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

2 (1:48 p.m.)

3 CHAIRPERSON ANDERSON: Our next case
4 is Case number 22-PRO-00026 Empire Lounge,
5 License Number 110702. Ms. Fashbaugh, can you
6 please elevate the rights of the parties in this
7 case, please.

8 MS. FASHBAUGH: Please stand by. This
9 might take a moment. Richard Bianco, your rights
10 have been elevated. Dessalegn Nigussie, your
11 rights had been elevated. I do not see the other
12 licensee. I do not see Commissioner Alex Padro.

13 Yohannes Bayou, your rights have been
14 elevated. Dan Orlaskey, your rights have been
15 elevated. Pearson Stoecklein, your rights have
16 been elevated. Rhoda Glasgow, your rights have
17 been elevated.

18 Sergeant Dale Vernick, your rights
19 have been elevated. Captain Han Kim, your rights
20 have been elevated. Chairperson, I see -- oh,
21 Alex Padro, your rights have been elevated.

22 I see one more individual in the room,
23 would you like me to elevate them? Their name is
24 Keayon Kassem.

25 CHAIRPERSON ANDERSON: Is Keayon

1 Kassem, is that a witness for either side? I'm
2 sorry?

3 MR. NIGUSSIE: Not for the applicant,
4 unless he is logged in under a different name.

5 CHAIRPERSON ANDERSON: Is -- who's --
6 Keayon Kassem, who's that? Why -- elevate their
7 rights, I'm trying to see who that person is.
8 Mr. Orlaskey, do you know a Keayon Kassem?

9 MR. NIGUSSIE: Yes. It's -- I'm
10 sorry. This is --

11 CHAIRPERSON ANDERSON: I'm sorry who
12 is speaking?

13 MR. NIGUSSIE: This is Mr. Nigussie.

14 CHAIRPERSON ANDERSON: That's -- who
15 is that person, sir, is that one of your witness?

16 MR. NIGUSSIE: That's just a friend.
17 No, he is not a witness.

18 CHAIRPERSON ANDERSON: So you don't
19 need to elevate. They're not testifying, so they
20 can be theory. There is no need to elevate their
21 rights, Ms. Fashbaugh. They can listen to the
22 hearing since they're -- if they're not
23 participating today.

24 So as far as -- I'm sorry. How many
25 -- how -- who's protesting this matter, Mr.

1 Bianco?

2 MR. BIANCO: WNA, as well as the ANC.

3 CHAIRPERSON ANDERSON: Okay. Who's
4 representing the WNA?

5 MR. STOECKLEIN: This is Pierson
6 Stoecklein, Mr. Chairman.

7 CHAIRPERSON ANDERSON: All right.
8 Okay. So you are the represent. All right. So
9 have you -- I know that your case -- your -- the
10 case is much later on, but -- all right. Let --
11 all right. Let me do some introductions and then
12 I can preliminary let us -- let's move on.
13 Sorry.

14 So let's do some introductions. So
15 what I'll -- I'm going to do is that -- Mr.
16 Bianco, can you please -- we'll start with the
17 applicant doing some -- their introduction. So,
18 Mr. Bianco, let's start with you please.

19 MR. BIANCO: Sure. Good afternoon,
20 Mr. Chair, members of the Board, my name is
21 Richard Bianco, R-I-C-H-A-R-D B-I-A-N-C-O. I
22 represent the applicant.

23 And the representative for the
24 applicant is here. His name is Dessalegn
25 Nigussie. I will let him say and spell his name

1 so we can all get it right.

2 CHAIRPERSON ANDERSON: Mr. Nigussie,
3 can you please introduce yourself by spelling and
4 -- state and spell your name, please?

5 MR. NIGUSSIE: Yes. Good afternoon.
6 My name is Dessalegn Nigussie. Dessalegn spelled
7 as D-E-S-S-A-L-E-G-N. And my last name is
8 Nigussie, N-I-G-U-S-S-I-E. I'm the owner of
9 Empire Lounge DC.

10 CHAIRPERSON ANDERSON: And, Mr.
11 Nigussie, do you have a camera? I would like to
12 see you, if I can.

13 MR. NIGUSSIE: Let me see.

14 CHAIRPERSON ANDERSON: Okay. All
15 right. So you can work on -- continue working on
16 that. Who else? Is there anyone else you need
17 to identify, Mr. Bianco?

18 MR. BIANCO: So the other individuals
19 here are witnesses. They're not representing the
20 establishment. If you want me to introduce them
21 for the record, I can do that now, or we can do
22 it if and when I call them.

23 CHAIRPERSON ANDERSON: Okay. We can
24 do that later on. Okay. Fine. All right.
25 Let's start with the ANC. Who's here on behalf

1 of the ANC?

2 MR. ORLASKEY: That would be me. My
3 name is Commissioner Dan Orlaskey from 1B02.
4 It's D-A-N-I-E-L O-R-L-A-S-K-E-Y.

5 CHAIRPERSON ANDERSON: All right. So
6 are you the only one from the ANC, sir?

7 MR. ORLASKEY: Yes.

8 CHAIRPERSON ANDERSON: All right. Mr.
9 Stoecklein, can you please spell and state your
10 name for us. Please state your name for the
11 record and your affiliation.

12 MR. STOECKLEIN: Yes. Pierson
13 Stoecklein. First name, P-I-E-R S-O-N. Last
14 name, S-T-O-E-C-K-L-E-I-N. And I represent the
15 Westminster Neighborhood Association.

16 CHAIRPERSON ANDERSON: Are there any
17 witnesses that are on -- well -- all right. So
18 good afternoon, everyone. Ms. Glasgow, can you
19 please spell and state your name for the record,
20 please.

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

23 CHAIRPERSON ANDERSON: And who are
24 you, ma'am?

25 INVESTIGATOR GLASGOW: I'm an

1 investigator for the Alcoholic Beverage
2 Regulation Administration.

3 CHAIRPERSON ANDERSON: Thank you. Can
4 you just turn your volume up somewhat, please.
5 All right? Thank you.

6 Hi, everyone. This is a protest
7 hearing. This is a substantial change
8 application for the Empire Lounge. This protest
9 is being protested by the ANC and WNA and --
10 which is what? The Westminster Neighborhood
11 Association; am I correct?

12 MR. STOECKLEIN: That is correct.

13 CHAIRPERSON ANDERSON: Okay. Thank
14 you. All right. And so are -- I know that after
15 all these party, are you the -- Mr. Stoecklein,
16 you're the one representing -- you're going to do
17 the -- are you the one doing the protest hearing,
18 or is that Mr. Orlaskey?

19 MR. STOECKLEIN: I will be represent
20 --

21 CHAIRPERSON ANDERSON: I ask that each
22 side -- I'd ask that someone be designated as an
23 -- as the representative to do this protest
24 hearing.

25 MR. STOECKLEIN: Okay. Well, what --

1 I'm the designated representative with
2 Westminster Neighborhood Association, but I don't
3 represent the ANC.

4 CHAIRPERSON ANDERSON: I'm aware of
5 that, sir. But --

6 MR. ORLASKEY: Chairman --

7 CHAIRPERSON ANDERSON: Go ahead, Mr.
8 Orlaskey.

9 MR. ORLASKEY: Mr. Stoecklein will be
10 presenting the case in chief on behalf of both
11 the ANC and the WNA, mostly for expediency and to
12 not be redundant.

13 I'll be here to answer any questions
14 on behalf of the ANC if any come up. I also have
15 a brief statement I can make either at the
16 beginning or the end, depending on how you want
17 to do it.

18 CHAIRPERSON ANDERSON: That is fine.
19 That works. All right. Are there any -- and,
20 Mr. Padro, I hope that you are a passenger in a
21 car; is that correct, sir? Or are you driving,
22 sir?

23 MR. PADRO: I am not driving. I am
24 stationary.

25 CHAIRPERSON ANDERSON: All right.

1 Okay. All right. Are there any preliminary
2 matters that each side -- any of the parties need
3 to make known to the Board?

4 MR. STOECKLEIN: Yes. Yes, Your
5 Honor.

6 CHAIRPERSON ANDERSON: Let's start --
7 let's -- I'm sorry. Let's start with the
8 licensee first then I'll go to the -- I'll --
9 then I'll go to the -- I'll come to you, sir.

10 MR. BIANCO: I don't have any
11 preliminary legal matters, but I do want to be
12 courteous to Mr. Padro, who is traveling. And I
13 did -- I do want to get him on as a witness as
14 quickly as possible.

15 But I understand there are some things
16 that may have to happen first, so I just wanted
17 to make the Board aware, he's time limited.

18 CHAIRPERSON ANDERSON: And what are
19 you asking for, sir? Because as you know how
20 this case usually goes, is that the Board
21 presents its case, the Board cross-examine its
22 witness, the Board asks questions of its
23 witnesses, and after the Board ask questions of
24 its witnesses, then the licensee will have an
25 opportunity. Then the protestant will have an

1 opportunity.

2 It is 1:48 -- 1:49. So we're talking
3 about maybe -- depending on how vigorous the
4 questions are, we're basically talking about
5 maybe in another two, two-and-a-half hours for
6 the licensee to present its case.

7 So are you requesting that we change
8 our process and procedures? Is that what you're
9 ask -- what are you asking?

10 MR. BIANCO: That's correct. I would
11 ask if -- I have, exactly ten questions for Mr.
12 Padro. His testimony is very limited. I would
13 ask that we could take him out of order and let
14 him move on with his trip.

15 CHAIRPERSON ANDERSON: Even before
16 when the Board present this case? That's what
17 you're asking?

18 MR. BIANCO: Correct. It's a very
19 limited issue. Essentially, the -- just to make
20 a proffer without putting on any evidence, Mr.
21 Padro works for Shaw Main Streets, and the only
22 thing he's going to testify about is confirming
23 that Empire Lounge participates in the RDO
24 program through Shaw Main Streets.

25 If the parties will stipulate to that,

1 we don't even need to put him on as a witness.
2 Otherwise, I would just like to have that on the
3 record. And I anticipate that to take about five
4 minutes.

5 CHAIRPERSON ANDERSON: Mr. Stoecklein
6 or Mr. -- and Mr. Orlaskey, is that something
7 that you can step -- stipulate to? That Empire
8 Lounge participates in the RDO program as part of
9 this -- the Shaw Main Stream -- Main -- the --

10 MR. STOECKLEIN: Mr. Chair, that's not
11 something we're able to stipulate to, but I
12 understand that Mr. Padro needs to leave. And so
13 if we can hear from him and then ask perhaps one
14 or two confirmatory questions, then I -- we're
15 happy to proceed as opposing counsel suggests.

16 CHAIRPERSON ANDERSON: All right.
17 That's fine. Do you have any preliminary issues
18 that you want to bring the -- to the attention of
19 the Board, sir?

20 MR. STOECKLEIN: Yes, I do. So I --
21 two separate but related matters. The first of
22 which is that this morning, we circulated a
23 revised version of our previously provided
24 exhibits. They're identical in all material
25 respects, but we identified some labeling

1 omissions. And so we just added labels.

2 My impression from communication with
3 opposing counsel this morning is that they
4 consent to that -- to the amended introduction of
5 our exhibits, though Mr. Bianco can certainly
6 speak for himself here. And so that's my first
7 request, is that we be allowed to proceed with a
8 amended exhibit set.

9 MR. BIANCO: I have no objection.

10 CHAIRPERSON ANDERSON: Overruled. Any
11 other --

12 MR. STOECKLEIN: Yes. One other
13 matter. We also requested -- well, we would
14 request the opportunity to substitute a witness.
15 We have a previously identified witness who was
16 to testify to her experience, you know, in the
17 neighborhood and the impact of Empire Lounge.

18 She's unable to participate today and
19 so we have a substitute witness who would testify
20 to the same substance. And because of that, we
21 don't believe that there's any prejudice to the
22 applicant.

23 And so we would ask that this resident
24 be allowed to share and speak to her direct
25 experience. It is essential to our case.

1 CHAIRPERSON ANDERSON: Mr. Bianco?

2 MR. BIANCO: We object to any witness
3 being called who wasn't previously disclosed. It
4 was disclosed this morning. I don't know who
5 this person is and have not prepared and could
6 not prepare the period of time I had for cross-
7 examination of this particular witness. I think
8 it'd be inappropriate and they should not be
9 allowed to put the witness on.

10 CHAIRPERSON ANDERSON: Who was the
11 witness that's been -- what's the name of the
12 witness who can't testify today?

13 MR. STOECKLEIN: Sure. I'm pulling
14 that up right now. The witness that is
15 unavailable today is Ms. Rebecca Oser.

16 CHAIRPERSON ANDERSON: Mr. Bianco, do
17 you know who Ms. Rebecca Oser is?

18 MR. BIANCO: So I don't know her
19 personally, but she was disclosed last week,
20 along with her anticipated scope of testimony.
21 And I would also note that included in the
22 investigative report is a narrative provided by
23 Mr. Stoecklein outlining what Ms. Oser or Oster
24 would -- had personally witnessed and would be
25 testifying to.

1 This new -- or this other person, I
2 don't know what the scope of their testimony
3 would be or, more importantly, I think what
4 specifics they would be talking about as I did
5 have for Ms. Oser.

6 CHAIRPERSON ANDERSON: Mr. Stoecklein,
7 what significance is there regarding her
8 testimony that would -- is this the same -- I
9 guess what I'm trying to find out who this new
10 witness and what it does that they'll be
11 testifying to?

12 MR. STOECKLEIN: The new witness is a
13 resident that lives in the building directly
14 adjacent to and behind Empire Lounge. She has
15 testimony that she would share about her direct
16 experience impact on her life that's similar to
17 the testimony of a number of witnesses.

18 As the Chair well knows, there's no
19 deposition process in the preparation of these
20 witnesses. So there isn't, and nor is there, a
21 requirement that a statement be provided the
22 investigator from every witness.

23 And so the indication or the
24 implication that there is, you know, discovery
25 that was unable to be done, you know, it just --

1 it really doesn't hold water in this instance,
2 right? I mean, there's plenty of witnesses Mr.
3 Bianco will call that we've not seen statements
4 from and that is only -- you know, whose
5 testimony is only generally referred to.

6 Most importantly, you know, it is
7 extremely important that the rights of the
8 neighborhood to present our best evidence and
9 eyewitness testimony, you know, that that that'd
10 be permitted in order to -- I think we'll just
11 call it due process, and so -- you know, so this
12 --

13 And Mr. Bianco will certainly go to
14 cross-examine this witness. The testimony is
15 substantially similar to what would have been
16 offered by Ms. Oster.

17 CHAIRPERSON ANDERSON: So why is Ms.
18 Oser not available today, sir?

19 MR. STOECKLEIN: Ms. Oser became
20 unresponsive through our requests to participate
21 today, despite multiple attempts and so I can't
22 force her to do so, nor could I issue a subpoena
23 on short notice.

24 CHAIRPERSON ANDERSON: So because
25 she's unresponsive, that -- you're asking us to

1 substitute her? Not because she's ill, but
2 because she's being unresponsive to you, maybe
3 it's because she doesn't want to testify anymore;
4 is that --

5 MR. STOECKLEIN: No, I can't speak to
6 what may be causing that because she was in touch
7 very recently and then suddenly was not.

8 And so -- but irrespective of Ms.
9 Oser, I think that the request to present the
10 testimony from this witness is no less important,
11 valid, and I just -- I struggle to see how
12 there's prejudice to, given the way that this
13 process works, the pre-trial process, I struggle
14 to see how any resident with direct knowledge and
15 experience with the applicant shouldn't be heard
16 here when there will be an opportunity to cross.

17 It's the same opportunity that we'll
18 have for Mr. Bianco's witnesses. The mere fact
19 that Mr. Bianco didn't know a name doesn't
20 disadvantage him or his clients at all.

21 CHAIRPERSON ANDERSON: Mr. Bianco?

22 MR. BIANCO: Sure. The Board has very
23 specific rules. If witnesses aren't disclosed,
24 they may not testify. It's the routine ruling of
25 this Board on issues such as this.

1 The other thing I would note is, in
2 this case, again, Mr. Stoecklein provided not
3 only a narrative for Ms. Oser, but a narrative
4 for two other purported witnesses testifying or
5 supposedly testifying about their personal
6 experience.

7 They were named on the PIF form. They
8 are not present either, without explanation. So
9 they apparently can't find any witnesses that are
10 going to support their case that will actually
11 show up and testify at a hearing.

12 And the other thing I would note,
13 which I think is extremely important and I think
14 is getting very much lost in the case that WNA
15 intends to put on, is that this is a very limited
16 inquiry here.

17 This is not a renewal. It's not a
18 referendum on this particular establishment's
19 operating history going back to the beginning of
20 time. This is a substantial change application,
21 adding additional space without adding additional
22 occupancy.

23 I think it's very straightforward and
24 the parade of horrors that WNA is attempting
25 and evidently failing at putting on --

1 MR. STOECKLEIN: Mr. Chair, I would
2 object. Mr. Bianco's making --

3 CHAIRPERSON ANDERSON: Mr. --

4 MR. STOECKLEIN: -- right now. He's
5 obviously aware --

6 CHAIRPERSON ANDERSON: Hold on, hold
7 on, Mr. Stoecklein. You stated your position.
8 Mr. Bianco did not object. And so I'm asking
9 you, please, to let him complete his statement
10 and then I'll go back to your and ask you on a
11 procedural matter, but please do not interrupt,
12 sir. Go ahead, Mr. Bianco.

13 MR. BIANCO: That's all. It's a
14 limited inquiry and it doesn't need to go as far
15 as WNA is taking it. And that's my position on
16 the issue.

17 CHAIRPERSON ANDERSON: Do you have any
18 final comment, Mr. Stoecklein?

19 MR. STOECKLEIN: Yes, Mr. Chairman.
20 Apologize for the interruption, but it seemed to
21 me that Mr. Bianco was beginning his opening
22 statement, so -- which I think we would all love
23 to get onto.

24 So there is no requirement that a
25 statement be provided from all witnesses that are

1 identified. The rules that -- Mr. Bianco only
2 cited part of the rule. The rules indicate very
3 clearly that it is subject to discretion of the
4 Board whether a witness may or may not testify if
5 that witness appears in a subsequent amendment.

6 It is totally up to discretion. And
7 I would say that Mr. Bianco himself -- my last
8 point here, Mr. Bianco, although it is not true
9 that we don't have witnesses who were available
10 to testify, if it were true, that's all the more
11 reason.

12 If due process is really what is of
13 interest here, that's all the more reason to
14 allow the witness who is available, willing to be
15 cross-examined, to state her experience for
16 everyone to hear.

17 CHAIRPERSON ANDERSON: Okay. Mr.
18 Stoecklein, I'm going to make a motion to the
19 Board to deny your motion and the main reason why
20 I'm denying your motion, specifically, at this --
21 at the protest status hearing, I specifically
22 told each party that -- and our rules require
23 that seven days before the hearing you are
24 supposed to provide documents and witnesses.

25 And if documents and witnesses are not

1 identified, that the Board -- if -- the Board
2 would deny the introduction of these documents,
3 the witnesses, unless you can prove that the
4 other side has not been harmed.

5 You have stated to the Board that the
6 reason why you're asking to substitute a witness,
7 not because Ms. -- your witness was ill today or
8 not because you -- something happened to your
9 witness in a sense that they're unavailable.

10 I believe that if you had stated -- I
11 specifically asked you why is it that this
12 witness is not available?

13 Now, if you had told me that she's ill
14 or she had to leave town or something like that
15 or she had a work assignment that she couldn't
16 work and that you're asking for leave to
17 substitute with another witness who could testify
18 January to the same area, I would more so -- I
19 would think about that differently.

20 But your response to us is that a
21 reason why you're asking to substitute this
22 witness is because you are no longer able to
23 contact this witness. And that's why the reason
24 I'd say maybe she decided at this moment she no
25 longer wants to testify.

1 And so you have had -- you -- since
2 it's the witness that is no longer communicating
3 with you, you have had an -- you could have
4 substituted -- the witness that you're trying to
5 call today, you could have identified that person
6 seven days ago and that person would have been
7 able to testify today.

8 So my -- I'm -- my motion to the Board
9 today is that we deny the substitution because I
10 do not believe the rationale for this witness
11 substitution, it's not something that I can
12 support.

13 It is not because an emergency
14 occurred because this witness could -- cannot
15 occur, it's just that you're unable to
16 communicate with her and so therefore, you're
17 asking to substitute her name for another and
18 that is not -- and counsel is correct that since
19 the witness that you're trying to substitute
20 today has not been identified to him seven days
21 prior, that he will be harmed by this witness.

22 And so that is the recommendation that
23 I'm making to the Board that the Board denied the
24 motion. Is there a second? Mr. Grandis has
25 seconded the motion. We'll have a roll call

1 vote. Mr. Short?

2 MEMBER SHORT: Mr. Short. I vote that
3 the witness should be allowed.

4 CHAIRPERSON ANDERSON: Ms. Crockett?

5 MEMBER CROCKETT: I agree.

6 CHAIRPERSON ANDERSON: With -- you
7 agree with what? With what --

8 INVESTIGATOR GLASGOW: Your motion to
9 deny.

10 CHAIRPERSON ANDERSON: Thank you. Ms.
11 Hansen?

12 MEMBER HANSEN: Jeni Hansen, I agree
13 with the motion to deny.

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: (No verbal response.)

16 CHAIRPERSON ANDERSON: And, Mr.

17 Anderson, I agree to the motion denied -- the
18 motion to deny the substitution has been passed
19 for the one. Thank you. All right.

20 All right. I so what we will do, Mr.
21 -- what I will do then, I'll have open -- I'll
22 have both sides present opening -- this is where
23 the hearing will go then. We'll have the opening
24 by the applicant, the opening by the protestant,
25 and then we will have the -- we'll have -- the

1 licensee can call its first witness, Mr. Padro.

2 I see that there are -- and this is
3 just a motion that I will ask the parties to
4 consider. I know that there are two police
5 officers on the line that are being called by the
6 license -- I'm sorry, by the protestant.

7 And it is now 2:05 and I do not
8 believe that the protestants will have an
9 opportunity to call their witnesses until maybe
10 4:00 or 5:00. Would the protestants want to call
11 those officers early in the hearing, or do they -
12 - would -- are they satisfied that they -- to
13 have them available at 5:00, 6:00, whenever we
14 get to the protestant's case?

15 Because we have two officers who are
16 here, but that's -- I'm just making that known to
17 the parties if that's something that they want to
18 consider.

19 MR. STOECKLEIN: Thank you for that.
20 And, in fact, the officers have expressed to me
21 their request that -- because they have --
22 because duty calls that -- in the same way that
23 we're going to try to expedite testimony of Mr.
24 Padro, that we'd be -- that they be allowed to
25 testify as well.

1 MR. BIANCO: I'm fine with that, Mr.
2 Anderson. I'm not contending.

3 CHAIRPERSON ANDERSON: All right. So
4 what I will do then -- thank you. What I'll do,
5 I'll have Mr. Bianco present his witnesses and
6 then -- Mr. Stoecklein, then I'll -- you can then
7 call the officers so they can go back to their
8 units present -- reference -- I'm sorry,
9 protecting the residents of the District of
10 Columbia rather than sitting here on the phone
11 for maybe another three hours before we calls
12 them.

13 All right. So we'll have opening
14 statement by the licensee, then the protestant,
15 then we'll call Mr. Padro, and then we'll have
16 the licensee, then the protestant can call the
17 officers who were subpoenaed to testify today.

18 Everyone is in agreement with that,
19 okay? All right. So we can start off with the
20 opening by Mr. Bianco.

21 MR. BIANCO: Thank you, Mr. Chair,
22 members of the Board. Good afternoon. We're
23 here today on my client's application for a
24 substantial change in his operations.
25 Specifically, he is expanding the space of the

1 establishment.

2 Establishment's located at 1909 9th
3 Street, Northwest presently and since 2019, when
4 the establishment opened. Empire Lounge has
5 occupied the second and third floor of that
6 building.

