
19 not conduct those investigations for the purpose
20 of preparing the protest report?

21 A No. They were based on the complaint.

22 MR. MORRIS: Thank you.

23 CHAIRPERSON ANDERSON: This is your
24 witness, Mr. Almeida. You have the final say.
25 Do you have any redirect of this witness?

1 MR. ALMEIDA: No, we do not, Mr.
2 Chairman.

3 CHAIRPERSON ANDERSON: All right.
4 Thank you, Mr. Ruiz. Thank you very much for
5 your availability. I did not know that you were
6 supposed to be a witness today. So, but thank
7 you for being online, and being available to
8 testify. Thank you very much, sir. You are free
9 to go.

10 THE WITNESS: You're welcome. Have a
11 great night, everyone.

12 CHAIRPERSON ANDERSON: Thank you. Mr.
13 Nye or Almeida, do you have any other witness
14 that you wish to call?

15 MR. NYE: No.

16 MR. ALMEIDA: No, we do not.

17 CHAIRPERSON ANDERSON: No? Do you
18 rest, sir?

19 MR. NYE: Yes.

20 CHAIRPERSON ANDERSON: All right.
21 Well, at this time we're going to have closings.
22 So it is, I'll say it's three minutes to 6:00
23 p.m.

24 So, let's take a ten minute break.

25 So, at 6:10 p.m. we will come back to do

1 closings. All right. So, we are off the record
2 until 6:10 p.m. Thank you.

3 (Whereupon, the above-entitled matter
4 went off the record at 5:57 p.m. and resumed at
5 6:10 p.m.)

6 CHAIRPERSON ANDERSON: All right. Now
7 we have, it's time for --

8 (Off microphone comments)

9 CHAIRPERSON ANDERSON: All right.
10 It's time for closings. And I'll give you both
11 five minutes to close. And what I need specific,
12 what is it that, the applicant will, the
13 applicant goes first. And so five minutes.

14 I need the applicant to be specific
15 what it is that the applicant, the licensee wants
16 the Board to do. And after the applicant, the
17 licensee gives his closing then the protestants
18 will give his closing also.

19 And you have five minutes. And I need
20 you to be very specific what it is that you want
21 the Board to do. All right. So, go ahead, Mr.
22 Morris. Closing.

23 MR. MORRIS: Thank you, Mr. Chairman.
24 Thank you, Members of the Board, for spending so
25 much time on this matter today. The Board heard

1 testimony from Investigator Pleitez that there
2 had been over the course of the two protest
3 reports, or 20 visits to the establishment.

4 That most of them occurred during the
5 late evening hours, and none of them resulted in
6 any kind of ABCA violation, or any substantiated
7 issue regarding an issue with noise, or any other
8 violation of the existing settlement agreement.

9 We heard testimony also from the
10 investigator that there were five calls for
11 service to the police in response to complaints
12 about noise in the fall of 2022 after the
13 establishment opened. None of them resulted in
14 any violation or any substantiated issue with
15 regard to noise.

16 And we also heard testimony from Mr.
17 Ruiz that in addition to those 20 ABCA
18 investigator visits, and five police visits, that
19 he himself conducted four visits to the
20 establishment in response to complaints.

21 And on those visits two of, at least
22 two of those occasions he went over the
23 settlement agreement with the owners of the
24 establishment. He was out on the patio and near
25 the patio with, when it was open, when the

1 televisions were on.

2 He went into the home of the
3 protestant. And he could not hear anything in
4 the home of the establishment. And could not
5 determine that there was any issue with noise
6 either inside or outside the establishment.

7 Mr. Almeida himself testified that
8 January through March were when he had the most
9 problems and issues. And the test messages that
10 he submitted demonstrate that he reached out to
11 the applicant about it. That it, that measures
12 were taken. That music was, inside was turned
13 down.

14 We heard testimony from Mr. Mason that
15 all sorts of vibration and noise mitigation
16 measures were taken inside. And that starting in
17 the spring time, starting at late March they
18 worked. Mr. Almeida testified that he had no
19 further complaints, and didn't have any issues.