7 Notwithstanding their occupancy of the
8 second and third floor, they have always leased
9 the first floor. They just were not operating in
10 that space.

11 Recently, it has been built out and
12 they are seeking to operate in that space. The
13 new space, the first floor space, has frontage on
14 9th Street and it can be -- and it can also be
15 accessed from inside of the existing Empire
16 Lounge.

17 The important piece of this, I think,
18 that we need to keep in mind today is that while
19 the establishment is expanding in square footage,
20 they are not increasing occupancy.

21 Their occupancy is -- present, is
22 going to remain at 125, which is the amount on
23 their license. So essentially, we are putting
24 the same number of people in a larger space.
25 There will be less crowding.

1 And I think the evidence you here
2 today will demonstrate with the addition of
3 another door for the same establishment for
4 patrons to enter and exit through. It will limit
5 pedestrian traffic and crowding on the street.

6 I think of particular concern here is
7 that the establishment has made repeated efforts
8 to work with the protestants at each stage of the
9 process, but has been completely rebuffed.

10 We are definitely not going to get
11 into the specifics of any negotiations and, in
12 fact, there were none, but we do intend to put on
13 the record today our efforts to work with the
14 community, which I know traditionally is
15 important to the Board.

16 I think some of the other testimony
17 that you will hear today about the protestants'
18 behavior towards the establishment is
19 particularly disturbing and I think demonstrates
20 the true agenda that WNA has against this
21 establishment.

22 The ANC has essentially been
23 disengaged in this process, have deferred to WNA
24 at every step of the way here, has not submitted
25 a PIF, isn't going to call any witnesses, or

1 present any evidence.

2 And in light of that, we really don't
3 know at this point, other than their form protest
4 letter with check boxes on it for the broad
5 category of protest issues, exactly and
6 specifically what their problem is with this
7 relatively minor substantial change that we're
8 asking for.

9 And with that, I would like to ask the
10 Board members bear in mind that the scope of
11 today's hearing is narrow. It's not about
12 everything that has happened between this
13 establishment and the neighbors since it opened
14 in 2019.

15 The only question that the Board needs
16 to answer at the end of the day is, would it be
17 appropriate for this establishment to operate
18 with the same number of people in a larger space?

19 And we think after you hear the
20 evidence today, you will find that it would be
21 appropriate. Thank you.

22 CHAIRPERSON ANDERSON: Mr. Stoecklein,
23 do you wish to make an opening statement? Do you
24 -- or do you wish to make an opening statement?

25 MR. STOECKLEIN: I do. And I have a

1 question for this chair procedurally.
2 Commissioner Orlaskey indicated that he had a
3 statement to make as well, but I think it's an
4 open question as to when the Board would like him
5 to make that statement, so --

6 CHAIRPERSON ANDERSON: He can
7 determine what -- he can let me know whether or
8 not he wants to make an opening or it's -- or a
9 closing. It's up to him.

10 MR. STOECKLEIN: Okay.

11 MR. ORLASKEY: It's Commissioner
12 Orlaskey. If Mr. Stoecklein wants to go ahead
13 and do his, I can always come back to me at the
14 end. It's really kind of depends on what's left
15 to be said, so --

16 CHAIRPERSON ANDERSON: All right. So
17 you can let me know, sir, if you want to speak.

18 MR. ORLASKEY: Okay.

19 CHAIRPERSON ANDERSON: Go ahead.

20 MR. STOECKLEIN: Okay. Thank you, Mr.
21 Chair. Empire Lounge has a proven multi-year
22 history of violating numerous laws in the
23 District of Columbia since the club was open.

24 This includes, but is not limited to,
25 playing amplified music in violation of ABRA

1 requirements and receiving countless citations,
2 verifying as much violations of existing
3 settlement agreements -- existing settlement
4 agreement, operating without a license, and
5 continuing to operate without a license after
6 having been warned by this commission.

7 Selling hookah without a license,
8 extensive violations found by the Board of the
9 mayor's COVID restrictions, DCRA violations, et
10 cetera, et cetera.

11 This demonstrates, without question,
12 that if there is a law in DC that the applicant
13 has not broken, I'm not really aware of it.
14 Numerous residents of two adjacent buildings on
15 8th Street who's rear of the building abuts
16 Empire Lounge have been driven away over the past
17 several years from their homes largely due to the
18 disruptions caused by the music and other
19 disruptive activity emanating from Empire well
20 beyond midnight and in many cases, more than five
21 nights a week.

22 The owner of Empire, Mr. Nigussie, has
23 attested on record before the Board that noise
24 control technology has been installed, is
25 operating at all times to keep sound within

1 allowable levels, but no evidence has ever been
2 provided to this Board. We suspect that will be
3 provided today.

4 Empire has been associated with
5 multiple violent crimes, including a shooting
6 inside of Empire in June of 2022. Several weeks
7 prior to that, the MPD responded to a call with
8 another gun that was found -- a patron with a gun
9 found inside.

10 There was a shooting directly in front
11 of Empire in June 2021 and the list goes on and
12 on. There are countless instances of Empire's
13 direct adverse impact on the community and we
14 will bring testimony of this to support that
15 today.

16 The summary that I just provided
17 represents, however, only a sample of the many,
18 many violent and non-violent crimes that the
19 neighborhood has experienced over the past
20 several years within a two-block radius to the
21 1909 block of 9th Street.

22 Nobody could begin to count the
23 hundreds, literally, of car windows that are
24 smashed along Westminster St, 9th, and 10th, all
25 immediately adjacent to the block in question.

1 The countless times parents and
2 children have been woken up at 3:00 a.m. to
3 fights breaking out or shots been fired within
4 100 feet of the door steps.

5 Knocking of residents living
6 immediately adjacent 1900 block clubs, Empire in
7 particular, count the hours and hours of sleep
8 that they have lost between the hours of 12:00
9 a.m. and 4:00 a.m. multiple nights a week because
10 the club continues to rage.

11 And there are, unfortunately, no ABRA
12 inspectors available, nor does this account for
13 all of the empty bottles of liquor that is
14 streaming about the neighborhood by those going
15 to and from the clubs, and inevitably driving
16 drunk throughout the city, several recent
17 occasions smashing into parked vehicles along
18 Westminster Street before fleeing.

19 You will hear today further evidence
20 about all of this and the question that is before
21 the Board today, and ultimately, is irrelevant,
22 in our opinion, whether the number of -- whether
23 the applicant is requesting an expansion in the
24 occupancy number because the proposed substantial
25 change is an expansion of the facility and

1 expansion of operation and expansion of amplified
2 music.

3 And it's very clear to us and I hope
4 to this Board, given your interactions to date
5 with the applicant, that it cannot be expected
6 to, and has not, frankly, operated within the
7 confines of the rule within it's giving -- within
8 it the existing space. So how could it possibly
9 be given authorization to expand further?

10 Applicant continues to flout the
11 authority of this Board and every other
12 enforcement authority in that district. And we
13 ask that you reject the request.

14 CHAIRPERSON ANDERSON: Mr. Stoecklein,
15 I just want to get some clarification because
16 when I looked at the -- when I looked at the
17 placard notice, and I just want to make sure that
18 you are clear, the only thing that the Board has
19 been asked to do is to allow them to operate on
20 the first floor.

21 The Board has not been asked and the
22 Board will not agree to change their occupancy --

23 MR. STOECKLEIN: I agree.

24 CHAIRPERSON ANDERSON: -- or their
25 hours of operation.

1 MR. STOECKLEIN: I just recommended --

2 CHAIRPERSON ANDERSON: I just want to
3 make sure that you know that the --

4 MR. STOECKLEIN: That is -- yes, Mr.
5 Chair. That's abundantly clear.

6 CHAIRPERSON ANDERSON: Okay. That
7 it's just whether or not they can now operate on
8 the first floor. But the Board will not be
9 making any decision on the occupancy because the
10 occupancy --

11 MR. STOECKLEIN: I understand, Mr.
12 Chair. I think we're in violent agreement. I
13 agree with you there.

14 CHAIRPERSON ANDERSON: Okay. Fine.
15 All right. That's fine. Mr. Orlaskey, do you
16 wish to make an opening or, do you want to make a
17 closing?

18 MR. ORLASKEY: I'll just make a few
19 brief comments on behalf of the ANC.

20 CHAIRPERSON ANDERSON: Go ahead, sir.

21 MR. ORLASKEY: First and in response
22 to Mr. Bianco's statements, I've already
23 explained what my role is here and mostly that is
24 to answer questions on behalf of the ANC if they
25 come up.

1 But our interest in this case, our --
2 and our concerns are aligned with the WNA's.
3 Therefore, we don't think it makes any sense to
4 present the same case twice.

5 That being said, I've spoken before
6 this Board on other occasions about balancing
7 equities between businesses and residents in
8 mixed-use areas.

9 In my particular experience as a
10 commissioner for three-and-a-half years in one of
11 those mixed-use areas, it's often very difficult
12 to balance those equities because more often than
13 not, what's good for one is not so good for the
14 other.

15 It is my opinion, based on my time
16 serving, that residents in this mixed-use area
17 shoulder a disproportionate amount of the
18 inconveniences of living and operating a business
19 here.

20 This is especially true when
21 businesses routinely violate the rules and
22 regulations that are put in place to maintain
23 that balance of equities.

24 Now, you are about to hear testimony
25 from many residents that live nearby and are

1 intimately familiar with the operations of this
2 particular business. We will hear testimony from
3 MPD officers regarding this business. And I urge
4 you to take what they say and consider what
5 happens if we don't take some sort of action.

6 If this application is approved
7 without any consequences or blatant and repeated
8 disregard for the rules that I just mentioned, I
9 don't see this situation improving. And I'll
10 just leave it at that.

11 I have more, but I think it's mostly
12 been covered by Mr. Stoecklein. Thank you for
13 your time.

14 MR. STOECKLEIN: Thank you, sir.

15 CHAIRPERSON ANDERSON: All right. So
16 we're going to -- since we're going to go out of
17 order, Mr. Bianco, do you have a witness you wish
18 to call?

19 MR. BIANCO: I'm going to call Alex
20 Padro of Shaw Main Streets.

21 CHAIRPERSON ANDERSON: Mr. Padro,
22 where are you, sir? Mr. Padro? The last time I
23 saw Mr. Padro -- okay. Fine. Mr. Padro, can you
24 raise your right hand, please. You -- I can't
25 see, sir, but -- I -- okay. Thank you.

1 CHAIRPERSON ANDERSON: Do you swear or
2 affirm to tell the truth and nothing but the
3 truth?

4 MR. PADRO: I do swear.

5 CHAIRPERSON ANDERSON: All right.
6 Your witness, Mr. Bianco.

7 MR. BIANCO: Okay. Mr. Padro, how
8 were you affiliated with Shaw Main Streets?

9 MR. PADRO: I am the executive
10 director of the organization and have been since
11 December of 2004.

12 MR. BIANCO: Okay. And what does the
13 organization do?

14 MR. PADRO: Shaw Main Street is the
15 commercial revitalization and historic
16 preservation organization for central Shaw,
17 serving primarily the seventh 9th Street
18 commercial corridors.

19 We are responsible for attracting,
20 supporting, marketing, providing services to the
21 businesses. We're also in charge of advocating
22 for historic preservation in the neighborhood and
23 for increase delivery of public services behind
24 the government of the District of Columbia.

25 MR. BIANCO: So in your class, it is

1 executive director of the Shaw Main Streets
2 organization. You're familiar with the 1900
3 block of 9th Street?

4 MR. PADRO: I am.

5 MR. BIANCO: And how about Empire
6 Lounge?

7 MR. PADRO: I am familiar with Empire
8 Lounge, although I have not been there since the
9 pandemic.

10 MR. BIANCO: Okay. And in your
11 position with Shaw Main Streets, I know you
12 described to litany of duties. Do you have any
13 dealings with the Metropolitan Police Department
14 RDO program?

15 MR. PADRO: Yes. Shaw Main Streets is
16 responsible for administering a reimbursable
17 detail officer program for several blocks,
18 including the 1900 block of 9th Street. So we're
19 --

20 MR. BIANCO: Okay.

21 MR. PADRO: Our responsibility is to
22 establish the hours of operation and to pay for
23 services that are contracted and then to invoice
24 and collect payments from the participating
25 businesses.

1 MR. BIANCO: Okay. And is Empire
2 Lounge one of the businesses that participates in
3 RDO via Shaw Main Streets?

4 MR. PADRO: It is indeed.

5 MR. BIANCO: Okay. And what currently
6 are the hours of operation for the RDO program?

7 MR. PADRO: Mondays through Thursdays
8 from 11:30 p.m. to 3:00 a.m. Fridays and
9 Saturdays from 11:30 p.m. to 4:00 a.m. Sundays
10 from 5:30 to -- 5:30 p.m. to 3:00 a.m. the
11 following morning.

12 MR. BIANCO: And in the last 6 to 12
13 months, have there been any issues with the RDO
14 program and Shaw Main Streets?

15 MR. PADRO: The principle issue is a
16 citywide one, not just one specific to the 1900
17 block of 9th Street. Because MPD is
18 understaffed, they are, apparently, from 3- to
19 400 officers short and have not been able to hire
20 sufficient officers to get back to their full
21 strength.

22 And a number of different initiatives
23 on the part of MPD, MPD has not been able to
24 fully staff the RDO program on the 1900 block.
25 Certain shifts were supposed to have as many as

1 six officers. We're often lucky if we can have
2 one.

3 So, you know, the intention of having
4 a significant number of officers present on the
5 block to be able to instill a sense of safety and
6 to provide for immediate response when there are
7 incidents and is not as effective as the counsel
8 and the ABC Board, you know, intended when they
9 made the -- those particular option available.

10 So we are grateful that ABC Board did
11 extend to major organizations the ability to
12 coordinate the RDO. But yes, so we would be much
13 happier, I think and everybody would be happier,
14 including the community, if we had the full
15 complement of officers that we've agreed to pay
16 for.

17 MR. BIANCO: And have you noticed a
18 difference in the environment when MPD is not
19 able to provide a full complement of RDO
20 officers?

21 MR. PADRO: That's the question that
22 -- I guess, I'm not really clear on how respond
23 to it. You know, visually, certainly, I have
24 observed on weekend nights that when the area is
25 most crowded, that there is more order and more

1 civil behavior on the part of the public that is
2 on the block when there are multiple MPD officers
3 visible than when there are fewer officers that
4 are seen on the block.

5 So I can say that there's a, my
6 observation, definitely correlation between an
7 increased police presence on this and other
8 blocks and increased public safety.

9 MR. BIANCO: Great. I don't have
10 anything further of this witness.

11 CHAIRPERSON ANDERSON: Thank you. Mr.
12 Stoecklein?

13 MR. STOECKLEIN: Mr. Padro, did I
14 understand you correctly just a moment ago
15 indicating that you observed a correlation
16 between the number of MPD officers on this block
17 and others translating to incidences of crime?

18 MR. PADRO: No. What I said was that
19 I observed that the behavior of a public that is
20 present on the block and adjacent blocks is more
21 civil, less disruptive, you know, when there were
22 significant numbers of MPD officers present.

23 MR. STOECKLEIN: Mr. Padro, how often
24 do you have occasion to frequent the 1900 block
25 of 9th Street on a given week?

1 MR. PADRO: I try to get there in the
2 evenings between, you know, seven and ten times a
3 month.

4 MR. STOECKLEIN: And could you please
5 be specific as to what you mean by the evenings?

6 MR. PADRO: After 6:00 p.m.

7 MR. STOECKLEIN: Until roughly what
8 time?

9 MR. PADRO: I'm sometimes there as
10 late as midnight or 1:00 a.m.

11 MR. STOECKLEIN: So are you -- am I
12 understanding correctly it's your testimony that
13 seven to ten times a month, you stay on the 1900
14 block of 9th Street from roughly 6:00 p.m. until
15 midnight or 1:00 a.m. every month?

16 MR. PADRO: Is that -- I'm not there
17 for that entire length. I'm there, you know,
18 from, you know, for some period of time on that
19 many instances per month.

20 MR. STOECKLEIN: And so -- and what
21 about the other blocks that you frequent, Mr.
22 Padro? How many other blocks are you
23 frequenting? And can you identify what blocks
24 you're observing there as well?

25 I'm just trying to understand how it

1 is that you can opine on the correlation between,
2 you know, incidences of violence in particular,
3 since this is an Empire Lounge case, you know,
4 related to Empire Lounge on 1900 block on 9th,
5 you know, given the presence that you're
6 describing at the times that you're describing.

7 So I'm trying to understand where you
8 are and how much time you spend there.

9 MR. PADRO: Sure. So the other area
10 that we're currently providing RDO services for
11 through MPD is the intersection of 8th Street and
12 Florida Avenue, one block away.

13 We previously also have provided
14 services on the 600 block of Florida Avenue. And
15 so those are the locations that we have
16 contracted.

17 MR. STOECKLEIN: Got it. Thank you,
18 Mr. Padro. And so based on the DC crime cards,
19 which I think is probably the database that's
20 most reflective, the areas that you just
21 described, could you please tell me, give or
22 take, approximately, the number of crimes that
23 have been reported, let's say, from July 1, 2020
24 to July 1, 2022?

25 MR. PADRO: I don't have that type of

1 information memorized.

2 MR. STOECKLEIN: Do you have a general
3 sense? Do you have any sense of the number of
4 crimes, number violent crimes, maybe the number
5 of crimes involving weapons of any kind?

6 MR. PADRO: I'm not prepared to be
7 able to answer that question because I did not
8 review the data in advance of this.

9 MR. STOECKLEIN: Yes. So then, Mr.
10 Padro, I'm having a really hard time
11 understanding how it is that you can credibly
12 opine on the correlation between the presence of
13 MPD officers, and in particular, the number of
14 MPD officers, and the number of crimes observed
15 if you have no idea the number of cracks actually
16 committed and reported.

17 MR. PADRO: So my testimony was not
18 about the number of crimes. So I'll repeat the
19 testimony so that we're on the same page. My
20 observations are that individuals that are
21 present on the blocks in question demonstrate
22 more civil behavior, less disrupted behavior, and
23 --

24 MR. STOECKLEIN: I'm going to object
25 to -- Mr. Padro's speculating at this point. Mr.

1 Chair, he's testified to things that he's clearly
2 not observed.

3 CHAIRPERSON ANDERSON: Mr. Stoecklein,
4 you have asked the question and I believe the
5 question that was asked for -- from Mr. Bianco,
6 he was generally giving his observation by saying
7 that, generally, I believe, when police are
8 there, people are more compliant.

9 I think that's what he's giving, a
10 general. He's not saying that -- so I'm going to
11 allow him to answer the question. I take it that
12 he's given his perspective from a lay person.

13 He's not been -- I -- and I -- you're
14 asking certain questions in your -- you have
15 subpoenaed the police, which I have signed off on
16 those subpoenas. So I believe that the questions
17 you asked him, they're better off asking from
18 your witnesses.

19 But I believe Mr. Padro, under cross-
20 examination was just giving you his perspective
21 from a lay person. You -- I don't -- I didn't
22 take that he was giving any generalized expert
23 testimony on crime reduction. So do you have --

24 MR. STOECKLEIN: But I would ask that
25 his testimony is specifically speaking to a

1 frequency of crimes relative to the proportion of
2 MPD officers be stricken from the record?

3 CHAIRPERSON ANDERSON: Mr. Stoecklein,
4 Mr. Padro was not presented as an expert. He
5 gave --

6 MR. STOECKLEIN: I agree, Mr.
7 Chairman. That's precisely why the testimony
8 that he's giving is completely inappropriate and
9 is objectionable, because he is not an expert.

10 He has not reviewed the data very
11 clearly. He is not sitting up above all these
12 blocks, observing it at all hours of the day, you
13 know, a fraction thereof, or even anything close.
14 And so his generalized observations have no place
15 in this proceeding.

16 CHAIRPERSON ANDERSON: Mr. Stoecklein,
17 your cross-examining the witness and you're
18 asking the witness certain question --

19 MR. STOECKLEIN: I'm asking you to
20 direct the witness, Mr. Chairman, to respond --
21 to specifically respond to the questions I'm
22 asking, not to provides generalized opinions
23 about things that can't be supported in fact.

24 So unless Mr. Padro has the facts to
25 which he can speak, that I would ask that the

1 Chair instruct the witness to answer only the
2 questions that I've asked.

3 CHAIRPERSON ANDERSON: Mr. Stoecklein,
4 this is cross-examination. I believe, if under
5 direct, if Mr. Bianco had asked -- you did not
6 object to any questions being asked by Mr.
7 Bianco.

8 And so you're now on cross-examination
9 and now you're asking me on cross-examination to
10 strike testimony that is being given by a
11 witness.

12 And I believe that Mr. Padro stated
13 that I did not -- you -- I think you misconstrued
14 his testimony and he also clarified to you, sir,
15 that that's not what my testimony was.

16 I think Mr. Padro, at least in my --
17 from what I heard, he was just, from a layman's
18 perspective, by saying that's not what I said.
19 I'm just giving you my generalizing -- I believe
20 that when the police are there, that people
21 behave -- that most of us believe that when the
22 police are present, most people behave
23 appropriately.

24 And so that's what -- that's all he
25 was saying. He -- I don't believe -- I did not

1 take it as him saying that the crime statistics
2 you had asked him specifically for crime
3 information --

4 MR. STOECKLEIN: Pardon, Mr. Chairman.
5 I don't mean to interrupt you, but I appreciate
6 that you have that perspective and also withdraw
7 it from my objection so that we can continue the
8 --

9 CHAIRPERSON ANDERSON: You have any
10 more --

11 MR. STOECKLEIN: -- continue on.

12 CHAIRPERSON ANDERSON: -- questions
13 you want to ask, sir?

14 MR. STOECKLEIN: I don't.

15 CHAIRPERSON ANDERSON: Thank you. Any
16 questions by any Board members of Mr. Padro?
17 Yes, Mr. Grandis?

18 MEMBER GRANDIS: Mr. Padro, it's a
19 pleasure to have you before us today.

20 MR. PADRO: Thank you. Same here.

21 MEMBER GRANDIS: I think I heard you
22 answer about certain crimes that are occurring in
23 the area. We've been told that there was a -- in
24 one of the openings that there's been a series
25 car window break-ins and other types of crime in

1 that block.

2 Are you familiar with any of those
3 incidents of car window's being broken and things
4 of that type of crime?

5 MR. PADRO: Yes. So in my personal
6 observance of the broken glass, it mostly has
7 been on adjacent blocks rather than on the 1900
8 block itself.

9 Because 1900 block is so heavily
10 trafficked, it's less likely that individuals
11 that are trying to break into cars will take the
12 chance of being observed. There also a lot of
13 cameras associated with the businesses that would
14 be able to observe that activity.

15 So the 1800 block of 9th Street, the
16 800 and 900 blocks of T Street are some of the
17 blocks. And even further down, Westminster
18 Street, R Street are where I predominantly -- we
19 see the broken glass.

20 And yes, that is a significant
21 problem, but again, not only in this
22 neighborhood, but in most nightlife areas around
23 the city, to my observance.

24 MEMBER GRANDIS: And when you observe
25 these types of crimes, have you talked to the

1 police about them?

2 MR. PADRO: No. I mean, we don't have
3 the ability to give particular instructions to
4 the RDO officers. Actually, we have no ability
5 to do -- provide specific instructions other than
6 where, if they are being asked to control and be
7 present.

8 MEMBER GRANDIS: Maybe I didn't state
9 the question well. Has there been a correlation
10 between any of the businesses -- nightlife
11 businesses, and the break-ins to these windows
12 that you have been able to learn about?

13 MR. PADRO: The correlation, you know,
14 is the fact that there is nightlife in the area
15 and that there are cars present where the drivers
16 have a tendency to leave objects that could
17 easily be fenced if stolen.

18 And so that makes the area more
19 attractive for those types of crimes. Not a
20 specific business attracting patrons that would
21 tend to be victims of crime.

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

24 CHAIRPERSON ANDERSON: Any other
25 question by any of the Board members? Mr.

1 Stoecklein, any questions based on the questions
2 that were asked by the Board?

3 MR. STOECKLEIN: I do have one more
4 question, Mr. Chairman.

5 CHAIRPERSON ANDERSON: Go ahead and
6 ask, sir.

7 MR. STOECKLEIN: Mr. Padro, can you
8 provide us with any indication of the number of
9 instances in which the RDO or some number of,
10 call it, seats or slots that are intended to
11 comprise the RDO go unfilled on a weekly basis?

12 MR. PADRO: Currently, I would say
13 that we are only getting one to two officers when
14 up to six officers have been requested.

15 MR. STOECKLEIN: And for how long has
16 that been the case, Mr. Padro?

17 MR. PADRO: It's been the case, I
18 would say, since January of this year.

19 MR. STOECKLEIN: And do you know why
20 that is the case? Have you been given any
21 indication as to --

22 MR. PADRO: Yes, what I've been told
23 by the MPD representative that is the
24 coordinator, Brenda Smith, is that officers
25 amount available because of a significant demand

1 as the program has become more popular, more and
2 more nightlife areas and businesses are taking
3 advantage of the program.

4 And then coupled with the reduction in
5 force that currently is placed as a result of the
6 fact that the MPD has not been able to get to
7 full strength and the number of initiatives that
8 MPD has been engaged in to address public safety
9 citywide, they just don't have as many officers
10 available to cover the RDO slots that had been
11 requested.

12 MR. STOECKLEIN: Thank you, Mr. Padro.
13 I don't have any further questions.

14 CHAIRPERSON ANDERSON: Thank you, sir.
15 Mr. Bianco's any redirect?

16 (No verbal response.)

17 CHAIRPERSON ANDERSON: Thank you. Mr.
18 Padro, thank you very much for your testimony.

19 MR. PADRO: Thank you.

20 CHAIRPERSON ANDERSON: Have a great
21 day.

22 Mr. Stoecklein, do you wish to call a
23 witness, sir?

24 MR. STOECKLEIN: Mr. Chairman, I would
25 like to call Sergeant Dale Vernick.

1 CHAIRPERSON ANDERSON: Sergeant
2 Vernick?

3 MR. STOECKLEIN: Sergeant --

4 CHAIRPERSON ANDERSON: Sergeant
5 Vernick, I see you on my line, but I'm not -- I
6 see your name. Can you unmute yourself and
7 speak, sir? Sergeant Vernick, I see that you're
8 in a car, sir, and I'm asking, can you --

9 Ms. Fashbaugh, can you -- I see that
10 -- I'm not sure if --

11 SERGEANT VERNICK: There we go.

12 CHAIRPERSON ANDERSON: Okay.

13 SERGEANT VERNICK: Can you hear me?

14 CHAIRPERSON ANDERSON: Yes, sir. I
15 see that you're in a car, sir. Are you in a
16 moving car?

17 SERGEANT VERNICK: No, I'm stationary
18 sir.

19 CHAIRPERSON ANDERSON: Are you
20 driving?

21 SERGEANT VERNICK: at stationary sir.

22 CHAIRPERSON ANDERSON: All right.
23 Thank you. Can you raise your right hand, sir,
24 please.

25 SERGEANT VERNICK: Yes, sir.

1 CHAIRPERSON ANDERSON: Do you swear or
2 affirm to tell the truth and nothing but the
3 truth?

4 SERGEANT VERNICK: Yes, sir, I do.

5 CHAIRPERSON ANDERSON: Thank you.

6 Mr. Stoecklein, your witness.

7 MR. STOECKLEIN: Thank you, Mr. Chair.

8 Sergeant Vernick, could you please
9 just state your name for the record and -- again
10 and clarify your position within the MPD?

11 SERGEANT VERNICK: Yes. My name is
12 Sergeant Dale Vernick. First name is D-A-L-E.
13 Last name, V-E-R-N-I-C-K. I am a Sergeant with
14 the 3D Nightlife Unit and I currently am
15 responsible for myself, two other sergeants, and
16 18 officers that patrol the U Street corridor, to
17 include the 1900 block on 9th Street.

18 MR. STOECKLEIN: Mr. Vernick, how --
19 Sergeant Vernick, pardon me, how long have you
20 served on the MPD and in particular, how long
21 have you overseen the Nightlife task group?

22 SERGEANT VERNICK: So I have just
23 celebrated my 20th year with Metropolitan Police
24 Department and I'm coming up on three years of
25 the Nightlife Unit.

1 MR. STOECKLEIN: Okay.
2 Congratulations on that achievement. We
3 appreciate your service. Are you familiar with
4 Empire Lounge? I mean, the -- with the business
5 that Empire Lounge conducts?

6 SERGEANT VERNICK: I am. 1909 9th
7 Street, Northwest, Empire Lounge. I'm very
8 familiar with it.

9 MR. STOECKLEIN: Okay. Before we dive
10 into specific incidences, can you please describe
11 for the Board what you and the officers that you
12 oversee have observed on the 1900 block of 9th
13 Street in the way of -- you know, of crime and
14 activity and just --

15 Could you please just give us an
16 appreciation for the -- you know, the climate
17 and, you know, what your officers encounter
18 regularly?

19 SERGEANT VERNICK: Yes, sir. So the
20 1900 block in 9th Street is predominantly run by
21 hookah-type bars that generally draw a younger
22 crowd, some of which the patrons are unruly, at
23 best.

24 We deal with a lot of fighting in the
25 streets, stabbing, shootings, robberies, and just

1 chaos. More so on the weekend than the weekdays,
2 but violence does erupt Monday mornings, you
3 know, at the club. So we're there and we staff
4 that Club Zone Unit seven days a week.

5 MR. STOECKLEIN: Okay. And are you in
6 a position to -- based on your knowledge of this
7 block, to compare on a relative basis to, you
8 know, other blocks within the Third District
9 impacts within the district, you know, how the
10 general level of violence in this area compares
11 to others?

12 SERGEANT VERNICK: Yes. So my
13 previous 17 years on Metropolitan Police
14 Department, I worked in Anacostia, which is a
15 fairly violent area of the nation's capital.

16 And I specifically sit, or
17 predominantly sit when I'm not engaged in other
18 activities, in the 1900 block in 9th Street just
19 because of my patrol area. It is the most
20 violent. So it takes the majority of my time.

21 MR. STOECKLEIN: Okay. Have you had
22 occasion to interact with or develop
23 relationships with -- you know, with patrons that
24 frequent the area on a regular basis?

25 SERGEANT VERNICK: Yes. What I find

1 is a lot of the patrons come back seven days a
2 week and being one of the guys out there dealing
3 with the chaos is -- I'll get a, Hey, Serg, from
4 across the street and people come up and talk to
5 me and tell me all kinds of information.

6 They talk to me about what's going on
7 in the community, about other scenes, and so I've
8 actually spent a lot of time dealing with the
9 business owners, the bouncers, as well as the
10 patrons, and the community members that come up
11 and have complaints about some of the goings on
12 from the club area.

13 MR. STOECKLEIN: So, Sergeant, I think
14 I heard you say, and please correct me if I'm
15 wrong, but you mentioned earlier that it's your
16 observation, your opinion that this is one of the
17 most violent areas that -- in the district that
18 you have patrolled; is that correct?

19 SERGEANT VERNICK: So that 1900 block
20 in 9th Street is an extremely violent area in
21 relation to other blocks in the U Street
22 corridor. So it does get a lot of my attention.
23 And --

24 MR. STOECKLEIN: And what --

25 SERGEANT VERNICK: Go ahead.

1 MR. STOECKLEIN: And what kind of --
2 can you elaborate? What kinds of violence are we
3 talking about here? Are these --

4 MR. BIANCO: I'm going to object.
5 This is now been asked and answered three times.

6 MR. STOECKLEIN: I'm asking Sergeant
7 Vernick to elaborate on the nature of the crimes
8 and violence that he observes. There is a
9 significant difference in terms of gravity of the
10 situation and consequence if -- between a broken
11 window versus a fistfight versus a fatal
12 stabbing.

13 And so I'm asking Sergeant Vernick to
14 provide for the Board more specificity of what
15 he's observed so that the Board could get a full
16 appreciation for the nature of the violence.

17 MR. BIANCO: He's testified that --

18 CHAIRPERSON ANDERSON: Mr. -- hold on,
19 sir. Mr. Stoecklein remember, this is a protest
20 hearing on the substantial change application of
21 Empire Lounge. I gave you some leeway so you can
22 have Sergeant Vernick talk about what is going on
23 in the area generally.

24 But this is about Empire Lounge, sir.
25 I need you to focus on Empire Lounge. I -- he --

1 so I'm not going to allow other questions
2 regarding the -- generally what is going on in
3 the neighborhood group.

4 We have now gotten the flavor because
5 I -- we're -- we've allowed him to testify about
6 the area, so -- because this specific hearing is
7 on Empire Lounge, you now need to focus, sir, on
8 Empire Lounge.

9 MR. STOECKLEIN: Okay. That's fine,
10 Mr. Chairman. Sergeant Vernick, are you aware of
11 a shooting that occurred? Are you aware of any
12 shootings that have occurred in or in the
13 immediate vicinity of Empire Lounge? And if so,
14 can you please describe those?

15 SERGEANT VERNICK: Yes. So I'm aware
16 of several. Inside, I'm aware of just recently a
17 non-contact shooting in which a firearm was
18 brought inside the club. A gunshot was
19 discharged. An impact took place in what appears
20 to be the floor. And that was just roughly two
21 months ago.

22 Prior to that, we had members of the
23 Metropolitan Police Department, my Unit affected
24 arrest of a patron inside Empire Lounge with a
25 firearm on him and he was -- somebody -- he

1 wasn't a police officer, anybody that was allowed
2 to carry a firearm.

3 Additionally, approximately a year
4 ago, there was a shooting outside of Empire
5 Lounge involving patrons and guests right in
6 front of the security staff.

7 MR. STOECKLEIN: Okay. Thank you,
8 sir. So I want to handle these sort of one-by-
9 one. With respect to the shooting that you
10 suggested occurred approximately a year ago, can
11 you describe any further what findings came out
12 of any investigation? Who was involved?

13 SERGEANT VERNICK: So I don't actually
14 have the name of the victim or the suspect. I
15 believe our Detective Unit has actually
16 identified a suspect. I do not know if that
17 person has been arrested in connection with this
18 shooting.

19 But there was an adult male that was
20 shot outside of Empire Lounge, I believe, in the
21 -- like, the shoulder area. A non-fatal-type
22 shooting, but still a shooting. That suspect was
23 able to make good his escape that night.

24 MR. STOECKLEIN: Okay. And am I
25 correct in understanding, in part, your testimony

1 that the altercation involving the victim and
2 others included at least one or more patrons from
3 Empire Lounge?

4 SERGEANT VERNICK: Yes, sir.

5 MR. STOECKLEIN: Okay. Thank you.
6 And let's then? So you also identified an
7 incident more recently in which you or other MPD
8 officers responded to the discharge of a firearm
9 inside of Empire; is that correct?

10 SERGEANT VERNICK: Yes, sir. I was
11 specifically on that scene. As you walk by the
12 narrow hallway to the right, we discovered a
13 shell casing. I was also dealing --

14 MR. STOECKLEIN: Sorry, but I'm just
15 going to interrupt you real quickly just because
16 I want to clarify. So would it sound right to
17 you that on or about May 6 2022 was -- is the
18 incident in question?

19 MR. BIANCO: I'm going to object to
20 the -- to Mr. Stoecklein leading witnesses and
21 essentially testifying for him. If the witness
22 doesn't have personal knowledge or doesn't
23 remember, he can't testify to the fact.

24 MR. STOECKLEIN: Sergeant Vernick, are
25 you -- do you know approximately the month and

1 day on which this incident about which we're
2 speaking occurred?

3 SERGEANT VERNICK: So it was three to
4 four months ago -- four -- I'm sorry. Yes, about
5 two months ago, two-and-a-half months ago,
6 something like that, for the shooting inside, the
7 non-contact shooting.

8 MR. STOECKLEIN: Okay. And could you
9 please describe when you arrived? You were
10 starting to do that, I cut you off. Could you
11 please walk us through, you know, the
12 circumstances of the scene and individuals that
13 you observed when you arrived?

14 SERGEANT VERNICK: So I was contacted
15 by one of the officers that was out on the scene.
16 He told me that there was a shooting inside of
17 Empire Lounge, that -- he stated that he was
18 flagged down by the bouncer. I believe there was
19 only one person working.

20 We went inside and it was packed. We
21 had to pretty much kick everybody out. So we
22 were able to locate one shell casing on the floor
23 at the top of the staircase. Also looked like an
24 impact mark on the floor.

25 I have seen subsequent video of a

1 person inside the club brandishing a firearm and
2 discharging one round at another patron. Somehow
3 that round did not take effect on the patron, I
4 guess, by the grace of God.

5 But there was definitely a firearm
6 that was discharged inside that establishment,
7 which I think is the key.

8 Additionally, we tried to gain footage
9 of that and the ABRA manager that was on duty was
10 unable to provide us with footage because I -- my
11 main concern was, is there personally gunshot
12 wound walking around the streets that can succumb
13 to their injuries? I was trying to figure out if
14 I had a shooting victim.

15 The ABRA manager was able to get in
16 contact with one of the owners. The owner
17 basically stated he had childcare issues and was
18 not responding. So it was several days later
19 when we were able to get the video. And then I
20 saw it subsequent to that.

21 MR. STOECKLEIN: Okay. And to be
22 clear, when you arrived, so your -- did you just
23 indicate that you needed to clear the
24 establishment of patrons, but it was still full
25 of patrons after the shooting; is that accurate?

1 SERGEANT VERNICK: That is 100 percent
2 accurate. There was multiple officers, including
3 myself, that had BWCs rolling. It was a handgun
4 caliber shell casing. Unfortunately, I don't
5 remember if it was a 9 or a 40 S&W.

6 But either way, if it would've been
7 loud enough inside that establishment that people
8 would typically flee at a rapid pace down the
9 stairs and that did not happen.

10 When we got in there and there were
11 still people in there drinking, you know, smoking
12 who hookah, carrying on like nothing happened.
13 And it was actually quite surreal.

14 And the fact that the manager that was
15 on duty stated he didn't hear a gunshot, that he
16 was standing at the bar is what he told us, which
17 was 20 to 30 feet away.

18 And coming from a guy that has shot
19 guns for 30, 35 years, there's no way he could
20 have not known that a gunshot was discharged
21 inside of a crowded establishment surrounded by
22 walls and a ceiling where the sound would have
23 just echoed.

24 MR. STOECKLEIN: So thank you for
25 that, Sergeant Vernick. So given your experience

1 on the force and experience with, presumably,
2 multiple, you know, firearm discharges, does it
3 seem -- is it unusual that immediately following
4 a shooting, you know, patrons would hear that and
5 would remain?

6 MR. BIANCO: Mr. Anderson, I'm going
7 to object at this point. I've tried to sort of
8 lay back here to get through this, but my
9 objection is based on relevance grounds and it's
10 really threefold.

11 1, there's no correlation between
12 anything this witness is saying and the addition
13 of square footage to this establishment, which is
14 why we're here.

15 Number 2, the incident that's being
16 painstakingly inquired into did not result in a
17 violation, either primary tier or secondary tier,
18 for this particular establishment after the Board
19 looked into it.

20 And number 3, this latest round of
21 questioning is related to odd behavior of the
22 patrons, as opposed to operational concerns of
23 the establishment.

24 So the overall objection is relevance
25 and those are my three supporting arguments.

1 CHAIRPERSON ANDERSON: Response, Mr.
2 Stoecklein?

3 MR. STOECKLEIN: Mr. Chairman, I'm
4 trying to understand and I and I would hope that
5 the Board would understand how it is that after a
6 gun was discharged, that patrons wouldn't have
7 left if they had heard it. And that's the key,
8 if they had heard it.

9 And so what I'm trying to get towards
10 is why might the patrons not have heard the gun
11 being discharged? And that is highly relevant
12 because notwithstanding, you know, the technical
13 factors Mr. Bianco's suggested many times and
14 we've all agreed on, but this isn't -- this case
15 is not about a requested occupancy increase.

16 The fact remains that it is a
17 significant increase in the size of the
18 establishment and, therefore, a significant
19 increase in the -- you know, the potential impact
20 of whatever activities go on there, right?

21 The scope of the activities and, in
22 particular, the music, the sound levels, which is
23 really what much of this is all about. So I
24 think it's highly relevant and that's where I'm
25 trying to go.

1 MR. BIANCO: Mr. Anderson --

2 CHAIRPERSON ANDERSON: Let me just --

3 MR. BIANCO: I'm sorry. I'm sorry.

4 If he's presenting evidence about noise, why
5 isn't he asking about noise?

6 CHAIRPERSON ANDERSON: I was about to
7 say that, Mr. -- I was about to say, Mr. Bianco.

8 MR. STOECKLEIN: Well, I was just
9 about to get there when you objected, Mr. Bianco.

10 CHAIRPERSON ANDERSON: Mr. Stoecklein,
11 I'm giving you some leeway. However, remember,
12 this is about -- what the Board has been asked to
13 do in this particular case is whether or not we
14 should approve the substantial change to allow
15 them to operate on the first floor.

16 So can we -- I need you to hold in on
17 back that --

18 MR. STOECKLEIN: Sure.

19 MR. STOECKLEIN: That's the purpose of
20 this hearing, sir. So again, let's focus on why
21 we're here. Go ahead, sir.

22 MR. STOECKLEIN: I'll move on.

23 CHAIRPERSON ANDERSON: I'm going to
24 overrule the objection, but I need you to
25 remember why we're here, sir.

1 MR. STOECKLEIN: I will do that and I
2 will try to be more focused.

3 Sergeant Vernick, when you arrived at
4 the club, can you describe the volume level of
5 the music that was playing?

6 SERGEANT VERNICK: Yes. To the best
7 of my recollection, it had been turned down
8 because I believe the DJ was shutting it down, or
9 we went up and told the DJ to shut it down. So
10 shortly after our arrival, it was dissipated
11 prior or -- I don't really have a good basis.
12 I'm sorry.

13 MR. STOECKLEIN: Okay. That's fine.
14 And did you inquire with the security staff why
15 they didn't clear the establishment after the
16 firearm was discharged?

17 MR. BIANCO: Same objection, Mr.
18 Anderson.

19 CHAIRPERSON ANDERSON: All right. I'm
20 going to --

21 MR. STOECKLEIN: Mr. Chairman, the
22 security staff's sole purpose is to maintain
23 order and the safety of the public both outside
24 and inside the establishment.

25 So if a firearm's discharged and the

1 security staff isn't clearing the premises, I'm
2 trying to understand why.

3 CHAIRPERSON ANDERSON: I'm going to
4 overrule the objection into -- if the witness can
5 answer the question, he can. Let's see.

6 SERGEANT VERNICK: Just one more time
7 with the question, please, Mr. Stoecklein.

8 MR. STOECKLEIN: Sure. Sergeant
9 Vernick, did you have the opportunity to speak
10 with security personnel at Empire to understand
11 why, after the firearm was discharged, the
12 premises wasn't cleared?

13 MR. BIANCO: That specific question
14 was not asked by me.

15 MR. STOECKLEIN: Okay. Okay.
16 Sergeant Vernick, so I'd like to ask --

17 CHAIRPERSON ANDERSON: Just hold on.
18 Give me hold on. Can you -- let's hold on one
19 minute, please. Okay. Hold on a minute. We're
20 off the record.

21 I apologize. We're back on the
22 record. Go ahead.

23 MR. STOECKLEIN: Sergeant Vernick, are
24 you aware of any other recent shootings that have
25 occurred within Empire or next to Empire?

1 SERGEANT VERNICK: So I believe I've
2 touched on the shooting out front, which was a
3 contact, the non-contact shooting inside about
4 two-and-a-half months ago, and then not
5 necessarily shooting related, but the gun
6 recovery from inside Empire that was about three
7 weeks prior to the last shots fired inside the
8 establishment.

9 MR. STOECKLEIN: Okay. Could you just
10 -- could you please tell me whether you believe
11 that -- what do you believe would be the impact
12 of the Board allowing the applicant to expand to
13 the first floor with respect to public safety?

14 MR. BIANCO: Objection. Speculation.

15 MR. STOECKLEIN: Sergeant Vernick is
16 just -- has testified to, and is responsible for,
17 safety -- public safety in this area and he's --
18 he oversees nightlife. So if he's not qualified
19 to -- attest to or to opine on the impact of this
20 expansion on public safety, I can't fathom who
21 else would be.

22 CHAIRPERSON ANDERSON: I'm going to
23 overrule the objection. If he can answer, he can
24 answer. If he can't, then let's move on.

25 MR. STOECKLEIN: So can I repeat the

1 -- I'd like to repeat the question. Sergeant
2 Vernick?

3 SERGEANT VERNICK: Yes, sir.

4 MR. STOECKLEIN: Could you please,
5 based on your experience, knowledge of Empire,
6 and everything that you've just testified on,
7 could you please state for us your view of the
8 potential impact on public safety should the
9 Board grant applicant's request to expand the
10 first floor?

11 SERGEANT VERNICK: It has been my
12 experience dealing with Empire and the owners of
13 and whatever the Sound Bar was next to Empire,
14 which is the space we were talking about that
15 adding that extra square footage would be an
16 extremely detrimental to an already --

17 I understand we're not changing the
18 occupancy, but I would say that the management
19 and owners of Empire don't necessarily follow the
20 guidelines of ABRA and the Board. And they kind
21 of stretch things out.

22 I would say it would be very
23 detrimental to the community, the patrons, the
24 establishment itself, and also my colleagues out
25 on the street.

1 I can't tell the future, obviously,
2 but I would -- I have a strong feeling, based on
3 other occurrences dealing with Empire, that they
4 would pack the bottom much the way Sound Bar did
5 when that entity was up and running.

6 MR. STOECKLEIN: Thank you, sir. One
7 last question for you. Given all the violence in
8 this area and on this block in particular and at
9 this bar in particular, did you have any opinion
10 on or have you had any conversations with regular
11 patrons as to why they might continue to come to
12 this area that is a threat to personal safety?

13 MR. BIANCO: I'm going to object to
14 the extent that the question calls for hearsay.
15 This is beyond the scope of Sergeant Vernick's
16 duties.

17 CHAIRPERSON ANDERSON: Sustain the
18 objection. Let's move on.

19 MR. STOECKLEIN: Sergeant Vernick,
20 have you ever had -- all right. No further
21 questions at this time.

22 CHAIRPERSON ANDERSON: Go ahead Mr.
23 Bianco.

24 MR. BIANCO: Okay. Sergeant Vernick,
25 I am going to try to keep it as short as possible

1 and get you out of here. I'm only going to have
2 a few questions for you.

3 So one of the last questions that you
4 were asked about, the impact on public safety.
5 And if I am correct, the concern you cited was
6 twofold.

7 One, they don't follow the guidelines.
8 And you were concerned that the establishment
9 would exceed their occupancy; is that correct?

10 SERGEANT VERNICK: My apologies. That
11 is correct, sir.

12 MR. BIANCO: Okay.

13 SERGEANT VERNICK: Based on history of
14 dealing with management there.

15 MR. BIANCO: Okay. Let's assume, for
16 the sake of argument, that they did not exceed
17 their occupancy. Would you have similar
18 concerns?

19 SERGEANT VERNICK: I think that is a
20 really big what if and I don't believe it to be
21 an action that they would take. They have proven
22 to me that they are in it for the money and not
23 in it to serve the community, to be good
24 neighbors, to just offer healthy, vibrant
25 atmosphere for the patrons.