20 Now, I am sympathetic to Mr. Almeida.
21 I know this is his home. And being able to live
22 peacefully in your home is important. And I'm
23 sympathetic to that.

24 But I also am sympathetic to the, and
25 I hope the Board will be as well, to these

1 business owners' ability to run their business,
2 and run their business in a way that serves the
3 community that they are a part of.

4 And that includes the ability as they
5 are licensed to operate a summer garden. And
6 subject, subject of course to the restrictions,
7 the existing restrictions in the settlement
8 agreement.

9 The settlement agreement provides for
10 no loud or live music. And provides for noises
11 emanating into adjacent residences. It provides
12 for efforts undertaken by the applicant to ensure
13 its patrons are not loud or disturbing of nearby
14 residents and businesses.

15 And again, 29 times we have testimony
16 of people coming out to the establishment, trying
17 to see if there's a violation, either responding
18 to a complaint or responding to the issues raised
19 in this protest.

20 And at no point, not one of those
21 times was there even so much as a warning issued,
22 a turn it down a little bit, your violating this.
23 At no point. At every point we heard from Mr.
24 Ruiz, from Investigator Pleitez, that at ever
25 time --

1 So the conclusion that seems
2 inescapable here is that these applicants and
3 licensees are operating their business according
4 to the law, and according to their settlement
5 agreement.

6 And I want to just be very specific
7 here. Because the issue that Mr. Chairman put
8 before the Board, and put before us today was,
9 are additional restrictions required to be put
10 into the settlement agreement as part of the
11 renewal.

12 Everything that Mr. Almeida has
13 complained about, every bit of evidence that he
14 has put on regarding alleged violations by the
15 licensee, every single one of them if
16 substantiated would have been a violation of the
17 existing settlement agreement.

18 There is simply nothing that needs to
19 be added to the settlement agreement to ensure
20 that those things, if substantiated, would be,
21 would rise to violations.

22 The existing sentiment agreement is
23 perfectly capable. It was capable under, when it
24 was Room 11 operating on it. And it's certainly
25 capable now that Buddys is operating under it to

1 protect the interests of nearby property owners,
2 and to protect and preserve the peace, order, and
3 quiet of the community.

4 And again, 29 separate visits.
5 Different times of day, mostly at night. Mr.
6 Ruiz said all of his were at night. Inspector
7 Pleitez said almost, most of theirs were late at
8 night.

9 So, Mr. Almeida, I understand his
10 frustration. And I'm sympathetic to it. But his
11 frustration is, I, it seems to me is, his ability
12 to direct ABCA to do what he wants them to do.

13 He has called them out. He has
14 complained. He has filed this protest. And ABCA
15 has said these, this business is not violating
16 any law. And that is, I understand that seems to
17 be frustrating to him.

18 But it's, his ability to enforce this
19 settlement agreement in a way that works for him
20 is where his perception lies. Because this
21 applicant and this licensee is, has a settlement
22 agreement that if it violates the settlement
23 agreement there would be a violation.

24 But it either hasn't violated it, or
25 it's been awfully lucky in that 29 times ABCA

1 investigators or police have been to the
2 establishment to respond to complaints, and not a
3 single time has a violation been found.

4 Now the, and I just want to make one
5 final point. And then I'll be finished. The
6 licensee has taken, we had testimony that the
7 licensee has taken substantial noise mitigation
8 efforts with respect to the interior of the
9 premises, such that there, the action that they
10 have taken to ensure their own compliance with
11 their settlement agreement, as well as to ensure
12 the peace, order, and quiet of Mr. Almeida, have
13 addressed those concerns, such that there hasn't
14 been a complaint in four months.

15 There is absolutely no reason, and
16 nothing that has been presented to the Board
17 today that would in any way indicate that when
18 their patio and summer garden reopens, that they
19 wouldn't act in a similarly compliant manner, to
20 ensure that the neighbors are not disturbed, and
21 that the peace, order, and quiet of the community
22 is not disturbed.

23 So, what we would request of the Board
24 specifically, we have already requested, and I
25 think the Board has already determined that the

1 license should be renewed.