1 I have zero belief that they would not
2 pack that first floor beyond occupancy in
3 addition to what is upstairs.

4 MR. BIANCO: I understand. And I
5 understand your concern. And based on that
6 testimony, would it be fair to say that if they
7 kept their occupancy for the building to the
8 legal amount, you would not have the concerns
9 that you are expressing in testimony?

10 SERGEANT VERNICK: I mean, I think
11 that's wishful thinking on -- for the question.
12 I don't see that as a -- or a rational or
13 realistic, I guess, approach that they would
14 have.

15 They have showed such disregard for
16 safety, public safety, the community, and
17 following general guidelines set forth by ABRA.
18 I have absolutely zero belief that that would be
19 the case. So I can't answer your questions, sir.
20 I do apologize.

21 MR. BIANCO: Okay. But you would
22 agree that an occupancy for that building of 125
23 is not problematic from a public safety
24 standpoint, correct?

25 SERGEANT VERNICK: I honestly feel

1 that, theoretically, 125 is not a problematic
2 occupancy level for the entire building.
3 However, I would -- I feel that it should be
4 separated between upstairs and downstairs maybe a
5 little bit better than it would be -- than it
6 currently is. I think 125 for the second floor
7 is kind of hefty.

8 MR. BIANCO: Sure. And if it were,
9 let's say it were separated between the number
10 upstairs and the number downstairs, that would
11 alleviate your concerns, would it not?

12 SERGEANT VERNICK: I would not say
13 alleviate. I don't feel that. So I think
14 anybody with a rational brain would say, Hey,
15 look, if there's more floor space, people are
16 less packed. It makes more sense.

17 So for that, I agree with your
18 comments. However, realistically, I don't see
19 anybody maintaining that number. I don't think
20 they maintain that number now with just the
21 upstairs.

22 MR. BIANCO: Okay. And you testified
23 about a couple of instances of shootings over the
24 last couple of years. Do you recall that
25 testimony?

1 SERGEANT VERNICK: I believe it was
2 last year or so, but I do recall my testimony.

3 MR. BIANCO: Right. And do you know
4 whether or not those incidents resulted in
5 violations for the establishment of any laws?

6 SERGEANT VERNICK: So I've done other
7 hearings in reference to who I believe I've done
8 other hearings in reference to Empire in the
9 past. Honestly, I go with whatever the Board
10 says and so I don't necessarily --

11 I believe they were shut down for 96
12 hours at some point. And I do you know, they've
13 changed their security around a little bit. But
14 that being stated, we're still getting guns
15 inside the building. So there's a -- still a
16 problem.

17 MR. BIANCO: And you are in charge of
18 the detail that patrols that particular area for
19 nightlife purposes, correct?

20 SERGEANT VERNICK: I wouldn't call it
21 a detail. That'd be more the RDO. But I have a
22 unit of 18 officers that are dedicated to the U
23 Street corridor, which also encompasses the 1900
24 block on 9th.

25 MR. BIANCO: Okay. Would you agree

1 with the statement that when there are more
2 officers on-site on the 1900 block of 9th Street,
3 things remain more orderly?

4 SERGEANT VERNICK: You know,
5 theoretically maybe. It honestly has to do with
6 the night, what the vibe is in the air, if people
7 are just going to be people and be violent or rob
8 or --

9 I don't know if there is an absolute
10 correlation between the amount of law enforcement
11 officers in the block. I do know that I go
12 heavier at that block than I do any other block
13 from 9th Street to 14th Street on U.

14 So I've done -- generally put my
15 strongest, most capable people in that area for
16 that reason because it is prone to the most
17 violence.

18 MR. BIANCO: Okay. And you're
19 obviously very familiar with the area. So is it
20 fair to say that the 1900 block of 9th Street is
21 more densely populated with bars and restaurants
22 than the other areas you're talking about?

23 SERGEANT VERNICK: So I honestly feel
24 that it is. And I also feel that it's the same
25 kind of clubs as opposed to the diversity that's

1 up and down the U Street corridor and maybe some
2 of the other club areas throughout the city.

3 I feel that the 1900 block on 9th with
4 the hookah establishments and night clubs,
5 they're all fairly similar and I think that just
6 brings a larger population to that specific
7 block.

8 MR. BIANCO: In your controls or in
9 your monitoring of the 1900 block of 9th Street,
10 could you talk about -- I'm sorry. Have you
11 noticed an issue with crowds of people on the
12 sidewalks?

13 SERGEANT VERNICK: That I have. That
14 seems to be a citywide problem. It is a problem
15 at Empire, as well as other clubs. I have been
16 working with other bar owners to get that
17 situation under control. It is definitely
18 something that needs to happen.

19 And now that there's a Nightlife task
20 force, it actually frees me up to do some of that
21 kind of community building where I can have
22 conversations with bar owners about controlling
23 that.

24 MR. BIANCO: And would I be correct in
25 assuming that the congregation of people is for

1 lines entering the establishment, or is it
2 something else?

3 SERGEANT VERNICK: So there's a
4 multitude of things. Definitely, lines coming
5 in. Definitely people coming outside waiting.

6 Also, a lot of bars don't allow people
7 to smoke marijuana cigarettes inside their club,
8 rightfully so, so they make them go outside,
9 which people go outside, smoke the marijuana, and
10 go back in.

11 So there's a lot of reasons why that
12 -- why those crowds are outside and that's where
13 trying to get with the business owners to resolve
14 some of these issues is trying to be -- I'm
15 trying to make it beneficial to everybody.

16 MR. BIANCO: Okay. What types of
17 things are you doing with the business owners to
18 try and make the sidewalks clearer?

19 SERGEANT VERNICK: Oh, I think with
20 any issue, you have to point it out to them.
21 Give them reasonable expectations and also offer
22 solutions, whether it's some kind of lineage
23 where they could people up --

24 But the problem is, especially in that
25 block, you have bars right on top of each other.

1 And getting the cues for one line to another
2 start to get mangled as you move more than a door
3 or two down.

4 MR. BIANCO: I understand. Fair to
5 say that the addition of an extra door for
6 ingress and egress would help that problem?

7 SERGEANT VERNICK: Of course. I think
8 anytime you have more than one entry and exit,
9 you're making things safer. I think anybody that
10 says you wouldn't would be straight lying to you.
11 So yes, to answer your question.

12 MR. BIANCO: Thank you, Sergeant. I
13 appreciate your testimony. I don't have any
14 further questions at this time. The Board may
15 have something.

16 CHAIRPERSON ANDERSON: Thank you.
17 Thank you, Mr. Bianco. Any questions by any
18 Board members?

19 MEMBER SHORT: Mr. Short. I have a
20 question.

21 CHAIRPERSON ANDERSON: Go ahead, Mr.
22 Short.

23 MEMBER SHORT: Thank you, Mr.
24 Chairman.

25 Good afternoon, Sergeant Vernick.

1 Thank you for your service for 20 years and three
2 years on the Unit that you patrol, 9th Street.

3 My first question for you is: How
4 familiar are you with the physical layout of 1909
5 9th Street Northwest as it is today? How
6 familiar are you with the interior physical
7 layout?

8 SERGEANT VERNICK: So good afternoon,
9 Mr. Short. So I was in there a month-and-a-half
10 ago. Unless the layout's changed dramatically in
11 that month-and-a-half, I could say I'm pretty
12 familiar with it, although I understand that
13 there's a rooftop that I have never been to.

14 That being said, I do know when you go
15 into the door for Empire, that there is a
16 alleyway and you can walk through a door and get
17 into what used to be Sound Bar, or you can go up
18 a thin narrow hallway to what is, essentially,
19 Empire.

20 MEMBER SHORT: Okay. And knowing that
21 you're not a building code enforcement or fire
22 marshal, on the top floor, the third floor, how
23 many ways do you have to get in and get out if
24 you're on the third floor and you're trying to
25 exit the building in case of an emergency?

1 MR. BIANCO: Mr. Chair, before he
2 answers, I'm going to object. What we're talking
3 about here is the first floor. This hearing
4 today has nothing to do with the third floor
5 layout.

6 MEMBER SHORT: Mr. Chair, if I could
7 possibly say this, if you have to leave the third
8 floor and come down to the first floor, it has a
9 lot to do with it because that would mean that
10 the same number of people who are on the second
11 and third floor have to use the same exit as the
12 people on the first floor.

13 And the reason why Sound Bar had a
14 separate CMO when they were on the first floor is
15 because of that issue. So that issue is very --
16 I think important to what we are trying to get to
17 today to find out about the first floor usage. I
18 think it's urgently important.

19 CHAIRPERSON ANDERSON: I'm going to
20 overrule the objection. However, I just want to
21 remind everyone, this is -- the purpose of this
22 hearing is whether or not the Board should grant
23 the substantial change for the first floor.

24 We're only talking about the first
25 floor, but I'm going to overrule the objection.

1 If the officer can answer the question, he can
2 answer the question.

3 MEMBER SHORT: I'll repeat the
4 question again since we were cut off and I don't
5 want to lose track of questioning.

6 Again, you have been physically inside
7 of that building on how many occasions,
8 approximately?

9 SERGEANT VERNICK: Mr. Short, I've
10 been in there two or three times. I've never
11 actually been on the third floor, Mr. Short.

12 I've been on the second floor every
13 time. And I do know that there is at least one
14 egress from the third to the second and then from
15 the second down to the first.

16 MEMBER SHORT: Is there a rear exit at
17 all for people who are in that club, a rear exit
18 or egress, to the alley of 1909 or to the outside
19 of the building, to your knowledge?

20 SERGEANT VERNICK: I don't know the
21 answer to that. From the back side of that, it's
22 all fenced off. So even if people got a back
23 area, it's my belief that they would be in a
24 fenced-in area and kind of trapped. So I don't
25 know if there is egress on the backside.

1 MEMBER SHORT: Okay. Now, from the
2 second floor to the first floor, the only way to
3 get to the second floor is coming up from the
4 first floor, correct?

5 SERGEANT VERNICK: That is accurate,
6 sir.

7 MEMBER SHORT: So that would mean,
8 theoretive-wise, that you can only get up there
9 one way, then you can only to come down one way,
10 correct?

11 SERGEANT VERNICK: That's my belief.
12 But like I said, I haven't -- I don't know what's
13 in the back of the building and I know it's not
14 standard entrance and exits.

15 MEMBER SHORT: Okay. Well, you
16 mentioned also about security and the bouncers
17 for that establishment. In your opinion, as a
18 public safety official and a police officer, how
19 well trained are their security at this location,
20 1909 9th Street, Northwest?

21 MR. BIANCO: Objection. Foundation.

22 MEMBER SHORT: The foundation I'm
23 trying to get to, Mr. Chair, if I possibly could
24 is that the bouncers and the persons on the
25 inside, if there's an emergency and they do have

1 to all leave there at once, the security persons
2 would have to assist in that.

3 So as -- the level -- so the level of
4 the security officers and their ability to be
5 security officers, I think it's very pertinent to
6 adding more space to the first floor or any other
7 part of that building

8 CHAIRPERSON ANDERSON: If you can
9 answer the question, answer the question. If
10 not, let's move on.

11 SERGEANT VERNICK: I --

12 MEMBER SHORT: The question again,
13 just to remind you, Sergeant -- thank you very
14 much for your patience. The security and
15 security level that's currently at 1909 9th
16 Street, Northwest, in your experiences of all of
17 the guns and everything else, how well do you
18 think that security could get people out in case
19 of a real emergency of fire or explosion or
20 whatever?

21 SERGEANT VERNICK: Mr. Short, to
22 answer your question -- sorry, I'm getting a lot
23 of feedback. I have very little faith in the
24 competency of the security staff there.

25 I know they've changed hands a couple

1 of times and I'm not sure about the current
2 security agency that is employed there.

3 So I would say the previous word,
4 definitely not capable. And I don't really have
5 much experience with the current security company
6 there. So I don't know if that's a fair
7 evaluation.

8 MEMBER SHORT: Okay. Well, thank you
9 for that. And my very last question for you,
10 Sergeant and again, thank you for your 20 years
11 of service to our city.

12 How many times have you seen or
13 experienced overcrowding in the space that they
14 currently have a CMO for?

15 SERGEANT VERNICK: So I've only been
16 in there a couple of times and every time I come
17 in there, I have to notify ABRA. Its way
18 overpopulated, as are most of the clubs. So
19 that's one of the objectives of this Nightlife
20 task force that has been pushed through the
21 mayor's office.

22 We now have fire marshals. They go
23 out and visit these establishments several times
24 during the tenure of the Nightlight task force.
25 We also have ABRA that is a little more heavily

1 staffed.

2 We have other governmental agencies
3 that are doing some of the things that we
4 normally do with traffic control that are helping
5 us out, so allowing us to do things.

6 So it's -- it seems like people are --
7 that there hasn't been the crowds that normally
8 come down there, so -- since the task force has
9 been enacted, which has actually made for a much
10 safer environment for all.

11 MEMBER SHORT: Thank you very much for
12 your testimony today and you be safe out there.
13 Thank you. That's all I have, Mr. Chair.

14 SERGEANT VERNICK: You to Mr. Short.
15 Thank you.

16 CHAIRPERSON ANDERSON: Thank you Mr.
17 Short. Any other questions by any Board members?

18 MEMBER CROCKETT: Two quick questions.

19 CHAIRPERSON ANDERSON: You have a
20 question, Ms. Crockett?

21 MEMBER CROCKETT: I do.

22 CHAIRPERSON ANDERSON: Go ahead.

23 MEMBER CROCKETT: Good afternoon,
24 Sergeant Vernick. Thank you for spending some
25 time with us today. My first question is

1 regarding your statement that you don't have any
2 faith that they would not -- that Empire Lounge
3 would not exceed the capacity limits and would
4 result in overcrowding.

5 Do you have any evidence that they, in
6 the past or at present, have exceeded their
7 occupancy limits and -- resulting in overcrowding
8 in the facility?

9 SERGEANT VERNICK: So I don't know if
10 any of the ABRA investigate -- or the ABRA
11 incidents specify overcrowding for Empire
12 specifically, at least in the last year or so.

13 However, based on their security not
14 doing its job, their management not doing its
15 job, the owners not assisting with any of the
16 investigations in a timely fashion, it seems to
17 me that pretty much everything they have done is
18 through lawyers instead of just doing the right
19 thing.

20 And that's why I have very little
21 faith in their ability to not exceed the
22 occupancy of the establishment.

23 MEMBER CROCKETT: So my question was:
24 Do you have any direct evidence that they have
25 exceeded capacity limits resulting in

1 overcrowding in the past? And it appears it is -
2 - do not have evidence of that.

3 Mr. Short, can you please mute?

4 SERGEANT VERNICK: If we --

5 MEMBER SHORT: Excuse me?

6 MEMBER CROCKETT: Can you please mute?

7 There's feedback.

8 MEMBER SHORT: Oh, not a problem.

9 SERGEANT VERNICK: Ms. Crockett, if we
10 could defer to ABRA in reference to that. We
11 generate ABRA incident reports for things like
12 overcrowding. I am at work right now and I don't
13 have access to that.

14 Hopefully, somebody from ABRA would be
15 able to pull that up and answer that question a
16 little bit better for you.

17 MEMBER CROCKETT: I have no problems
18 differing to ABRA. My second question was
19 regarding -- you made a comment about marijuana
20 cigarettes. Smoking indoors of any kind is not
21 allowed in the city, correct?

22 SERGEANT VERNICK: That is correct.

23 MEMBER CROCKETT: So people would go
24 outside to smoke menthol cigarettes, nicotine,
25 anything, correct?

1 SERGEANT VERNICK: That is correct,
2 ma'am.

3 MEMBER CROCKETT: So I'm unclear as to
4 why you specifically called out smoking marijuana
5 cigarettes as a reason for crowding on the
6 sidewalk when people have to step outside to
7 smoke anything in the city.

8 SERGEANT VERNICK: It's generally what
9 I see in that area, is people stepping out to
10 smoke marijuana. Of course, there's people
11 smoking nicotine base-cigarettes and vapes and
12 everything else.

13 But when it comes to the overcrowding
14 on the sidewalk, it seem -- it appears to me,
15 based on my experience of being on the street
16 from 8:00, 9:00 at night to 4:00 or 5:00 in the
17 morning, that is the main cause, is people going
18 outside. Since most of the establishments allow
19 hookah on the inside, people go outside to smoke
20 other products.

21 MEMBER CROCKETT: Thank you. I have
22 no further questions.

23 CHAIRPERSON ANDERSON: Any other
24 questions by any Board members? All right. I
25 have a question I want to ask, Sergeant Vernick.

1 This was the question that the Board has been
2 asked to do. The ABC Board has been asked to
3 approve a substantial change to allow the use of
4 the first floor.

5 The ABC Board has not been asked to
6 expand their occupancy. So from a layman's
7 perspectives, wouldn't -- allowing 125 people
8 into three spaces, wouldn't that more so
9 alleviate the overcrowded than having 125 people
10 in two spaces?

11 I can't follow. That's what I'm
12 trying to find out. That's the decision. And
13 from -- it's like -- to me it looks like it's
14 obvious. 125 people in two, now they want 125
15 people in three space, so the place should be
16 less overcrowded.

17 It should help the police
18 investigation. So I'm -- explain to me why you
19 believe this is not going to alleviate the
20 problem.

21 MR. STOECKLEIN: Mr. Anderson, when we
22 were young guys and we used to go to the night
23 clubs, we always went to the club that was the
24 busiest, the most packed, right? That's where
25 all the entertainment is. That's where the funs

1 at.

2 I don't see them abiding by the laws
3 set forth of maintaining the occupancy of 125 on
4 three levels. It would be so scarcely populated
5 on the inside that their business would actually
6 suffer.

7 So I honestly believe that they would
8 overpack the entire establishment right from the
9 jump.

10 CHAIRPERSON ANDERSON: So your
11 response is, because your -- seems to -- you
12 believe that they, that they're not going to
13 abide by their occupancy for 125.

14 MR. STOECKLEIN: That's correct. They
15 have done very little to comply with any of the
16 directions put forth by the Board of the
17 Metropolitan Police Department or anyone else.

18 They seem like they're very much into
19 the nightclub business to solely make money and
20 to put safety concerns second place.

21 CHAIRPERSON ANDERSON: All right.
22 Thank you. All right. Mr. -- yes, Mr. Grandis,
23 go ahead.

24 MEMBER GRANDIS: Because of your
25 question, I do now have a question for the

1 officer. May I?

2 CHAIRPERSON ANDERSON: Go ahead, sir.

3 MEMBER GRANDIS: Thank you. Officer,
4 I want to thank you. Do appreciate the hard work
5 you all have and keeping our city safe.

6 CHAIRPERSON ANDERSON: Mr. Grandis,
7 I've turned up my volume to, like, 58, so I'm --
8 so I can't -- so if I'm having a problem hearing
9 you, I believe others are having a problem. Go
10 ahead, sir.

11 MEMBER GRANDIS: Is that better? No?
12 How about this?

13 CHAIRPERSON ANDERSON: That's much
14 better.

15 MEMBER GRANDIS: Thank you. He talked
16 about offline about all that, so --

17 Officer, you've testified several
18 times that you just don't trust this licensee in
19 the context of the overcrowding. I think we have
20 had those issues before.

21 But you do believe our investigators,
22 if they went out there and found overcrowding,
23 that they could cite them for violation?

24 SERGEANT VERNICK: Yes, I'm sure they
25 could. I'm sure they could and would. The

1 problem is generally ABRA has, what, three or
2 four investigators working on a weekend night and
3 there's hundreds of bars in the city. And to
4 just focus on Empire is not realistic.

5 So I mean, sure, we could write up
6 reports, but I don't think that actually ensures
7 the safety of the community.

8 MEMBER GRANDIS: Yes. And I
9 appreciate that, but I also want to know -- I
10 think your testimony has been noted and we
11 appreciate your observations. Thank you very
12 much. Mr. Chairman, thank you.

13 SERGEANT VERNICK: Thank you, Mr.
14 Grandis.

15 CHAIRPERSON ANDERSON: Thank you, Mr.
16 Grandis.

17 Mr. Bianco, any questions based on the
18 questions that were asked by the Board?

19 MR. BIANCO: No, sir.

20 CHAIRPERSON ANDERSON: Mr. Stoecklein,
21 any questions based on the questions -- any
22 redirect?

23 MR. STOECKLEIN: Yes, Mr. Chairman.

24 CHAIRPERSON ANDERSON: Go ahead.

25 MR. STOECKLEIN: Sergeant Vernick,

1 based on your experience, has Empire Lounge
2 demonstrated an ability to control violence
3 within the club when operating on two floors
4 alone?

5 MR. BIANCO: Objection. Asked and
6 answered multiple times.

7 MR. STOECKLEIN: We've been speaking
8 to -- for reasons that I'm not clear on, we've
9 been quibbling about whether or not the applicant
10 is seeking an increase in the occupancy load.

11 My question has nothing to do with
12 occupancy load. My question has to do with
13 expansion to an additional existing floor and I'd
14 like to know whether -- given that there seems to
15 be some confusion here, I'd like to know whether,
16 based on Sergeant Vernick's highly relevant
17 experience and the incidents that he's testified
18 about, whether he would say that Empire Lounge
19 has demonstrated an ability to control violence
20 within the club when operating two floors.

21 Mr. Chairman --

22 CHAIRPERSON ANDERSON: Go ahead.

23 MR. STOECKLEIN: -- you just asked
24 Sergeant Vernick why it would be the case, in his
25 opinion, that if an additional floor allowed the

1 crowd to disperse, why that would -- you know,
2 why that might or might not contribute to more or
3 less violence. So this is highly relevant.

4 MR. BIANCO: Mr. Chair, this question
5 was previously asked. I objected to it. My
6 objection was overruled. Understandable. And
7 Sergeant Vernick testified to it and it's now
8 beyond the scope of the questions that the Board
9 has asked in addition to being repetitive.

10 CHAIRPERSON ANDERSON: All right. To
11 maintain a clean record and so all the facts are
12 out, okay, I'm going to overrule the objection.
13 If he can answer, he can answer. But let's be
14 brief and let's move on.

15 MR. STOECKLEIN: Sure. Sergeant
16 Vernick, would you like me to repeat the
17 question?

18 SERGEANT VERNICK: Yes, sir. If you
19 would quick.

20 MR. STOECKLEIN: Based on your
21 experience, has Empire Lounge has demonstrated
22 ability to control violence within the club went
23 operating on two floors alone?

24 SERGEANT VERNICK: The simple answer
25 is, no, they have not been able to.

1 MR. STOECKLEIN: And so in your
2 opinion, would an additional floor of operation
3 make it more or less difficult for the owner and
4 operator to control patrons and prevent violence
5 inside the club?

6 SERGEANT VERNICK: In my opinion, it
7 would make it more difficult for them to control
8 the crowd and the violence inside the club.

9 MR. STOECKLEIN: Thank you, Sergeant.
10 One more brief line of questions. Are you aware
11 of a fight involving a large number of
12 individuals and MPD officers that occurred on May
13 12th on the street immediately outside of Empire?

14 MR. BIANCO: Objections. Scope.
15 Relevance.

16 CHAIRPERSON ANDERSON: I'm -- this I
17 am going to sustained. Let's move on.

18 MR. STOECKLEIN: Sergeant Vernick, in
19 your opinion, would the proposed expansion of
20 Empire have -- what would be the impact of the
21 proposed expansion of Empire on your ability and
22 the ability of the security personnel at that
23 Empire to maintain public safety and prevent
24 violence?

25 MR. BIANCO: Objection. This is now

1 the same question the fourth time.

2 CHAIRPERSON ANDERSON: Mr. Stoecklein,
3 any response?

4 MR. STOECKLEIN: That question stands,
5 Mr. Chairman,

6 CHAIRPERSON ANDERSON: I'm sorry?

7 MR. STOECKLEIN: I -- no, I don't have
8 any response.

9 CHAIRPERSON ANDERSON: You don't have
10 any response to --

11 MR. STOECKLEIN: To my knowledge, I do
12 not recall asking this question to Sergeant
13 Vernick at any point in the past however many
14 minutes we've been speaking. But this is my last
15 question.

16 CHAIRPERSON ANDERSON: All right.
17 Answer the question. Okay. I'll overrule the
18 objection. If the witness can answer the
19 question, he can go ahead.

20 SERGEANT VERNICK: If you don't mind
21 just repeating it one more time.

22 MR. STOECKLEIN: Sure, Sergeant. In
23 your opinion, would the proposed -- would the
24 expansion proposed by the applicant, what would
25 be the impact of the expansion proposed by the

1 applicant on MPD and Empire security staff's
2 ability to maintain public safety and prevent
3 violence? What would be the impact?

4 SERGEANT VERNICK: Adding an extra
5 floor to that situation would call for more
6 security, I mean, two, three, possibly four more
7 people. So not knowing how they would staff it,
8 I don't know if I can really say what --

9 I mean, it would definitely need more
10 staffing than what they have now. I think what
11 they have now is kind of a baseline for the two
12 floors. So you're definitely going to need more
13 security.

14 And honestly, I would probably have to
15 beef up my manpower a little bit. And I know
16 we're not talking about adding capacity load, but
17 adding real estate to an already densely
18 populated area, that's going to require some
19 attention.

20 MR. STOECKLEIN: Thank you, Sergeant
21 Vernick. I --

22 CHAIRPERSON ANDERSON: Sergeant
23 Vernick, thank you very much for your testimony
24 today. You are free to go.

25 All right. We've been at this hearing

1 for over two hours. We're going to take a ten-
2 minute break. It's 3:43. So we'll be off the
3 record until 3:53. Okay. So we are off the
4 record for ten minutes. Thank you.

5 All right. We're back in the record.
6 We are back on the record. Mr. Bianco, Mr.
7 Stoecklein? Mr. Stoecklein?

8 MR. STOECKLEIN: I'm also here, Mr.
9 Anderson.

10 CHAIRPERSON ANDERSON: Do you have
11 another witness you wish to call, sir?

12 MR. STOECKLEIN: Yes, I do. I would
13 like to call Captain Han Kim, the MPD.

14 CHAIRPERSON ANDERSON: Captain Kim,
15 are you there, sir? Captain Kim?

16 MR. STOECKLEIN: I see him on the
17 line, but --

18 CAPTAIN KIM: Yes, I'm here.

19 CHAIRPERSON ANDERSON: All right.
20 Captain Kim, can you raise your right hand,
21 please, sir. Do you swear or affirm to tell the
22 truth and nothing but the truth?

23 CAPTAIN KIM: I swear.

24 CHAIRPERSON ANDERSON: Thank you.
25 Your witness, Mr. Stoecklein.

1 MR. BIANCO: Mr. Anderson, before we
2 get started --

3 CHAIRPERSON ANDERSON: Yes, Mr.
4 Bianco?

5 MR. BIANCO: -- with Captain Kim, I'm
6 not objecting, but I very much would like to
7 avoid any cumulative or repetitive evidence. So
8 if there's some proffer as to what Mr. Kim is
9 going to testify to and how it will differ from
10 Sergeant Vernick's testimony, I think it might be
11 instructive for everybody involved.

12 CHAIRPERSON ANDERSON: That's fine.
13 The Board did state -- I did inform the parties
14 earlier that the Board would prevent repetitive
15 and redundant testimony. So, Mr. Stoecklein, can
16 you give us a proffer of Captain Kim's testimony?

17 MR. STOECKLEIN: Sure. Captain Kim
18 was formerly commander of the Third District
19 prior to his predecessor taking over in recent
20 months -- or his successor taking over. He can
21 speak to -- in a way that only a commander can
22 about, you know, the history in the area and the
23 evolution that he saw over the multiple years
24 that it was his responsibility to address public
25 safety.

1 And in particular, he can also speak
2 to several additional shootings that occurred in
3 the immediate vicinity of the block that -- to
4 which he was, you know, directly privy in a way
5 that the sergeant was not.

6 CHAIRPERSON ANDERSON: As I said
7 before, this is -- the purpose of this hearing is
8 whether or not this Board should grant a
9 substantial change for the first floor.

10 I know that Sergeant Vernick provided
11 us an overview, so I don't want Detective King --
12 I'm sorry, Kim, to provide us the same type of
13 level of overview, so I need more direct
14 testimony from him regarding Empire. I'm not
15 interested in having general information. We
16 already have that.

17 So more -- so I think it should be
18 more direct during his tenure on -- he can talk
19 about Empire and what impact he believes the
20 Board expanding -- allowing them to use the first
21 floor will have on the operations.

22 MR. STOECKLEIN: Mr. Chairman, I
23 understand that. And I appreciate it. But --

24 CHAIRPERSON ANDERSON: I'll give you
25 some -- I will give you some leeway, however,

1 it's not going to be as extensive as the
2 information that was just -- because as you
3 stated, he's a past commander. He's no longer
4 commander in this area, so --

5 MR. STOECKLEIN: Yes.

6 CHAIRPERSON ANDERSON: -- he can give
7 some historical and his direct ties to this
8 establishment. But I don't think that is -- I
9 don't think it's going to be helpful to us for
10 him to give us about trends in the area, since
11 he's no longer directly overseeing this area.

12 MR. STOECKLEIN: Mr. Chairman, as you
13 will hear, Mr. Kim -- Commander Kim, now Captain
14 Kim testify he only was recently reassigned to a
15 new jurisdiction.

16 So he can speak to multiple years
17 which are within the scope of the investigator's
18 report, within the scope of -- directly within
19 the scope of consideration here, which bear on
20 the adverse impact on peace order and quiet,
21 which is the statutory requirement that we need
22 to demonstrate of an expansion as proposed.

23 CHAIRPERSON ANDERSON: I'm going to
24 disagree with you, sir. All I stated that we did
25 have the -- I think you're missing the point I'm

1 stating. I'm not -- he can testify. I'm saying
2 I do not need him to testify -- I do not need him
3 to give the same testimony that we just --

4 MR. STOECKLEIN: Understood. And I
5 will avoid --

6 CHAIRPERSON ANDERSON: -- as --

7 MR. STOECKLEIN: I will avoid coming
8 even close to that level of detail with Captain
9 Kim.

10 CHAIRPERSON ANDERSON: All right.
11 Fine. Go ahead. And so you can go ahead with
12 that, but I am -- I will be listening to any
13 objection that's raised by counsel and I'll make
14 a determination whether or not I'm going to allow
15 that level of testimony if objections are raised.
16 Okay. Go ahead. You can go ahead, sir.

17 MR. STOECKLEIN: Okay. Captain Kim,
18 could you please state your name and position for
19 the record.

20 SERGEANT VERNICK: My name is Captain
21 Han Kim. H-A-N K-I-M. I'm currently working for
22 Patrol Services South Division of MPD.

23 MR. STOECKLEIN: Thank you. And could
24 you please indicate the period of time during
25 which you were commander for the Third District?

1 CAPTAIN KIM: I became the commander
2 of the Third District in May of '21 and then I
3 resigned that position in -- this April, April of
4 2022. And I have several years of experience
5 actually as a captain in the Third District as
6 well, from 2018 'til 2020.

7 MR. STOECKLEIN: Okay. And are you
8 familiar with the applicant and their operation?

9 CAPTAIN KIM: Empire Lounge. Yes,
10 sir.

11 MR. STOECKLEIN: Okay. So could you
12 please, during -- and please be as brief as you
13 see appropriate, but could you please describe
14 for the Board, during your tenure as a commander
15 of the Third District, what you observed in terms
16 of the frequency and severity of violence in the
17 -- on the 1900 block of 9th Street and
18 immediately surrounding area?

19 CAPTAIN KIM: Yes, sir. And I don't
20 want to just dwell on the violence part of it. I
21 think that corridor is just fraught with
22 volatility. Everything from minor thefts, all
23 the way to shootings.

24 And what it's affecting is not only
25 the 1900 block and 9th Street, it really

1 propagates into the neighborhoods. And the most
2 concerns and complaints that I received were from
3 the neighborhoods that are very close within
4 proximity to U Street corridor and also the 9th
5 Street corridor.

6 MR. STOECKLEIN: Okay. Thank you. I
7 appreciate that. And so can you describe, say,
8 from the beginning of your time -- you indicated
9 that you were the captain in the Third District
10 before you became commander.

11 But could you -- just limited to the
12 time that you were commander, could you please
13 speak to the -- again, the incidence of, as you
14 said, not just violent crime, but any crime that
15 you observed --

16 CAPTAIN KIM: Sure.

17 MR. STOECKLEIN: -- in the area?

18 CAPTAIN KIM: As a commander,
19 obviously, I had to be very in tune with our
20 hotspots, as we call them, our areas that we knew
21 that concentrated -- concentrate heavy resources
22 on. And one of those areas was the U Street
23 corridor and the 9th Street corridor.

24 Now, that area -- actually, Sergeant
25 Vernick talked about, so I won't go into it.

1 Actually, he started to kind of go more towards
2 the 9th Street corridor or U Street has its
3 issues.

4 But in terms of volatility, the
5 constant fights, the main problem is -- if we're
6 talking here, I'll be honest with you -- was not
7 with inside these clubs, although we did have
8 issues.

9 Most of the problems occur when the
10 folks are hanging out in front of those specific
11 clubs, not leaving, just hanging out, fights.
12 We've had multiple folks just drinking outside.
13 That -- and those arguments turned into
14 stabblings, shootings, major melees. So those are
15 the main problems within that corridor.

16 MR. STOECKLEIN: Okay. Are you aware
17 of, again, in the immediate vicinity and during
18 your time as commander, can you speak to, in
19 particular, the -- just the incidences of
20 shootings?

21 Can you describe the shootings that
22 you're aware of, the stabbing you're aware of.
23 Can you, particularly just on 1900 block of 9th
24 Street -- you know, what you've directly
25 observed, that your officers reporting to you

1 directly observed?

2 CAPTAIN KIM: Sure. And I'll be short
3 here. I know we've all been sitting through, so
4 I don't want to repeat things that have been
5 said. But in terms of the shooting, I can
6 clearly remember that it actually involved Empire
7 Lounge 1909 7th Street.

8 We did have a shooting there and after
9 the investigation, it was found that it occurred
10 in the line that was formed while patrons were
11 waiting to go inside of Empire Lounge.

12 Some sort of argument occurred in that
13 line. And one of the suspects or the people
14 involved produced a handgun and shot the victim.
15 What was concerning to me at that point was that
16 it was very late or early in the morning.

17 Most of the time Empire Lounge closes
18 at 03 -- or 3:00 a.m. That weekend that this
19 particular shooting occurred, they got permission
20 from, I suppose, ABRA to remain open. It was a
21 Juneteenth holiday, so they had permission to
22 stay open an extra hour.

23 So they were allowed to be open 'til
24 4:00 a.m. Now, what was very concerning to me
25 and which I addressed was that this shooting

1 occurred at 3:40 a.m. That is 20 minutes prior
2 to when that club was supposed to be closed.

3 So I was very frustrated and concerned
4 as to why the club, that lounge, would allow a
5 line to form outside of it at 3:40 in the
6 morning, when, in my opinion, they should have
7 been preparing and getting their security
8 personnel to empty the premises.

9 Instead, they were allowing lines to
10 form, again, at 3:40 in the morning when that
11 shooting occurred. There was some talk that when
12 that fight occurred, that it was not reported to
13 officers nearby.

14 The shooting victim actually had to
15 come up to one of the officers in that block and
16 report that he was shot. So after that incident,
17 I actually submitted a fact-finding hearing
18 letter to ABRA. And I will defer to ABRA as to
19 what, if anything, they found during that fact-
20 finding hearing.

21 That's one specific shooting within
22 the year that I can say that involved directly to
23 Empire Lounge. There has been other shootings or
24 shooting that I could talk about that was on the
25 1800 block in 9th Street. And other obviously

1 volatility in the area.

2 MR. STOECKLEIN: Okay. And in your
3 experience with Empire, have you found them to be
4 diligent enforcers of, you know, the rules by
5 which a club should -- must be operated under DC
6 code, or are you aware of, you know, the history
7 to the contrary?

8 CAPTAIN KIM: I wouldn't be able to
9 answer that. I think Sergeant Vernick answered
10 that he was somebody, obviously, that was
11 managing the whole district, so I had my hands
12 into everything.

13 But in terms of the single place, not
14 abiding by the rules, in that way, I'm not aware
15 of other than some of the concerns about the
16 security that Sergeant Vernick mentioned I've
17 heard and then the incident I just spoke about.

18 But as far as -- I know anytime we
19 need a video of that sort from Empire, we've had
20 no troubles getting videos and their cooperating
21 with us.

22 MR. STOECKLEIN: Okay. Thank you.
23 One more question. Captain, are you aware of a
24 fight involving MPD officers and a large number
25 of individuals that occurred directly outside

1 Empire Lounge on March 12th?

2 MR. BIANCO: I'm going to object to
3 that. I objected to that question -- the same
4 question with Sergeant Vernick and the Chair
5 sustained my objection. So my objection would be
6 the same here.

7 CHAIRPERSON ANDERSON: Well, I'm going
8 to overrule this objection, Mr. Bianco. You had
9 raised the objection on different causes. Here
10 it is. That's part of his direct. He's asked
11 you this question, so I'm going to allow this
12 question, if it's -- if this witness has direct
13 knowledge about this incident.

14 CAPTAIN KIM: I am aware of it.

15 MR. STOECKLEIN: Okay. And are you
16 aware of a video recording the captured this
17 fight?

18 CAPTAIN KIM: I am aware of it, yes,
19 sir.

20 MR. STOECKLEIN: Okay. Mr. Chair, I'm
21 not exactly sure the best way to do this for
22 everyone, but I'd like to introduce what is
23 Protestant's Exhibit 6. It is a short video.

24 (Whereupon, the above-referred to
25 document was marked as Protestant Exhibit 6 for

1 identification.)

2 MR. BIANCO: Mr. Chair, before we get
3 to the playing of the video, as you know, we've
4 exchanged exhibits in advance. So I'd like to
5 deal with my evidentiary objection to Protestant
6 Exhibit number 6 first.

7 And my specific objection is based on
8 my review of the video. It is -- appears to be a
9 social media video that was posted. It's taken
10 by somebody who is not identified or known.

11 And as such, the video cannot be
12 authenticated and is not appropriate for
13 consideration by the Board. And I know it has
14 been the Board's practice to only allow such
15 social media posts to be used when the author is
16 identifiable and able to authenticate the video.

17 CHAIRPERSON ANDERSON: Mr. Stoecklein,
18 can you please -- I have not seen the document,
19 so can you -- can -- if -- can you provide us
20 some background information regarding this video,
21 sir?

22 MR. STOECKLEIN: Sure. This is a
23 video that was posted to Twitter by someone using
24 the app on March -- the evening of March 12,
25 2022. And in the video, you can see, first of

1 all, extreme violence, but the -- there are
2 multiple MPD officers attempting to break up the
3 fight, which is directly outside of Empire, just
4 to have perspective when you look at the video.

5 And in this instance, these are
6 officers that reported directly to -- you know,
7 to Commander Kim. And he's already indicated
8 that he is both aware of the -- of the melee and
9 he's aware of the video.

10 And so I can't -- and so I think it's
11 critically important that the Board see exactly
12 what -- you know, what occurred in the video.

13 CHAIRPERSON ANDERSON: Who's the
14 author of the video?

15 CAPTAIN KIM: If you'll forgive me,
16 I'm just going to read to you exactly who the --

17 MR. STOECKLEIN: But what I'm saying
18 it's not -- the commander is not the author?
19 This is not an MPD video. This isn't that a club
20 video. This is just a random video that you're
21 asking him to testify regarding that was found on
22 social media; is that correct?

23 CAPTAIN KIM: No, it is the best
24 evidence that we are aware of that exists of a
25 fight that he -- of an altercation that involved

1 MPD officers that he's already testified to being
2 aware of.

3 CHAIRPERSON ANDERSON: Yes, he's aware
4 of it so he can testify, but we don't know who
5 the video -- who took the video. I mean, I'm not
6 going to allow -- you don't know -- you can't
7 tell -- he's not the author of the video. This
8 is not a video by the police.

9 It's not a video that you got from the
10 security camera off the establishment. Or even
11 if you had stated that you had gotten a video
12 from a security camera from another
13 establishment, at least you could have someone
14 authenticate that this is a video that was taken
15 from my security cameras from our perspective.

16 So I'm -- I can -- I'm not going to
17 allow --

18 MR. STOECKLEIN: Mr. Chair --

19 CHAIRPERSON ANDERSON: I'm not going
20 to allow a video that you -- we don't know who
21 authored this video. We don't know whether this
22 is authentic. And part of the problem that we'll
23 always have with video, sir, is that, depending
24 on how it's taken, when it's taken, it might give
25 a certain impression that it's not necessarily in

1 -- helpful.

2 So I'm not going to allow the video
3 because we cannot authenticate this video, sir.
4 That is only -- that's the reason why I'm going
5 to -- he can if it's a -- if he is familiar with
6 it, you can ask him questions about the incident
7 from his perspective, but not from the videos.
8 So I'm not going to allow the video, sir.

9 MR. STOECKLEIN: Okay. I understand,
10 Mr. Chairman. If I could beg your indulgence. I
11 just have a procedural question then because I
12 was not aware that -- in this venue, that the
13 federal rules of evidence or the -- you know, the
14 DC rules of evidence were strictly adhered to
15 with and so I'm just -- I'm trying to get my
16 bearings here because hearing -- hearsay has been
17 allowed in multiple instances already.

18 CHAIRPERSON ANDERSON: We --

19 MR. STOECKLEIN: So I just -- I'm not
20 really sure --

21 CHAIRPERSON ANDERSON: We're not
22 talking about --

23 MR. STOECKLEIN: And we can't subpoena
24 a handle that says fullassboop, right? Which is
25 the handle of the -- of this Twitter user. So I

1 -- you know, I'm at a loss because we would've
2 subpoenaed if we could, you know, the person that
3 created the video.

4 But as you know, counsel requires an
5 e-mail address and a full name, which the -- with
6 the -- there's just -- there's no chance. But
7 this video -- I mean, this -- we know that it is
8 a fight that occurred and we know that it
9 reflects the fight that occurred because the
10 commander has already testified that the officers
11 were involved.

12 So I just -- I don't understand why
13 this Board would not want to see what's going on
14 on the streets that we're talking about. I just
15 --

16 CHAIRPERSON ANDERSON: What I stated,
17 sir, if the commander is familiar with the fight
18 -- with what occurred, you can ask him to tell us
19 what occurred. You're asking us -- you're asking
20 me -- you're asking to show up video and have the
21 commander testify about a video that he did not
22 take and no one can -- and no -- and that no one
23 can authenticate.

24 Yes, we don't follow strictly -- in an
25 administrative hearing, we don't follow strictly

1 the rules of evidence, but hearsay has to be
2 credible. So there's a credibility issue.

3 As I stated before, if this was a
4 video that came from the security camera of the
5 establishment, from a security camera of some
6 other establishment, from the bodycam video of
7 the police, that this -- the commander can
8 testify. But you're asking him to testify on a
9 video that no one is -- no one here today can
10 authenticate this video.

11 MR. STOECKLEIN: Okay. I understand,
12 sir.

13 CHAIRPERSON ANDERSON: You can have
14 him testify about -- you could -- you said he's
15 familiar, so you can have him talk about the
16 incident itself and the relevancy of this and how
17 is it -- how this incident, how this is related
18 to Empire.

19 So I've not stated that you cannot.
20 He can testify. I'm just saying he cannot
21 testify -- he cannot -- the Board cannot watch a
22 video and have him testify about the video, sir.
23 That's all I've stated.

24 MR. STOECKLEIN: Okay, Mr. Chairman.
25 Captain Kim, to the best of your

1 recollection, could you describe the melee that
2 occurred on the night in question?

3 CAPTAIN KIM: If it's the same video
4 that we're speaking of, I was not aware of the
5 incident because -- I'll just give you a little
6 backstory on it -- because there was no report
7 taken.

8 Usually, at the commander level,
9 something is brought to me because someone was,
10 you know, seriously injured or we had some sort
11 of a serious incident.

12 This incident, when it occurred, was
13 not brought to me because, at the time, no one
14 reported being injured and no one filed a report.
15 It actually came to my attention via citizen.

16 And then at this time, I can't
17 remember how I was able to view that video, but I
18 did. It was a very short clip and I do remember
19 it being a pretty outlandish -- you called it a
20 melee.

21 It appeared to be multiple folks --
22 citizens fighting, which spilled out onto the
23 street. And our officers got involved just
24 trying to break up the fight. Our officers ran
25 over to the location, tried to break it up.

1 And as our officers did that, all the
2 folks -- again, if I remember the video
3 correctly, it was so many people involved. And
4 as our officers ran to that location, all the
5 folks that were involved ran away from the scene.

6 Again, at that time, no one reported
7 being injured. No one reported being a victim,
8 so there was no report to be taken. But that's
9 what I recall of that video and the incident.

10 MR. STOECKLEIN: Okay. Thank you.
11 Captain Kim, one last question. Is it a common
12 occurrence in this area and in your experience
13 for instances like this to occur that don't
14 actually get reported because, as you said,
15 there's not an injury or there's no particular
16 suspect that's been detained?

17 CAPTAIN KIM: It is not only not the
18 -- not just because there's no report of injury.
19 It's what we call, you know, mutual combatants,
20 right?

21 There's a lot of fights that occur
22 where both are involved in a mutual fight and
23 they're usually broken up and neither the folks
24 that are involved want to stick around. They
25 flee. Or neither -- or want to file a report.

1 So it's that sort of thing.

2 And it is common in that area to see
3 because, as you can imagine, we're dealing with a
4 nightlife area and specially a lot of these
5 problems occur at club let-out time.

6 This usually starts happening around
7 1:00 a.m. and then continues on. And the trouble
8 that we have on that corridor is dispersing these
9 folks once they exit these bars.

10 I know Sergeant Vernick and his team
11 are very involved in trying to and mitigate these
12 things, trying to work with the clubs. Saying,
13 Hey, you know, can we -- and I know this didn't
14 come about.

15 We were trying to kind of have them
16 help us with dispersing at different times or
17 having folks -- even if you close at 3:00 a.m.,
18 let's say, Hey, at 2:30, let's get, you know,
19 half the folks out. And then 3:00, what's left
20 the other folks -- half the folks out so they
21 don't, you know, a melee around the
22 establishment.

23 But obviously that's hard to do
24 because, again, they're a business, so they want
25 folks in their established to the full exit time.

1 So that's a long answer to say that,
2 yes, there's a lot. And you guys, when you're in
3 that corridor during the weekends, in those early
4 morning hours, it's just a really volatile
5 situation.

6 MR. STOECKLEIN: I appreciate that.
7 Just so I'm clear, so is it accurate -- would it
8 be accurate to say that the number of instances,
9 I guess, I'm not sure the correct terminology to
10 use here, but the number of reports -- you know,
11 sort of formal reports taken that -- you know,
12 that your officers right up, it represents only a
13 fraction of the actual violence occurring the --
14 in this block?

15 CAPTAIN KIM: I don't want to venture
16 to guess that. And I wouldn't, I don't want to
17 say, fraction, but I am willing to say that, yes,
18 some of the incidents, the violence, do not go
19 reported.

20 And we also get also late reports as
21 well. We have inebriated folks who are either
22 robbed in the area or things get stolen, where
23 they just don't want to deal with it because
24 they're, you know, really intoxicated at the
25 time.

1 And we've had many, many times where
2 they come in the next day or report the incident
3 two days later or at a different district.