2 We would just ask that it be renewed
3 subject to the existing settlement agreement that
4 the testimony today has demonstrated protects
5 both Mr. Almeida, as well as everybody in the
6 community. That it, without any further change.

7 And that the applicants are permitted
8 as they have been throughout, as the testimony
9 has clearly demonstrated, that they be permitted
10 to continue to work to ensure their own
11 compliance with that settlement agreement.

12 And that no further restrictions be
13 put on them with regard to any noise mitigation,
14 or anything else in the agreement.

15 So, I don't have anything further.
16 And I thank the Board for their time and their
17 consideration, and their thoughtful questions
18 today.

19 So again, just the specific request is
20 that the license be renewed subject to the
21 existing settlement agreement, with no further
22 restrictions. Thank you, Mr. Chairman. Thank
23 you, Members of the Board.

24 CHAIRPERSON ANDERSON: Thank you, Mr.
25 Morris. Mr. Nye.

1 (Simultaneous speaking)

2 CHAIRPERSON ANDERSON: Or Mr. Almeida.
3 I'm sorry. I apologize. I know who I was
4 calling. So, I'm not going with the way the
5 names are written on my sheet. Okay. All right,
6 Mr. Almeida.

7 MR. ALMEIDA: Thank you, Mr. Chairman.
8 Despite the challenging experiences we've had as
9 a result of the applicant's business operations,
10 our protest again is not asking the Board to
11 revoke the applicant's license.

12 Again, we have coexisted peacefully
13 for more than a decade with our previous
14 neighbors, Room 11 and Bad Saint, both of whom
15 were directly abutting ABCA licensed
16 establishments. This is evidenced by the fact
17 that you have not seen us here before.

18 We request that the Board require the
19 applicant to engage a third party professional
20 acoustical engineer to analyze their space and
21 incorporate noise mitigation improvements within
22 the premises to ensure that music, noise, and
23 vibrations from the establishment are not audible
24 or felt beyond the curb of the establishment or
25 in any other premises at any time.

1 We request that the Board require the
2 removal of exterior sources of amplified sound,
3 and require that levels for amplified music
4 inside the establishment be at a level that
5 results in no music, noise, or vibrations from
6 the establishment being audible or felt in the
7 abutting neighbor's premises, our home located at
8 1106 Lamont Street Northwest.

9 Ultimately, we're asking the Board to
10 impose these conditions to ensure that the
11 applicant runs a business indoors and outdoors
12 that is appropriate and respectful of the
13 predominantly residential RF-1 zone setting it
14 has chosen to open in, so that we may live in our
15 home with peace, order, and quiet. We'd like to
16 thank you for your time and attention.

17 CHAIRPERSON ANDERSON: Thank you very
18 much, Mr. Almeida. The record is closed. Do the
19 parties wish to file proposed findings of fact
20 and conclusions of law, argue their, which the
21 Board can make its determination on what's
22 presented today?

23 And proposed findings of fact and
24 conclusions of law, basically it's to wait for
25 the transcript. You read the transcript. You

1 say, this is what was presented. This is what
2 was presented. This is the law. This is what
3 the Board should do.

4 That's an additional work if the
5 parties want to do that. Or you could waive it.
6 The Board will make a decision on the evidence
7 and the testimony that was presented today.

8 MR. NYE: I think we're going to ask
9 for the findings of facts.

10 CHAIRPERSON ANDERSON: I'm sorry. I'm
11 sorry.

12 MR. NYE: We're going to ask for the
13 findings of facts.

14 CHAIRPERSON ANDERSON: You want to do
15 the findings of facts? Okay. So, if the parties
16 choose to file proposed findings of facts and
17 conclusion of law, then 90 days from when the
18 Board receives the proposed findings of facts and
19 conclusion of law.

20 So therefore, you're findings of facts
21 and conclusion of law, they're due to the Board
22 30 days after receipt of the transcript. The
23 transcript will be emailed to the parties in
24 approximately three weeks.

25 So, the transcript will be submitted

1 in approximately three weeks. And then you have
2 30 days from the submission of the transcript to
3 close, I'm sorry, to provide your proposed
4 findings of facts and conclusion of law.