4 MR. STOECKLEIN: Thanks very much,
5 Captain. I have no further questions.

6 CHAIRPERSON ANDERSON: Mr. Bianco?

7 MR. BIANCO: Yes, sir. Okay.
8 Captain, I want to start where we ended,
9 essentially, with this notion of this fight on
10 the street. Your only knowledge of that comes
11 from the video that was excluded as evidence,
12 correct?

13 CAPTAIN KIM: From when a citizen
14 brought it to my attention, yes, sir.

15 MR. BIANCO: So you didn't speak with
16 any eyewitnesses to that?

17 CAPTAIN KIM: I did not.

18 MR. BIANCO: And --

19 CAPTAIN KIM: There were no
20 eyewitnesses.

21 MR. BIANCO: And as you mentioned,
22 there was no formal report made of that incident,
23 correct?

24 CAPTAIN KIM: There was not.

25 MR. BIANCO: And you have no reason to

1 believe whatsoever that that fight that
2 apparently occurred had anything to do with
3 Empire, do you?

4 CAPTAIN KIM: I do not know how that
5 fight stemmed from, no.

6 MR. BIANCO: Okay. If I recall your
7 testimony correctly, it was that, in your for
8 view, most of the problems on 9th Street occur
9 outside of the clubs; is that accurate?

10 CAPTAIN KIM: If you're clumping in
11 all of the problems, issues, reports that occur
12 on 9th Street corridor and you were to separate
13 it that way, yes, most do occur outside.

14 MR. BIANCO: Okay. And I want to
15 talk, just for a moment, about the
16 establishment's ability to regulate activities
17 that go on on a public street. Is there anything
18 an establishment can do about people acting out
19 on a public street?

20 CAPTAIN KIM: First, I'll start at I
21 know that these establishments have agreements
22 with ABRA in terms of particularly the lines. I
23 know some establishments have parameters on where
24 the lines can be, how many they can be, things
25 that -- of that sort, so they -- they should be

1 controlling that. As far as -- I'm not sure what
2 other activity that you referred to.

3 MR. BIANCO: Unruly behavior --

4 CAPTAIN KIM: Excuse me?

5 MR. BIANCO: Unruly behavior,
6 fighting, yelling, throwing things, blocking the
7 sidewalk. Is there anything that a bar can do
8 about adults' activities in a public space like
9 that.

10 CAPTAIN KIM: So with that question,
11 we do expect, if you -- there's -- a lot of these
12 clubs do have security guards that are at the
13 door or outside the door. We do expect them to,
14 within that particular space, if something
15 happens, to either intervene.

16 And if they can't, then -- like, we
17 were talking about this whole meeting here, we
18 have officers on that block to at least report
19 it. But other items outside of that space than -
20 - other than being a reporter or a good
21 Samaritan, no.

22 MR. BIANCO: Okay. And you talked
23 about an incident involving a shooting outside of
24 Empire, correct?

25 CAPTAIN KIM: Yes, sir.

1 MR. BIANCO: And I think your
2 testimony was that you referred that to the ABC
3 Board for a fact-finding hearing, correct?

4 CAPTAIN KIM: I did.

5 MR. BIANCO: And you don't know what,
6 if any, action the ABC Board took about that,
7 right?

8 CAPTAIN KIM: I can't recall.

9 MR. BIANCO: Okay. And you also
10 discussed a concern that there was a line outside
11 of the establishment at that time in the morning.
12 Do you have any knowledge that they were actually
13 admitting patrons at that point?

14 CAPTAIN KIM: We have witnesses
15 because one of the -- actually, without getting
16 too far into the case, we did have folks tell us
17 that they were waiting in line to go into Empire
18 when this incident occurred.

19 MR. BIANCO: No, no. I mean, that part
20 I understand.

21 CAPTAIN KIM: Yes.

22 MR. BIANCO: I mean, I think you
23 testified clearly that there was a line.

24 CAPTAIN KIM: Yes.

25 MR. STOECKLEIN: But what I think I'm

1 asking, and maybe what you don't know, is whether
2 or not people were actually being let in?

3 CAPTAIN KIM: I do not know that.

4 MR. BIANCO: That's all I have. Thank
5 you very much, Captain Kim. I appreciate your
6 testimony.

7 CHAIRPERSON ANDERSON: Thank you.
8 Hold on, Captain Kim. Are there any questions by
9 the Board members?

10 MEMBER SHORT: Question.

11 CHAIRPERSON ANDERSON: Go ahead, Mr.
12 Short.

13 MEMBER SHORT: Good afternoon,
14 Commander.

15 CAPTAIN KIM: Good afternoon, sir.

16 MEMBER SHORT: Thank you for your
17 service, sir.

18 CAPTAIN KIM: Thank you.

19 MEMBER SHORT: My question to you is:
20 When there are incidents in places such as the
21 1900 block of 9th Street Northwest, when you were
22 a commander and now as a senior command --
23 supervisor for the Metropolitan Police Department
24 resources -- how does violence on the 1900 block
25 on 9th Street affect MPD's, the Metropolitan

1 Police Department's resources in that region or
2 the city?

3 CAPTAIN KIM: Thank you for that
4 question. That was one of my biggest
5 frustrations when I was commander at the Third
6 District just because you're talking about a very
7 short or small a footprint of the Third District.
8 And we did have to put a whole lot of resources
9 there.

10 And as you heard Sergeant Vernick say
11 several times -- I mean, he had two other
12 sergeants and 18 other members. When I was
13 there, I had up to 23 members. So it does take a
14 lot of resources.

15 And not only was it MPD resources,
16 when I was there, I needed help from other
17 government agencies. As you guys all know now,
18 there's a Nightlife task force has been created,
19 but it also took resources.

20 I used to work with DPW. ABRA was
21 very helpful, having agents out there with us,
22 again, DCRA, DW. So it takes a lot to kind of
23 oversee that small footprint of our city.

24 MEMBER SHORT: Okay. Thank you. But
25 basically, the question I was trying to find out

1 was MPD's -- just MPD's resources. Would that be
2 any different?

3 CAPTAIN KIM: I'm sorry?

4 MEMBER SHORT: The 1900 block of 9th
5 Street --

6 CAPTAIN KIM: Yes, sir.

7 MEMBER SHORT: -- how did it affect
8 the resources of just MPD in that region and also
9 citywide?

10 CAPTAIN KIM: I think I -- you're kind
11 of going in and out, but yes, I did have to have
12 a lot of resources dedicated to just the 1900
13 Block in 9th Street.

14 MEMBER SHORT: Okay. Now, my second
15 question is: As a senior command person with the
16 Metropolitan Police Department, have you or any
17 of the senior staff had any public safety
18 training in your years of service?

19 CAPTAIN KIM: I'm not sure I
20 understand the question. Myself, if I had?

21 MEMBER SHORT: I'm just -- the senior
22 staff of MPD and specifically yourself?

23 CAPTAIN KIM: Yes, sir.

24 MEMBER SHORT: Training when you were
25 in your years about anything dealing with public

1 safety and just not for MPD, but public safety in
2 general?

3 CAPTAIN KIM: Absolutely. I mean,
4 yes. We're training all the time. We were
5 required to have training. So the short answer
6 is, yes.

7 MEMBER SHORT: Okay. And so you
8 mentioned also that a lot of the violence that
9 happens in the 1900 block of 9th Street happens
10 in the exterior and on 9th Street itself.

11 Have you ever got or do you -- or does
12 your command get complaints about internal or
13 inside of the clubs? And if not, why?

14 CAPTAIN KIM: It's been my experience
15 that, as compared to the activities that go
16 outside -- no, the complaints have been mostly
17 outside. I don't know why more of the volatility
18 doesn't go on inside of the clubs. Maybe -- and
19 that's --

20 And again I'm just making assumptions
21 here. Maybe folks are there to have a good time
22 and, you know, the old adage, if you know, you
23 want to fight then go outside, that sort of
24 thing.

25 But other than some of the -- we -- I

1 -- if I recall correctly, a stabbing that
2 occurred in a bar that is also on 9th Street, few
3 other things that occurred inside. Other than
4 that, again, most of the activity happens
5 outside.

6 CHAIRPERSON ANDERSON: Mr. Short, we
7 can't hear you, sir. I can't hear you, Mr.
8 Short. Mr. Short, I cannot hear you. I cannot
9 hear you, sir. I cannot hear you.

10 (Whereupon, the above-entitled matter
11 went off the record at 4:31 p.m. and resumed at
12 4:36 p.m.)

13 MR. STOECKLEIN: Hold on. If maybe
14 any of the other Board members who haven't had an
15 opportunity to ask questions yet, have them --
16 that perhaps while we're waiting, we could --

17 CHAIRPERSON ANDERSON: I --

18 MR. STOECKLEIN: -- some additional --

19 CHAIRPERSON ANDERSON: Generally, we
20 can do that. But I would -- I want to hear all -
21 - I want all the Board members to hear and
22 participate on -- although, as long as they're
23 three Board members online, we do have a quorum.
24 So that's not an issue.

25 But I prefer that all Board members

1 hear all the evidence and testimony so when we
2 deliberate, they're --

3 MR. STOECKLEIN: No. I mean, I --
4 yes, I was suggesting that maybe while we waited,
5 we could hear more and then Mr. Short can get
6 back on and finish.

7 But I understand, obviously, it's
8 entirely up to you, Mr. Chairman. I just -- I'm
9 keenly aware --

10 CHAIRPERSON ANDERSON: Yes, I --

11 MR. STOECKLEIN: -- of that it's
12 approaching the end of the day for everybody, so
13 --

14 CHAIRPERSON ANDERSON: Well, Mr.
15 Stoecklein, we will be here until this hearing is
16 over. So whatever time that's going to be, we're
17 going to finish this hearing today. It's -- if
18 we're under the --

19 MR. STOECKLEIN: Thank you, Mr.
20 Chairman. I appreciate that. I just don't want
21 everybody to have to suffer.

22 CHAIRPERSON ANDERSON: I hear. And
23 it's -- and after this hearing is over, we're
24 going to deliberate and make a decision -- a
25 tentative decision tonight and if -- our final

1 decision tonight, so we'll be here 'til the end.

2 But I -- we all have brand new
3 laptops, so I'm not quite sure why we're having
4 these technical difficulties. But these are all
5 brand new laptops. All agents, all of the Board
6 members, we are operating on, so --

7 He has not had any of his problems
8 early all day today and it's not a Wi-Fi issue.
9 So it's just -- the equipment just -- I don't
10 know what happened, so --

11 I just text him. I'm waiting for his
12 response. But he's typing. He is responding to
13 my text. I'm waiting for the response.

14 He's waiting for his -- the laptop to
15 sign him back in. All right. Mr. Short has
16 rejoined us.

17 Mr. Short, did you have any other
18 questions that you want to ask?

19 MEMBER SHORT: Can you hear me now?

20 CHAIRPERSON ANDERSON: I can hear you,
21 sir. Do you have any other questions that you
22 want that ask?

23 MEMBER SHORT: If I could continue.
24 And thank you for being patient, everyone. Thank
25 you for being very patient. The question I had

1 asked was about security accountability.

2 And you're saying nightlife security
3 in general, but basically since we're only
4 talking about 1909 9th Street at this time,
5 security accountability, can you tell us or tells
6 this Board and the public if there are any
7 concerns. And if there are, what are they?
8 Security accountability.

9 CAPTAIN KIM: That's for me, sir?

10 MEMBER SHORT: Yes, sir.

11 CAPTAIN KIM: You're talking private
12 security inside the club?

13 MEMBER SHORT: Yes, sir.

14 CAPTAIN KIM: I'm not sure if I'm the
15 one to answer accountability on their part.
16 They're privately contracted. So whatever that
17 they agreed upon when they hired them and then
18 they are accountable to their boss, which is
19 initially Empire Lounge.

20 MEMBER SHORT: Okay. Well, thank you
21 for that, but my last question would be: We
22 didn't -- we weren't -- we were unable to see a
23 video today, but there have been videos produced
24 and had hearings regarding 1909 9th Street
25 previous to this hearing.

1 And so what I would ask you is: In
2 your professional word, what would happen if
3 you're trying to get 125 people outside the
4 interior to the exterior and you have those large
5 numbers of people on the sidewalk, smoking or
6 whatever else, directly in front of the exit
7 egress, the only one for the building?

8 CAPTAIN KIM: What you've described
9 there, obviously, is not ideal. And when it's
10 not even 125, when you have, sometimes, three to
11 five folks out there, it can get volatile.

12 Again, Sergeant Vernick mentioned this
13 earlier. It really depends on what's going on,
14 who's out there, what happened inside the club,
15 did some sort of, you know, fight go in inside
16 the club that spills outside, so --

17 And again, it's been my experience of
18 dealing with situations on 9th Street and U
19 Street, the more folks that you have out there
20 meleeing around, the bigger problems we get.

21 So when I say -- you know, I promised
22 him, you know, happened from 3:00 to 5:00, 30
23 people and you put a number, 125, again, not an
24 ideal situation, something that is very difficult
25 to handle and deal with.

1 MEMBER SHORT: Thank you so very much,
2 Commander, for your service. Thank you for your
3 testimony today. And you also be safe out there.

4 CAPTAIN KIM: Thank you, sir. You
5 too.

6 CHAIRPERSON ANDERSON: Thank you, Mr.
7 Short. Any other questions by any of the Board
8 members? All right.

9 Mr. Bianco, any questions based on the
10 questions the Board asked? Mr. Stoecklein, any
11 redirect?

12 MR. STOECKLEIN: No, Mr. Chair?

13 CHAIRPERSON ANDERSON: Commander,
14 thank you very much for your testimony today.
15 You are now free to go. Thank you very much.
16 Have a great day.

17 CAPTAIN KIM: Thank you. You too.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you. Now, we're going to go back to normal
20 procedure. And the normal procedure, the way
21 this case normally occurs, is that the Board will
22 present its testimony and our -- and then once
23 the Board, we'll have the licensee.

24 So we're going to go back to -- so we
25 -- so just -- let me ask -- well, let me -- let

1 the Board -- I'm going to have the Board call its
2 -- excuse me, have the Board call its first
3 witness and then I'm going to do a witness check
4 by both the licensee and the protestant.

5 So the Board will call its first
6 witness, Ms. Rhoda Glasgow.

7 Ms. Glasgow, can you raise your right
8 hand, please. Ms. Glasgow?

9 INVESTIGATOR GLASGOW: Yes, I'm
10 raising my right hand. I'm not sure what's wrong
11 with the video.

12 CHAIRPERSON ANDERSON: Well, okay.
13 Because I can't see you raise your hand. So
14 putting -- can you please raise -- put it back
15 up. I saw it for a couple of minutes and then it
16 disappeared. So -- all right. Do you swear or
17 affirm to tell the truth and nothing but the
18 truth?

19 INVESTIGATOR GLASGOW: Yes, I do.

20 CHAIRPERSON ANDERSON: Okay. Can you
21 state your name for the record, please.

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

24 CHAIRPERSON ANDERSON: Can you tell us
25 where you're employed, please?

1 INVESTIGATOR GLASGOW: The Alcoholic
2 Beverage Regulation Administration.

3 CHAIRPERSON ANDERSON: And how long
4 have you been employed by the Agency?

5 INVESTIGATOR GLASGOW: Approximately
6 three-and-a-half years.

7 CHAIRPERSON ANDERSON: And can you
8 please tell us, what are your duties and
9 responsibilities?

10 INVESTIGATOR GLASGOW: I conduct
11 inspections and investigations of licensed ABC
12 establishment in the District of Columbia.

13 CHAIRPERSON ANDERSON: Are you
14 familiar with the Empire Lounge?

15 INVESTIGATOR GLASGOW: Yes, I am.

16 CHAIRPERSON ANDERSON: And how are you
17 familiar with this facility?

18 INVESTIGATOR GLASGOW: I was assigned
19 the protest for the substantial change
20 application.

21 CHAIRPERSON ANDERSON: Now, can you
22 tell us, what is the -- what -- can you tell us,
23 what is the application that the -- that is the
24 subject of this protest?

25 INVESTIGATOR GLASGOW: It was for the

1 expanded space that is named Sound Bar.

2 CHAIRPERSON ANDERSON: All right. So
3 who did you speak to in preparing for this -- let
4 me backup. Did you write a report for -- based
5 on your findings?

6 INVESTIGATOR GLASGOW: Yes, I did.

7 CHAIRPERSON ANDERSON: Okay. Are you
8 able to share this report with the Board?

9 INVESTIGATOR GLASGOW: Yes.

10 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
11 can you allow Ms. Glasgow to share her case
12 report if that has not been done yet -- as yet,
13 please. Thank you.

14 INVESTIGATOR GLASGOW: Can you see my
15 screen?

16 CHAIRPERSON ANDERSON: No, ma'am.

17 INVESTIGATOR GLASGOW: Can you see it
18 now?

19 CHAIRPERSON ANDERSON: Nope.

20 INVESTIGATOR GLASGOW: Share.

21 CHAIRPERSON ANDERSON: Yes, we can.

22 INVESTIGATOR GLASGOW: Okay.

23 CHAIRPERSON ANDERSON: Why don't you
24 go back to the first case then -- all right. The
25 first page of your report. So can you identify

1 this document, please?

2 INVESTIGATOR GLASGOW: Yes, this is my
3 protest report, my investigative report for the
4 substantial change of Empire Lounge's
5 application.

6 CHAIRPERSON ANDERSON: Now, did you
7 get a chance to speak to the protestants in this
8 case?

9 INVESTIGATOR GLASGOW: Yes, I did.

10 CHAIRPERSON ANDERSON: And who did you
11 speak to?

12 INVESTIGATOR GLASGOW: I spoke with,
13 specifically, Mr. Pearson Stoecklein.

14 CHAIRPERSON ANDERSON: And what
15 information were you able to gather as a result
16 of your conversation with him?

17 INVESTIGATOR GLASGOW: Well, Mr.
18 Stoecklein's complaint is, basically, Empire
19 Lounge has been violating DC laws and playing
20 loud music at an amplified level. He expressed
21 the establishment is operating Sound Bar as a
22 separate entity.

23 He said that there were a lot of
24 establishments already on the block and because
25 of him operating it as a separate entity, it

1 seems that it's going to add more ABC license to
2 the block, which is not conducive to the
3 neighborhood.

4 He said that the establishment has
5 been violating your essay for a lot of -- on a
6 lot of occasions and there are a lot of crimes
7 outside of the establishment. And this is
8 unacceptable for the neighborhood.

9 CHAIRPERSON ANDERSON: Now, who else
10 did you test -- who else did you identify -- I'm
11 sorry. Who else did you interview as part of
12 your report?

13 INVESTIGATOR GLASGOW: I did not
14 specifically interview anyone else. He actually
15 compiled a bunch of statements from neighbors who
16 lived adjacent to the establishment. So that is
17 what is documented on my report.

18 CHAIRPERSON ANDERSON: So these were
19 just his -- this is basically Mr. Stoecklein's
20 conversation that he recorded too off a
21 individual; is that correct?

22 INVESTIGATOR GLASGOW: Yes.

23 CHAIRPERSON ANDERSON: Can you
24 describe for us this -- the -- briefly, the
25 neighborhood?

1 INVESTIGATOR GLASGOW: So 9th Street
2 between T and U is a very busy area. It has a
3 lot of licensed establishment there. It has
4 approximately 18 licensed establishment on that
5 block alone.

6 At night the street is actually --
7 recently the street is actually blocked off by
8 MPD, so there's no traffic going in any direction
9 on that block after a certain time at night.

10 Well, during the summertime, there's
11 a lot of people on the streets, patrons, I guess,
12 going from one establishment to the next. But
13 when it comes to licensed establishment, there's
14 a lot of activities out there.

15 Recently, there's a lot of MPD
16 presence, because there is a lot of RDO. So if
17 the street is -- I guess, has a lot more people
18 there than, you know, usual.

19 CHAIRPERSON ANDERSON: And I guess
20 that you're stating that this is a very busy --
21 this is a very, very busy area with a significant
22 amount of establishment; is that correct?

23 INVESTIGATOR GLASGOW: Yes.

24 CHAIRPERSON ANDERSON: Now, I'm
25 hearing conversations regarding Sound Bar. Are

1 you familiar with Sound Bar?

2 INVESTIGATOR GLASGOW: So my first
3 interaction with the establishment, I was
4 actually monitoring an establishment on 9th
5 Street. And I saw it and I was like, I never --
6 this is the first I was seeing of it. I think it
7 was a couple of months ago. And I went in and
8 the place was extremely packed.

9 And I approached the owner of the
10 establishment and I asked him, Did you apply for
11 -- because I did not see any postings for a
12 substantial change or anything at the time, so I
13 contacted my supervisor.

14 And he said that there is actually a
15 report that is being written as we speak by
16 another investigator because he was -- he
17 operated the establishment without approval from
18 the Board, so --

19 But the -- inside Sound Bar, that
20 particular area on the first floor was extremely
21 packed. And I also noticed that there was a DJ
22 on the floor, but on his essay -- his -- I'm
23 sorry, his -- not security plan, his settlement
24 agreement.

25 He -- the DJ is supposed to only be on

1 the second floor, not adjacent -- not facing the
2 wall of patrons -- I mean, I'm sorry, of
3 residents in the neighborhood.

4 CHAIRPERSON ANDERSON: So are --
5 you're saying this -- the reason I'm asking --
6 and I see that it's off in your report. So was
7 Sound Bar a licensed establishment?

8 INVESTIGATOR GLASGOW: At the time?

9 CHAIRPERSON ANDERSON: -- after that
10 -- okay --

11 INVESTIGATOR GLASGOW: Oh no.

12 CHAIRPERSON ANDERSON: Is it currently
13 a licensed establishment?

14 INVESTIGATOR GLASGOW: Sound Bar, no.

15 CHAIRPERSON ANDERSON: Now, did you
16 have an opportunity to specifically visit Empire
17 Lounge as a part of the investigation of this
18 case?

19 INVESTIGATOR GLASGOW: Yes.

20 CHAIRPERSON ANDERSON: And when did
21 you visit this establishment?

22 INVESTIGATOR GLASGOW: I visited the
23 establishment on -- where's my report? I'll tell
24 you exactly the date. I visited the
25 establishment on Friday, July 1st.

1 CHAIRPERSON ANDERSON: Now, when you
2 say you visited the establishment, explain what
3 you meant by you visited the establishment,
4 please.

5 INVESTIGATOR GLASGOW: I visited the
6 establishment. I spoke with the owner regarding
7 my protest report. I took pictures of the area
8 of Sound Bar to document in my report.

9 CHAIRPERSON ANDERSON: Now, as at the
10 time of the -- at the times that you visited, was
11 there -- was Sound Bar -- so -- I'm sorry where
12 is Sound Bar or where was Sound Bar?

13 INVESTIGATOR GLASGOW: Sound Bar is
14 adjacent. It's basically practically part of the
15 building of Empire Lounge, but it has a separate
16 entrance. So it looks like an additional ABC
17 license establishment on the block.

18 CHAIRPERSON ANDERSON: Yes, but is --

19 INVESTIGATOR GLASGOW: But it -- I'm
20 sorry.

21 CHAIRPERSON ANDERSON: No, it's okay.
22 Go ahead. Now --

23 INVESTIGATOR GLASGOW: But it is next
24 to -- it is part of the building of where Empire
25 Lounge is.

1 CHAIRPERSON ANDERSON: Now, is this a
2 space that would -- is this the same space that
3 would be the -- that would be classified the
4 first floor?

5 INVESTIGATOR GLASGOW: Yes.

6 CHAIRPERSON ANDERSON: So was -- when
7 you -- at the time you spoke to the owner, was
8 there any activities on the first floor?

9 INVESTIGATOR GLASGOW: No.

10 CHAIRPERSON ANDERSON: And what time
11 is it that you went to visit this establishment?

12 INVESTIGATOR GLASGOW: I would say
13 around 11:00,11:15.

14 CHAIRPERSON ANDERSON: Now, you said
15 you -- so you only went to visit this
16 establishment one time; is that correct?

17 INVESTIGATOR GLASGOW: No, I visited
18 three other times. Actually, I was just
19 monitoring the establishment to make sure there
20 was nothing -- no activity going on while the
21 protest is -- while we wait for a decision from
22 the Board.

23 But the one time that I went in there,
24 and that is documented in my report, is to get
25 the photos and speak with the owner regarding the

1 protest.

2 CHAIRPERSON ANDERSON: So what other
3 occasions did you actually monitor the
4 establishment?

5 INVESTIGATOR GLASGOW: So I monitored
6 the establishment on June 27th around 12:00 a.m.
7 to, like, 12:15, July 1st, as I explained before.
8 July 3rd at around 1:30 in the morning and July
9 4th at around 11:30 p.m.

10 CHAIRPERSON ANDERSON: So were there
11 any -- were you able to identify any ABRA
12 violation during the period of your monitoring?

13 INVESTIGATOR GLASGOW: No, there were
14 no violations.

15 CHAIRPERSON ANDERSON: Now, what about
16 -- did you -- did there -- did you do a record
17 search regarding whether or not they were calls
18 for service for -- from this particular address?

19 INVESTIGATOR GLASGOW: Yes. So
20 according to the record search, there were 68
21 calls for service between March 16, 2019 to June
22 21, 2022. It was regarding noise, assault,
23 theft, et cetera.

24 I also did a noise complaint and there
25 were approximately eight noise complaint between

1 2021 and 2022.

2 CHAIRPERSON ANDERSON: And I see --
3 all right. I see you -- there's an investigative
4 history for this establishment, I guess, covering
5 the period. So I see that there is some -- there
6 is an investigative history for this
7 establishment.

8 Can you tell us what period is
9 documented in your report?

10 INVESTIGATOR GLASGOW: Okay. So I'm
11 sorry, the noise complaint was from 2019 to 2022
12 --

13 CHAIRPERSON ANDERSON: No, I'm saying,
14 generally, the investigative history. What
15 period was it documented in your report?

16 INVESTIGATOR GLASGOW: According to
17 investigative history here, I have from January
18 20, 2019 to June 7th of 2022.

19 CHAIRPERSON ANDERSON: You have some
20 exhibits attached to your report. Can you
21 identify the exhibits that are attached to your
22 report, please?

23 INVESTIGATOR GLASGOW: Sure. So the
24 first exhibit is a letter from the ANC outlining
25 exactly their concerns from the establishment

1 based -- their protest is based on the effect of
2 real property values.

3 And it explains the effect the
4 establishment has on peace, order, and quiet and
5 litter provisions and parking needs, and
6 pedestrian safety. That's Exhibit 1.

7 Exhibit 2 is also a letter from the
8 WNA Association explaining -- outlining their
9 concerns as well. And it's basically the same
10 concerns as the ANC.

11 Exhibit 2. It's -- I -- as I
12 explained before, letters from resident -- former
13 and current resident in a nearby establishments
14 that Mr. Stoecklein obtained and sent to me.

15 We have one -- we have -- from Exhibit
16 5, we have another letter that explains --
17 outlines their reason for leaving, moving out of
18 their homes because Empire Lounge music is
19 extremely loud and it's hard to, basically. live
20 in the neighborhood next to that establishment.

21 I have Exhibit 6 and 7 that outlines
22 that as well. And I have here an Exhibit 8, a
23 letter from Mr. Nigussie explaining that he was
24 harassed and -- verbally and physically by Mr.
25 Stoecklein.

1 He attached the videos, but there was
2 no audio in the video, so I could not
3 substantiate exactly if his argument -- his
4 statement was accurate or not.

5 I have here the next exhibit, Exhibit
6 9. I have -- it's the zoning map of Empire
7 Lounge, which is located in the ARTS-2 zoning
8 area.

9 I have the GIS map which shows there
10 are 60 establishment in Exhibit 10 within 1,200
11 feet of the establishment. I have Exhibit number
12 11, which outlines that there are no public
13 libraries within 400 feet, but there is a school
14 around -- within 400 feet.

15 Exhibit number -- what exhibit number
16 is this? Exhibit number 12 shows the front area
17 of Empire Lounge, which is Empire and Sound Bar
18 next to it. As you can see, it's the same
19 building, but separate entrances. They're are
20 both 1909.

21 Exhibit 13 shows the back of the
22 establishment. There is one exit to the back of
23 the establishment at the top that facilitates the
24 exit for the second floor and the third floor.
25 And we have, if you can see -- okay.

1 So then exhibit -- the other exhibit,
2 Exhibit 14, is the door for the first floor, the
3 exit for the first floor. And it all leads out
4 into an alleyway.

5 And as Officer Vernick explained,
6 there is a barrier that blocks it off, where,
7 like -- so you don't go out directly into the
8 alleyway. There is, like, a gate that -- or
9 something that closes so you don't go directly
10 out.

11 Exhibit number 15 shows inside of the
12 establishment. He was doing construction, little
13 work in there, so it was a bit of a mess.

14 Exhibit 16 shows the bar area.

15 Exhibit number 17 is that the one
16 bathroom area. Exhibit number 18 shows the DJ
17 booth, which I explained to you before that their
18 essay only allows them to have a DJ on the second
19 floor and this is on the first floor.

20 Exhibit 19 shows more pictures of
21 inside of the establishment. Exhibit number 20,
22 same, inside of the establishment.

23 Exhibit number 21, this is a door that
24 leads to what's the staircase to go up to the
25 second floor. It's between the first -- it's a

1 way to go from Sound Bar area, that space,
2 towards the -- going up to the first floor and
3 the second floor --

4 CHAIRPERSON ANDERSON: I'm sorry.
5 Let's go back to Exhibit 21.

6 INVESTIGATOR GLASGOW: Yes.

7 CHAIRPERSON ANDERSON: So there is --
8 so when you enter -- so there's an entrance on
9 9th Street for -- there's an entrance on 9th
10 Street for Empire Lounge and there's an entrance
11 on -- a separate entrance on 9th Street for Sound
12 Bar; is that correct?

13 INVESTIGATOR GLASGOW: Yes.

14 CHAIRPERSON ANDERSON: And so you're
15 saying, once you're in either Sound Bar or Empire
16 Lounge, there is a door that allows you just one
17 -- there's just one door that allows you inside
18 to get from Sound Bar to Empire Lounge to go
19 upstairs or --

20 INVESTIGATOR GLASGOW: Yes.

21 CHAIRPERSON ANDERSON: -- and vice
22 versa?

23 INVESTIGATOR GLASGOW: Yes.

24 MEMBER SHORT: Okay. Okay. Go ahead,
25 please.

1 INVESTIGATOR GLASGOW: Exhibit 21 is
2 their license. Yes, ABC license hours. Exhibit
3 number 22 is the parking. There is no main
4 parking in the area because --

5 These signs recently went up because
6 they were doing a lot of construction in the
7 area. So these are newly placed signs. So
8 there's no real parking on the block.

9 Exhibit 21 -- I mean, sorry, Exhibit
10 24 is the record search of their calls for
11 service. As you can see, it started from March
12 of 2019 through June of 2022. Exhibit 25 is
13 their settlement agreement.

14 MEMBER SHORT: And what's the date of
15 the settlement agreement?

16 INVESTIGATOR GLASGOW: The date of the
17 settlement agreement is -- just a second.
18 October 1, 2018. That was the roll call hearing
19 of -- one second. It says, Order by October 17,
20 2018.

21 MEMBER SHORT: All right. Go ahead.

22 INVESTIGATOR GLASGOW: Okay. And we
23 have here their security plan.

24 MEMBER SHORT: And what's the date of
25 the security plan?

1 INVESTIGATOR GLASGOW: October 12,
2 2018.

3 CHAIRPERSON ANDERSON: That's the date
4 of security plan?

5 INVESTIGATOR GLASGOW: No, that is the
6 date of the agreement for the settlement
7 agreement.

8 CHAIRPERSON ANDERSON: So what's the
9 date of security plan? Do you --

10 INVESTIGATOR GLASGOW: I'm sorry the
11 security plan. June 17, 2022.

12 CHAIRPERSON ANDERSON: Okay. Thank
13 you.

14 INVESTIGATOR GLASGOW: And that was
15 Exhibit 26. And that, I believe, is all my
16 exhibits.

17 CHAIRPERSON ANDERSON: Okay. Thank
18 you. All right. I don't have any further
19 questions to ask you Ms. Glasgow. Close this
20 screen, please.

21 INVESTIGATOR GLASGOW: Sure.

22 CHAIRPERSON ANDERSON: Any of -- any
23 questions by the Board members?

24 MEMBER SHORT: Yes. Mr. Short would
25 like to ask the investigator a question.

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

3 MEMBER SHORT: Good afternoon still,
4 Investigator --

5 CHAIRPERSON ANDERSON: Glasgow.

6 MEMBER SHORT: Glasgow, okay.

7 Investigator --

8 INVESTIGATOR GLASGOW: Good afternoon

9 MEMBER SHORT: -- Glasgow. Thank you
10 for the action report and I think a lot of your
11 exhibits were quite helpful. Regarding your time
12 and service with the -- as an investigator with
13 ABRA, at anytime since you've been in on board
14 with ABRA as an investigator, have you had any
15 training regarding public safety whatsoever?

16 INVESTIGATOR GLASGOW: Yes.

17 MEMBER SHORT: And can you explain to
18 us just very briefly what that training incurred?

19 INVESTIGATOR GLASGOW: Well,
20 basically, when we enter an establishment or if
21 we're referring to the establishment and public
22 safety, we have to make sure that the
23 establishment is complying with the rules that
24 allows -- would allow safety practices.

25 So there's no overcrowding, no

1 overoccupancy. We have to make sure that the
2 security is checking, doing their searches so the
3 public can remain safe inside of the
4 establishment.

5 As you see here, we -- some
6 establishments come into an agreement with this
7 security plan to allow for public safety within
8 the establishment.

9 So basically, the establishment -- we
10 have to make sure that the establishment is
11 following the rules so the public can be safe
12 inside of the establishment.

13 MEMBER SHORT: Okay. Based on your
14 answer, since the security agreement was signed
15 October 2018, I believe --

16 INVESTIGATOR GLASGOW: Yes.

17 MEMBER SHORT: -- have there been any
18 violations of the security plan or security
19 agreement?

20 MR. BIANCO: I'm going to object to
21 the characterization of the testimony. I think
22 the testimony was that the security plan was not
23 in place until 2022 and not 2018.

24 CHAIRPERSON ANDERSON: Go ahead, Mr.
25 Short.

1 MEMBER SHORT: Thank you. Based on
2 that -- and thank you very much, Mr. Bianco.
3 Based on that, was there a security agreement
4 signed October of 2018?

5 INVESTIGATOR GLASGOW: The agreement
6 that was signed in 2018 was their settlement --

7 MEMBER SHORT: Settlement agreement.
8 Okay.

9 INVESTIGATOR GLASGOW: -- agreement,
10 not the security plan.

11 MEMBER SHORT: All right. Thank you
12 for the correction. Now, with the security, have
13 there been any violations of that security
14 agreement since it was signed in 2018?

15 INVESTIGATOR GLASGOW: The only thing
16 that I could remember -- well, I can explain from
17 their investigative history is that there was an
18 incident for a firearm on June 7th of 2022.
19 There was an incident where there was a gun
20 inside of the establishment.

21 MEMBER SHORT: That violate the
22 agreement?

23 INVESTIGATOR GLASGOW: Well, according
24 to the report, I do not believe that the -- well,
25 I guess if -- it will bring up the question as

1 the -- is -- was this individual searched before
2 entering the establishment? So that is a
3 security issue.

4 MR. BIANCO: Again, Mr. Anderson, I
5 renew my objection to the testimony on a June 7th
6 apparent incident where the security plan is
7 dated June 17th.

8 CHAIRPERSON ANDERSON: So remember, so
9 we can -- this -- the security plan is dated June
10 17, 2022, so we can't have testimony on a plan
11 that was not -- on a violation of a possible plan
12 that was not in existence.

13 So if we're going to have testimony,
14 it has to be on the security plan. It would be
15 for are there any incidents after June 17, 2022,
16 not prior to June 17, 2022.

17 MEMBER SHORT: Thank you very much,
18 Mr. Chair. Now, Investigator Glasgow, the space
19 that there -- that this business is asking to use
20 on the first floor, was any violations -- or let
21 me take that back. Was anybody using that space
22 prior to getting permissions from this Board?

23 INVESTIGATOR GLASGOW: Yes. There
24 were a couple of cases that were written because
25 he was using his space without approval.

1 MR. BIANCO: Mr. Chair, I would -- not
2 objecting to this particular question, but I
3 would note that the questions are referring to
4 unadjudicated violations and I would ask that we
5 exclude such questions until my client has the
6 opportunity to defend himself.

7 CHAIRPERSON ANDERSON: I will have
8 clients -- I'll have our Board member is to
9 carefully tread along this area. But I was shown
10 a picture and I'm showing Sound Bar and the --
11 I'm sorry, the -- our witness did testify about a
12 Sound Bar and there's activity in the Sound Bar.

13 So I think it's somewhat relevant, but
14 when I don't -- I'm not -- I'm just asking Board
15 members not to go into specifics. But if you
16 have general questions about this space, so be
17 it.

18 All right. So I will just -- all
19 right. But you can go ahead, Mr. Short, but if
20 it's for --

21 MEMBER SHORT: I'll take that question
22 back.

23 CHAIRPERSON ANDERSON: All right.

24 MEMBER SHORT: I don't want that
25 question. Thank you very much. But now, you did

1 your walkthroughs or your inspections for the
2 space, you testified in what hours -- what -- the
3 question, I guess, I really want to ask you is:
4 What hours does the 1900 block of 9th Street
5 normally get busy? What hours are -- what are
6 their busiest hours?

7 INVESTIGATOR GLASGOW: I would say
8 from, like, 10:00 p.m. to, like, 3:00 or 2:30,
9 between those hours.

10 MEMBER SHORT: So it's the same
11 process is the same process at 10:00 that it is
12 at 3:00?

13 INVESTIGATOR GLASGOW: Sometimes, yes.
14 Yes.

15 MEMBER SHORT: Okay. Very fair.
16 Again -- so how many inspections did you do of
17 this space? And what -- and again, I know this
18 is repetitive, but again, just refresh me as a
19 Board member, how many times did you, and what
20 hours did you go for the -- to do your report?

21 INVESTIGATOR GLASGOW: For my report,
22 I specifically only went there into the
23 establishment, into the expanded space one time.

24 MEMBER SHORT: Okay. Thank you very
25 much, Mr. Chairman. That's all I have at this

1 time. I thank you and -- Investigator Glasgow,

2 CHAIRPERSON ANDERSON: Thank you, Mr.
3 Short, any other questions from any of the Board
4 members? Go ahead, Mr. Grandis.

5 MEMBER GRANDIS: Thank you,
6 Investigator. That one time you went in, if I
7 remember, it was, like, midnight or 12:30 a.m.?
8 Am I recollecting that --

9 INVESTIGATOR GLASGOW: It was about
10 11:00 -- between 11:00 and 11:30.

11 MEMBER GRANDIS: And you went there
12 precisely because of the assignment to deal with
13 the request to expand the premises to the first
14 floor, correct?

15 INVESTIGATOR GLASGOW: Yes.

16 MEMBER GRANDIS: And I think you
17 already stated, but just to remind me, when you
18 went in, you went into the Sound Bar area first
19 or to the Empire area first?

20 INVESTIGATOR GLASGOW: Well, when I
21 got there, the Sound Bar area door was locked.
22 So the owner came out and he escorted me into the
23 Empire area, which he led me to the side door
24 going into Sound Bar area.

25 MEMBER GRANDIS: And when you went

1 into the Sound Bar area, I'm assuming now from
2 the picture you went in from that door that was
3 closed, but that could be opened to go from the
4 first floor to the second floor?

5 INVESTIGATOR GLASGOW: That is
6 correct.

7 MEMBER GRANDIS: And were patrons
8 using that same door as you were escorted into?

9 INVESTIGATOR GLASGOW: At the time,
10 no. There was no patrons on the first floor.

11 MEMBER GRANDIS: Oh, there were no
12 patrons on the first floor, so -- and you also --
13 for your records, you said that there was a bar
14 that you could see on the first floor?

15 INVESTIGATOR GLASGOW: Yes.

16 MEMBER GRANDIS: And you could see a
17 DJ booth on the first floor?

18 INVESTIGATOR GLASGOW: Yes.

19 MEMBER GRANDIS: When you went to the
20 second floor, did you see a DJ booth?

21 INVESTIGATOR GLASGOW: There is one up
22 there too, yes.

23 MEMBER GRANDIS: Was there a DJ that
24 evening?

25 INVESTIGATOR GLASGOW: At the time of

1 my visit, I did not go up to the second floor.
2 My main focus was the expanded space at that
3 time.

4 MEMBER GRANDIS: Have you been to that
5 second or third floor other than regarding this
6 particular matter?

7 INVESTIGATOR GLASGOW: Yes, multiple
8 times.

9 MEMBER GRANDIS: And there's a DJ
10 booth on the second floor, as well as a DJ has
11 been there?

12 INVESTIGATOR GLASGOW: Yes.

13 MEMBER GRANDIS: And we've had
14 testimony today that the second and third floor,
15 at least in layman's terms, was overcrowded.

16 Did you have a sense that there was a
17 150 people on both floors, or did you have a
18 sense that it was more or less?

19 INVESTIGATOR GLASGOW: So I had
20 written a case that they were over their
21 occupancy on one occasion. That was during the
22 mayor's emergency order. They were -- they had a
23 couple of other mayor's order violation at that
24 time and occupancy was one of them.

25 MEMBER GRANDIS: And at that time, did

1 you, at all, observe the first floor when you
2 made that observation regarding the overcrowding?

3 INVESTIGATOR GLASGOW: Well, at that
4 time, no. The first floor was not operating at
5 all.

6 MEMBER GRANDIS: Talking about the
7 incident where it was overcrowded on the second
8 and third floor, again, when you went to look at
9 the first floor, there was no occupancy? There
10 was nothing going on on the first floor?

11 INVESTIGATOR GLASGOW: Yes. At that
12 time, around 2020, yes, there was no one on the
13 first floor.

14 MEMBER GRANDIS: And if the Board were
15 to grant this and keep the occupancy, I think
16 it's a 150 currently?

17 INVESTIGATOR GLASGOW: Well, 125.

18 CHAIRPERSON ANDERSON: 125.

19 MEMBER GRANDIS: 125. Thank you.

20 Thank you for the correction. If the occupancy
21 is not increased, then there would be less
22 crowding on the three floors than there are
23 currently on the two floors, even if it's a 125?

24 INVESTIGATOR GLASGOW: I can't -- I
25 don't know how he will, you know, navigate the

1 traffic of the patrons. But the one time that I
2 did see the Sound Bar operating, where he had the
3 first and -- the second and the third floor
4 operating as well, it was extremely overcrowded
5 on the first floor.

6 MEMBER GRANDIS: And were they cited
7 a violation of being overcrowded at that
8 incident?

9 INVESTIGATOR GLASGOW: Well, as I
10 explained before, my supervisor advised me that
11 another investigator was writing the exact same
12 case for overcrowding because they came across
13 the incident a couple of days ago where he was
14 operating the first floor and it was completely
15 packed.

16 Like, there was -- I -- when I went in
17 there, well, there was barely any way for me to
18 walk through to get to the back of the
19 establishment.

20 MEMBER GRANDIS: But that wasn't part
21 of -- that visit was not part of this process?

22 INVESTIGATOR GLASGOW: No.

23 MEMBER GRANDIS: Okay. And when you
24 went in the first floor, I know you used that
25 stairwell that does connect interior second floor

1 to first. Did you go to the back of that first
2 floor to determine if there was an exit?

3 INVESTIGATOR GLASGOW: The back of the
4 first floor, no. I don't think there's a exit.
5 The exit is on the third floor.

6 MEMBER GRANDIS: And if I understood
7 your testimony, if I were to use that exit
8 because of via fire emergency and I came from the
9 third floor down to the ground level, that's in
10 the back of the building, but there was a fence
11 with a gate. And is that gate with a lock? Or
12 is that gate as an emergency type of thing where
13 you could push it and get into the alley?

14 INVESTIGATOR GLASGOW: It's like -- I
15 think it's like a wooden gate, so there's no
16 electronic mechanism to open or close.

17 MEMBER GRANDIS: So you're -- just
18 from your knowledge, there's no way to use that
19 wood gate to get to the alley?

20 INVESTIGATOR GLASGOW: No, I think
21 someone would actually has to -- have to
22 physically move it to get, you know, everyone to
23 --

24 MEMBER GRANDIS: Thank you. Thank
25 you. And I want to thank you for your

1 presentation. And, Mr. Chairman, thank you.

2 CHAIRPERSON ANDERSON: Sure. So any
3 other questions by any of the Board members?

4 MR. ORLASKEY: Ms. Glasgow, I want to
5 ask you another question because I'm now
6 confused. It's correct that there -- that -- as
7 far as ABRA is concerned, there is no Sound Bar;
8 is that correct?

9 INVESTIGATOR GLASGOW: That's correct.

10 MR. ORLASKEY: And so how then are you
11 stating that Sound Bar is overcrowded? You can
12 state that it's packed, but how can you state
13 that Sound Bar is overcrowded if you don't know -
14 - if it's not an ABRA license establishment and
15 you don't know what the occupancy is for that
16 space.

17 INVESTIGATOR GLASGOW: Well, when I
18 went in there, the name outside of that area was
19 Sound Bar. I did not go into the side with
20 Empire Lounge entrance. I went into the entrance
21 where the names Sound Bar was.

22 So when I -- and this when I went in
23 there the first time, where they were over their
24 occupancy, I thought, at that time, there, they
25 were a licensed establishment until the reports

1 were written, then we realized it's not a
2 licensed establishment.

3 CHAIRPERSON ANDERSON: But I'm saying
4 that, but you don't know what the occupancy of
5 that space is; isn't that correct?

6 INVESTIGATOR GLASGOW: No, I do not
7 know.

8 CHAIRPERSON ANDERSON: To you the
9 space was overcrowded?

10 INVESTIGATOR GLASGOW: Yes.

11 CHAIRPERSON ANDERSON: But you don't
12 know what the actual occupancy -- the space --
13 there was a lot of people in a small space. But
14 you don't know what the occupancy of it because
15 it wasn't a licensed establishment; isn't that
16 correct?

17 INVESTIGATOR GLASGOW: Exactly.

18 CHAIRPERSON ANDERSON: All right. I
19 just want to -- I want to clear the record when
20 we're talking about something being overcrowded.
21 If we don't what they -- we don't have a
22 Certificate of Occupancy for that space to state
23 what the occupancy load for that space is. All
24 right.

25 MEMBER SHORT: Mr. Chairman, can I ask

1 a question based on your question?

2 CHAIRPERSON ANDERSON: Yes, Mr. Short.

3 MEMBER SHORT: Thank you.

4 Investigator Glasgow, when people are using
5 spaces illegally or without permission from ABRA,
6 are there normally any signs up posted of how
7 many people can be in a space when it's illegally
8 being used?

9 INVESTIGATOR GLASGOW: No. No.

10 Normally, when a place is requesting expansion or
11 anything, there -- they have to apply and then
12 they'll placard it.

13 So there's no way for me to know, you
14 know, what the occupancy or anything about that
15 space if they don't bring it to us -- to our
16 attention.

17 MEMBER SHORT: Thank you for your
18 answer. And that's all I have, Mr. Chair. Thank
19 you very much.

20 CHAIRPERSON ANDERSON: Any questions
21 by any of the Board -- all right. Any other
22 questions by any other Board members? Mr.
23 Bianco?

24 MR. BIANCO: Good afternoon,
25 Investigator Glasgow. I think I would like to

1 start where the Board stopped, which is this this
2 notion of overcrowding.