5 All right. So, the record is not
6 closed. So let me officially disclose this
7 matter before us is closed, this hearing. So,
8 give me a minute.

9 And if you change your mind please
10 advise the Board as soon as possible, if you
11 change your mind and decided not to file the
12 proposed findings of facts and conclusion of law.
13 Okay. All right.

14 As Chairperson of the Alcoholic
15 Beverage and Cannabis Board for the District of
16 Columbia, and in accordance with D.C. Official
17 Codes Section 2-575 of the Open Meetings Act, I
18 move that ABC Board hold a closed meeting for the
19 purpose of seeking legal advice from our counsel
20 on Case number 23-PRO-00004, Buddys DC, pursuant
21 to DC Official Code Section 2-575B(4)(a) of the
22 Open Meetings Act, and deliberating upon Case
23 number 23-PRO-00004 Buddys DC for the reasons
24 cited in DC Official Code Section 2-575 B(13) of
25 the Open Meetings Act. Is there a second?

1 (No audible response)

2 CHAIRPERSON ANDERSON: Mr. Short has
3 second the motion. I will now take a roll call
4 vote on the motion before that has been properly
5 second by Mr. Short. Mr. Short.

6 MEMBER SHORT: Mr. Short, I agree.

7 CHAIRPERSON ANDERSON: Mr. Cato.

8 MEMBER CATO: Bobby Cato, I agree.

9 CHAIRPERSON ANDERSON: Ms. Hansen.

10 (No audible response)

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 motion
16 has passed I hereby give notice that the ABC
17 Board will recess these proceedings to hold a
18 closed meeting pursuant to Section 2-575 of the
19 Open Meetings Act.

20 Thank you very much. Give me one more
21 minute so I can officially close the record for
22 the day. And then you all are free to go. But
23 just let me close the record for the day.

24 As Chairperson of the Alcoholic
25 Beverage and Cannabis Board for the District of

1 Columbia, in accordance with Title 3, Chapter
2 405, Office of Open Government, I move that ABC
3 Board hold a closed meeting on July 20th, 2023
4 for the purpose of discussing in hand reports
5 concerning ongoing or planned investigation of
6 alleged criminal or civil misconduct, or
7 violations of law, or regulations, and seek legal
8 advice from our legal counsel on the Board's
9 investigative agenda, legal agenda, licensing
10 agenda for July 20th, as published in the D.C.
11 Register on July 14th. Is there a second?

12 MEMBER CATO: Bobby Cato seconds.

13 CHAIRPERSON ANDERSON: Mr. Cato has
14 second the motion. I will now take a roll call
15 vote on the motion before us that has been
16 second. Mr. Short.

17 MEMBER SHORT: Mr. Short, I agree.

18 CHAIRPERSON ANDERSON: Mr. Cato.

19 MEMBER CATO: Bobby Cato, I agree.

20 CHAIRPERSON ANDERSON: Ms. Hansen.

21 (No audible response)

22 CHAIRPERSON ANDERSON: Mr. Grandis.

23 MEMBER GRANDIS: Edward Grandis, I
24 agree.

25 CHAIRPERSON ANDERSON: And, Mr.

1 Anderson, I agree. As it appears that the motion
2 has passed five, zero, zero I hereby give notice
3 that ABC Board will hold this closed meeting
4 pursuant to the Open Meetings Act.

5 Notice will also be posted on the ABC
6 Board hearing room bulletin board, placed on
7 electronic calendar on ABCA's website, and
8 published in the D.C. Register in as a timely
9 manner as practical.

10 We are now adjourned for the day. I
11 want to thank everyone for their active
12 participation in this hearing today. And now I
13 ask all the Board members to return to Executive
14 Session for the action. Have a great day. Thank
15 you very much.

16 (Whereupon, the above-entitled matter
17 went off the record at 6:27 p.m.)
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This is to certify that the foregoing transcript


In the matter of: Buddy's DC

Before: DC ABCA

Date: 07-19-23

Place: teleconference

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