3 And I think your testimony was, you
4 would have no way of knowing what the occupancy
5 limits are if a place does not have a license.
6 Am I recalling in your testimony accurately?

7 INVESTIGATOR GLASGOW: Yes. I mean,
8 if the place -- if they don't -- I mean, he was
9 operating the space without approval. So any
10 information on that space, I would not know --

11 MR. BIANCO: Yes, I understand.

12 INVESTIGATOR GLASGOW: -- for the
13 occupancy.

14 MR. BIANCO: Yes, that part I
15 understand. But a building can have a
16 Certificate of Occupancy without an alcohol
17 license, right?

18 INVESTIGATOR GLASGOW: Yeah.

19 MR. BIANCO: Okay. And do you know
20 whether or not there's a Certificate of Occupancy
21 for that building at that time?

22 INVESTIGATOR GLASGOW: Well, I'm
23 assuming -- well, no.

24 MEMBER SHORT: I did this -- I can
25 pull it up.

1 CHAIRPERSON ANDERSON: Ms. Glasgow, I
2 need you to answer questions on knowledge, ma'am,
3 okay?

4 INVESTIGATOR GLASGOW: Okay.

5 CHAIRPERSON ANDERSON: I don't know,
6 you don't know. Please do not assume.

7 INVESTIGATOR GLASGOW: No, I don't
8 know.

9 MR. BIANCO: Okay. So I want to now
10 go back to this notion of the -- this write-up
11 for overcrowding. And again, I -- and please
12 correct me if I'm wrong.

13 My understanding of your testimony is
14 that when you visited the establishment and you
15 testified that it was packed, when you went back
16 to the office, you were informed that somebody
17 was writing up the same case, correct?

18 INVESTIGATOR GLASGOW: That is
19 correct.

20 MR. BIANCO: Okay. And I'm going to
21 tread very carefully here because of my earlier
22 objection as to unadjudicated violations.

23 But in looking at the investigative
24 history, dealing with the expansion to the first
25 floor without approval, I don't see any

1 allegation of overcrowding in that allegation; is
2 that accurate?

3 INVESTIGATOR GLASGOW: In which
4 allegation?

5 MR. BIANCO: Investigative History
6 Item number 3. It reads, Expanded its operations
7 to the first floor without approval, operated
8 under an unapproved trade name, and then it goes
9 on to state the procedural history of the Board,
10 referring to OAG, status hearing, show cause
11 hearing. And as of -- as we sit here today, no
12 adjudication of those claims?

13 INVESTIGATOR GLASGOW: So yes, there
14 were no occupancy referenced here.

15 MR. BIANCO: Okay. And in reviewing
16 your report and the photos that go along with
17 your report, when you went inside of the first
18 floor establishment, it appears that it was under
19 construction at that time, right?

20 INVESTIGATOR GLASGOW: Yes. He was
21 doing repairs there. yes.

22 MR. BIANCO: Okay. Now, I have a few
23 more things that I want to cover with respect to
24 your report. So you've been an investigator for
25 a few years now, right?

1 INVESTIGATOR GLASGOW: Yes.

2 MR. BIANCO: And I've always found you
3 to be very, very thorough. And what I would -- I
4 suppose what I would ask is, in your experience,
5 have you encountered an establishment that has
6 different trade names on different floors?

7 INVESTIGATOR GLASGOW: I mean, I can
8 reference a -- like, a hotel that I've been to
9 that has the bar area named something different
10 from the hotel itself, but the hotel does have
11 the ABRA license.

12 MR. BIANCO: Okay. But you're not
13 aware of other situations where upper floors can
14 be called one thing and lower floor's called
15 something else?

16 INVESTIGATOR GLASGOW: No.

17 MR. BIANCO: Okay. So the next thing
18 that you talk about in your report are the
19 protest issues. And I'm not going to go through
20 each one of these individual statements one at a
21 time and sort of ask you individual questions
22 about them. But they come in two parts.

23 So we have in your narrative a
24 recitation of the supposed residence comments
25 about this particular establishment, correct?

1 INVESTIGATOR GLASGOW: Yes.

2 MR. BIANCO: Okay. And if I
3 understood your testimony correctly, you didn't
4 actually speak with these residents, correct?

5 INVESTIGATOR GLASGOW: Correct.

6 MR. BIANCO: Okay. And if we go to
7 the exhibits, starting with Exhibit 4, which
8 purports to be the written complaints from these
9 residents. And I'm specifically referencing
10 Exhibits 4, 5, 6 -- 4, 5, and 6, those are e-
11 mails sent by Mr. Stoecklein; is that correct?

12 INVESTIGATOR GLASGOW: That is
13 correct.

14 MR. BIANCO: And there's nothing in
15 those e-mails indicating that the actual resident
16 who these statements are attributed to sent those
17 statements to Mr. Stoecklein, correct?

18 INVESTIGATOR GLASGOW: Yes, that is
19 correct. I don't see a to or from or forwarded
20 on these e-mails.

21 MR. BIANCO: Exactly. Right, yes,
22 that was my next question. There's no e-mail
23 header or a forwarding documentation, right?

24 INVESTIGATOR GLASGOW: That is
25 correct.

1 MR. BIANCO: So the only information
2 about what these people supposedly said comes
3 directly from Mr. Stoecklein, right?

4 INVESTIGATOR GLASGOW: According to
5 the e-mail, it was sent from Mr. Stoecklein to
6 me.

7 MR. BIANCO: Okay. And we don't know
8 what, if anything, those people actually said to
9 Mr. Stoecklein?

10 INVESTIGATOR GLASGOW: I can't say.

11 MR. BIANCO: Okay. I'm just trying to
12 streamline some of the questions, so please bear
13 with me as I scroll through. Okay. So if we go
14 back to Section 2 of your report, which is
15 entitled, Nearby establishments -- I'm sorry.

16 Section 2, it says, Characteristics of
17 the neighborhood, and then the first subheading
18 is, Zoning. And then the second subheading is,
19 Nearby establishments, correct?

20 INVESTIGATOR GLASGOW: Yes.

21 MR. BIANCO: Okay. And in, Nearby
22 establishments, it looks like you state there are
23 55 licensed establishments within 1,200 feet and
24 37 of those have entertainment endorsements,
25 correct?

1 INVESTIGATOR GLASGOW: That is
2 correct.

3 MR. BIANCO: All right. Now, I want
4 to look at -- I want to zoom in a little bit,
5 right? So that's the bigger picture. That's the
6 1,200-foot view. But I want to look at the
7 establishments in the immediate vicinity of
8 Empire Lounge.

9 So if we scroll down your list of
10 licensed establishments to number 20, that's
11 where we'll see Empire Lounge in 1909 9th Street,
12 Northwest, correct?

13 INVESTIGATOR GLASGOW: Yes. Yes.

14 MR. BIANCO: Okay. So if we look at
15 Items number 18, which is Cloud Lounge and
16 Restaurant --

17 INVESTIGATOR GLASGOW: Yes.

18 MR. BIANCO: -- at 1919 9th Street --

19 INVESTIGATOR GLASGOW: Yes.

20 CHAIRPERSON ANDERSON: -- and then
21 looked down to Cortez which is 1905 9th Street,
22 so that's moving north to the south, it looks to
23 me like there are five establishments within a
24 couple 100 feet of one another all with
25 entertainment endorsements. Is that an accurate

1 view of your report?

2 INVESTIGATOR GLASGOW: Yes.

3 MR. BIANCO: Okay. And then I see
4 that one of those establishments, number 23,
5 which is two doors down from Empire Lounge is
6 Cortez.

7 INVESTIGATOR GLASGOW: Yes.

8 MR. BIANCO: And they have a summer
9 garden endorsement as well. Are you familiar
10 with their summer garden?

11 INVESTIGATOR GLASGOW: Yes, I am.

12 MR. BIANCO: Okay. And do you know
13 whether it is on the front of the building or the
14 back of the building?

15 INVESTIGATOR GLASGOW: The back.

16 MR. BIANCO: Okay. And is it open, or
17 is it enclosed?

18 INVESTIGATOR GLASGOW: It's opened.

19 I don't want -- I will say I don't know.

20 MR. BIANCO: Okay. Yes.

21 INVESTIGATOR GLASGOW: I'm not sure.

22 MR. BIANCO: I was just going to say
23 if you're not sure, please say you're not sure.
24 I don't want --

25 INVESTIGATOR GLASGOW: I'm not sure.

1 MR. BIANCO: -- you to guess. Okay.
2 And do you know if they have music on their
3 summer garden?

4 INVESTIGATOR GLASGOW: Yes. They have
5 overhead music.

6 MR. BIANCO: All right. So now I want
7 to scroll down to page 8 of your report where you
8 talk about their hours of operations. So you
9 have a chart in there with the hours of operation
10 of Empire Lounge, correct?

11 INVESTIGATOR GLASGOW: Correct.

12 MR. BIANCO: Okay. And it looks like
13 hours of operation and hours of sales are 10:00
14 a.m. to 2:00 a.m. during the week and 10:00 a.m.
15 to 3:00 a.m. on the weekends, correct?

16 INVESTIGATOR GLASGOW: Correct.

17 MR. BIANCO: Do you know if they
18 actually operate for all of those hours or just
19 some of them?

20 INVESTIGATOR GLASGOW: I can't say.
21 I am not there every day to know exactly what
22 time they actually close.

23 MR. BIANCO: Okay. When you did your
24 four visits to monitor the establishment, were
25 any of them in the morning, or were they all than

1 the at night?

2 INVESTIGATOR GLASGOW: The latest one,
3 the latest time I was there was up until 1:40 in
4 the morning and they were operating.

5 MR. BIANCO: Okay. And were they
6 operating on all four occasions that you visited?

7 INVESTIGATOR GLASGOW: Oh, yes.

8 MR. BIANCO: Okay. So I don't want to
9 go into too much granular detail on this, but in
10 terms of the layout, okay, 1909 9th Street
11 contains both Empire and the establishment
12 labeled Sound Bar, correct?

13 INVESTIGATOR GLASGOW: Correct.

14 MR. BIANCO: And there is a door -- an
15 interior door between them, correct?

16 INVESTIGATOR GLASGOW: Correct.

17 MR. BIANCO: And there are also
18 separate exterior doors to enter each of those
19 parts of the establishment, correct?

20 INVESTIGATOR GLASGOW: Correct.

21 MR. BIANCO: Okay. And I'm sorry,
22 when I say exterior door, I mean, on the 9th
23 Street side, there are two exterior doors?

24 INVESTIGATOR GLASGOW: That is
25 correct.

1 MEMBER SHORT: And according to page
2 8 and 9 of your report, during the four visits to
3 the property, there were no violations, right?

4 INVESTIGATOR GLASGOW: That is
5 correct.

6 MR. BIANCO: And there were no -- you
7 state that there were no issues with peace, order
8 and quiet. Is that also correct?

9 INVESTIGATOR GLASGOW: That is
10 correct. At the time of my visit, yes.

11 MR. BIANCO: Right. Okay. Now, I
12 want to talk about this record search for a
13 moment, which is on page 9 of the narrative
14 portion of your report. And then we're going to
15 go to the grid thereafter.

16 Now, this is -- I just want to
17 understand what this chart represents. Okay. So
18 you say according to the DC Office of Unified
19 Communications, there were 68 calls for service
20 in the three-year period from March 16, 2019
21 through June 21, 2022, correct?

22 INVESTIGATOR GLASGOW: Correct.

23 MR. BIANCO: And that is the chart
24 that you have as Exhibit 24, right?

25 INVESTIGATOR GLASGOW: Yes.

1 MR. BIANCO: Okay. And that chart
2 represents calls referencing 1909 9th Street,
3 right?

4 INVESTIGATOR GLASGOW: Yes.

5 MR. BIANCO: Does it give any
6 information about whether the reason for the call
7 was substantiated in any way?

8 INVESTIGATOR GLASGOW: No. The
9 acronyms here -- I can't really determine exactly
10 what the calls were. There are abbreviations
11 that can be noticeable, like on page 2 of that
12 report, there was noise -- a noise complaint on
13 October 6, 2019. But the acronyms are very --
14 the terminology, I can't -- I don't know.

15 MR. BIANCO: Yes. Now, you're very on
16 top of things because I was just going to ask you
17 about that actually. So let's go to the chart
18 that is Exhibit 24 and there's a couple of
19 questions that I have for you about that chart,
20 okay? I'm just getting it arranged on my screen
21 because it's sideways.

22 Okay. So the first thing is the one,
23 two, three, four, fifth column says, Time, which
24 I assume means the time of the call, right?

25 INVESTIGATOR GLASGOW: I would think

1 it would be that, yes.

2 MR. BIANCO: Okay. And so this is the
3 report as it was given to you by the Office of
4 Unified Communications, right?

5 INVESTIGATOR GLASGOW: That is
6 correct.

7 MR. BIANCO: So you didn't, like, call
8 through this report to see if the call was at a
9 time that the establishment was actually
10 operating? Is that fair to say?

11 INVESTIGATOR GLASGOW: Yes.

12 MR. BIANCO: Okay. And in the
13 narrative portion of your report, you
14 specifically mention a couple of types of calls,
15 specifically, theft, noise, and assault, right?

16 INVESTIGATOR GLASGOW: Yes.

17 MR. BIANCO: Can you tell me if those
18 are ones that you're particularly concerned with?

19 INVESTIGATOR GLASGOW: Repeat that.

20 MR. BIANCO: Are those the ones that
21 you are most concerned with? Id that why you
22 mentioned them?

23 INVESTIGATOR GLASGOW: Well, it
24 addresses the concerns of the protestants
25 actually. That is why it is referenced like

1 that, yes.

2 MR. BIANCO: Okay. And there's a
3 number -- but that's not the entirety of this
4 report. It's not all theft, noise, and assault,
5 right?

6 INVESTIGATOR GLASGOW: As I said, I
7 don't know the acronyms for -- or I don't know
8 the terminology for some of these -- the types of
9 calls, so I can't really say what some of them
10 are. The ones that I noted was the noise and the
11 theft that was clearly -- easily -- it was -- is
12 that it's easy to translate.

13 MR. BIANCO: Yes. I agree with you.
14 And noise and theft are among the ones that are
15 easy to translate. And there are others that I
16 think are fairly easy to translate, like property
17 loss, parking, DUI.

18 And would you agree that some of those
19 other types of calls may not be directly related
20 to the operations of this establishment?

21 INVESTIGATOR GLASGOW: The call
22 basically came in at the location of 1909 9th
23 Street. So anything that is referenced in this
24 report that was given to me is referenced to 1909
25 9th Street. So I can't determine if it -- I

1 can't say that maybe they had -- they called it -
2 - they said 1909, but it was not exactly at 1909.

3 The report specifically says 1909 9th
4 Street, which is Empire Lounge. So whatever is
5 there is related to the address of the
6 establishment.

7 MR. BIANCO: Right. But it doesn't
8 say whether whatever the call was about happened
9 inside the establishment or outside, right?

10 INVESTIGATOR GLASGOW: It does not
11 detail that, no.

12 MR. BIANCO: Right. And let me just
13 check to see if I have any more on this report.
14 And then there's a number of them that are marked
15 miscellaneous and obviously we don't have any
16 idea what those are.

17 INVESTIGATOR GLASGOW: That's correct.
18 I do not know.

19 MR. BIANCO: And then there's a number
20 of other ones that neither you or I have any idea
21 what they are, like DISU and ACCM, correct?

22 INVESTIGATOR GLASGOW: Correct. I do
23 not know what that is.

24 MR. BIANCO: Yes, me neither. Okay.
25 So I want to go back to this notion about the

1 time when you went to the establishment and
2 testify that it was -- that Sound Bar was packed.
3 I understand your testimony correctly that you
4 did not count the people in there, right?

5 INVESTIGATOR GLASGOW: At that time,
6 no.

7 MR. BIANCO: Okay. And you also
8 reported in your narrative that there were eight
9 noise complaints between 2019 and 2022, correct?

10 INVESTIGATOR GLASGOW: Correct.

11 MR. BIANCO: And do you know whether
12 or not any of those eight noise complaints
13 resulted in a finding of violation by the Board?

14 INVESTIGATOR GLASGOW: I cannot say.

15 MR. BIANCO: And you testified some
16 about the settlement agreement only allowing a DJ
17 on the second floor, right?

18 INVESTIGATOR GLASGOW: Yes.

19 MR. BIANCO: Okay. And I think we had
20 a lot of back-and-forth on the date of the
21 settlement agreement, but we settled on the fact
22 that it was in 2018, right?

23 INVESTIGATOR GLASGOW: Right.

24 MR. BIANCO: Okay. And in 2018, there
25 was no operating first floor of the

1 establishment, correct?

2 INVESTIGATOR GLASGOW: No, not to my
3 knowledge.

4 MR. BIANCO: Okay. So the settlement
5 agreement, fair to say, only addresses the second
6 and third floor of the establishment?

7 INVESTIGATOR GLASGOW: That is
8 correct.

9 MR. BIANCO: Investigator, thank you
10 very much as always for a thorough job. I don't
11 have any more questions at this time.

12 CHAIRPERSON ANDERSON: Mr. Stoecklein,
13 it's your opportunity -- so one of the questions,
14 since I can't see your sir, I don't know. But
15 this is your opportunity to -- do you have any
16 questions of the investigator, sir?

17 MR. STOECKLEIN: Yes, I do.

18 Inspector Glasgow, I'm going to ask
19 you about a variety of things. So first off, are
20 you aware that the -- is it your belief that the
21 statements provided by me on behalf of WNA are
22 verbatim reflections of the statements that were
23 provided to me or to us?

24 MR. BIANCO: Objection. Foundation.
25 Hearsay. Relevance. Anything else I can think

1 of?

2 MR. STOECKLEIN: There have been
3 multiple applications by opposing counsel and
4 others questioning the validity of these e-mails.

5 And so I'm trying to lay the
6 foundation so that, if needed, I can provide the
7 e-mails because would you believe it, I actually
8 have copies?

9 CHAIRPERSON ANDERSON: Well, I think
10 the -- Mr. Stoecklein, the e-mails that are in
11 the record that are in her -- the report, they're
12 are e-mails without --

13 MR. STOECKLEIN: I understand Mr.
14 Chairman. I understand that. And I'm actually
15 trying to lay the foundation and have Ms. Glasgow
16 testify to the conversation we had about why it
17 is that is the case and why the originals weren't
18 sent. It relates to --

19 CHAIRPERSON ANDERSON: Well, then you
20 need to ask her that. I mean --

21 MR. STOECKLEIN: What I'm trying to
22 do, but Mr. Bianco objected. And so I'm trying
23 to defend myself so that I can at least get off
24 the ground here.

25 CHAIRPERSON ANDERSON: You don't need

1 -- sir, you don't need to defend yourself. You
2 need to ask questions. I mean, Mr. Bianco asked
3 objective questions about the e-mail, about --

4 MR. STOECKLEIN: Mr. Bianco objected,
5 so -- I'm asking Ms. Glasgow if she is -- if she
6 recalls the manner in which the statements were
7 requested, meaning can she recount her requests
8 of me in providing the statements that I did?

9 CHAIRPERSON ANDERSON: So why don't
10 you ask her that question? So I think if you ask
11 her that question, I don't believe that Mr.
12 Bianco will object.

13 So you can ask her the question.
14 These are your statement that's in her report.
15 So you can ask her about -- ask her those
16 specific questions.

17 MR. STOECKLEIN: I'm desperately
18 trying, Mr. Chairman. I'm sorry if I'm missing
19 something here.

20 CHAIRPERSON ANDERSON: You need to
21 start there first. So that's why Mr. Bianco said
22 that lack of foundation. So you need to go back
23 to the beginning, sir.

24 MR. STOECKLEIN: Ms. Glasgow, do you
25 recall the request that you made of me -- Ms.

1 Glasgow, could you please describe the process or
2 instructions that you gave to me in requesting
3 the statements that I forwarded?

4 INVESTIGATOR GLASGOW: We had -- you
5 explained to me that -- you stated that there are
6 a lot of people who live within the -- within
7 range of the establishment that had issues with
8 their -- the operation.

9 And you said you can get -- you can
10 provide me with that information. And I
11 specifically said, That will be great if you can
12 get more information or at least get their
13 testimony on paper so I can document it in my
14 report

15 MR. STOECKLEIN: Yes. Thank you. And
16 is it accurate to say that when we had that
17 conversation, that you asked me to compile those
18 statements and send them along to you?

19 INVESTIGATOR GLASGOW: Yes.

20 MR. STOECKLEIN: And do you also
21 recall my raising with you at the time that
22 several of the witnesses, particularly those who
23 are mothers with children, were concerned about
24 the disclosure of their identities?

25 INVESTIGATOR GLASGOW: Yes.

1 MR. STOECKLEIN: And is it also
2 accurate that, as a result of that, when we
3 discussed it, this is -- this was the reason for
4 -- in your report, the reductions to the names of
5 those individuals?

6 INVESTIGATOR GLASGOW: That is
7 correct.

8 MR. STOECKLEIN: Do you have any
9 reason to believe that any of the content of the
10 statements that I forward to you is in any way
11 fabricated, modified, or other way -- otherwise,
12 in any way, shape, or form, not a verbatim
13 reflection of the statements that were provided
14 to me.

15 MR. BIANCO: Objection. Relevance.
16 Her belief about the statements are not before
17 this court.

18 MR. STOECKLEIN: She can testify to
19 her opinion about the authenticity and veracity
20 of the evidence that she's requested to be
21 provided.

22 MR. BIANCO: Her opinion is
23 irrelevant.

24 MR. STOECKLEIN: I disagree.

25 CHAIRPERSON ANDERSON: This is --

1 MR. STOECKLEIN: All right. Well, we
2 -- I can make this easy, Mr. Chairman, but it's
3 going to -- in order to do this, I need to be
4 able to -- I need the --

5 I have the e-mails on my screen. I
6 can produce them so that we can get over this
7 question about, you know, the veracity of witness
8 statements, including my own, apparently.

9 MR. BIANCO: I object. They were not
10 produced seven days in advance as they're
11 required to. I'm concerned that they were held
12 back from both the report as well as the PIF if
13 he intended to use them.

14 MR. STOECKLEIN: I did not intend to
15 use them because it never occurred to me that
16 opposing counsel would question the authenticity
17 or veracity of the statements made and imply that
18 I have fabricated evidence, which seems to be the
19 case, so --

20 CHAIRPERSON ANDERSON: Hold on, hold
21 on there, sir. I believe if we were in the -- if
22 we're in a courthouse, Mr. Stoecklein, and you
23 produced anonymous statements and no one knows
24 who they're attributable to, the Court would not
25 allow the allowance in evidence of these

1 documents because one would have stated that we
2 don't know who they're from.

3 And so -- I believe that counsel is
4 making objections -- I mean, we didn't -- we
5 don't necessarily follow the rules of evidence
6 here. I'm not quite sure if Ms. Glasgow can
7 testify on the -- whether or not how authentic
8 these e-mails are.

9 I think she can testify that you have
10 -- she requested the e-mails from you. They were
11 submitted. You also -- it was placed in the
12 record that it appears that some of these
13 individuals were concerned about their personal
14 safety, so that's one of the reasons why they did
15 not -- that their e-mails were not attached to
16 it, so I --

17 Their e-mails -- and I believe that
18 the Board can consider the e-mails for what
19 they're worth, but I don't think that Ms. Glasgow
20 herself can say that -- can testify that these
21 are authentic e-mails received from the --

22 MEMBER SHORT: I agree.

23 CHAIRPERSON ANDERSON: -- from the
24 individuals unless you had sent the e-mails to
25 her and she was the one based on -- and she was

1 the one based on your statement --

2 I'm sorry, can someone -- Mr. Short,
3 please -- mute your phone, please. So I don't --
4 yes. So I don't believe that --

5 MR. STOECKLEIN: I understand, Mr.
6 Chairman.

7 CHAIRPERSON ANDERSON: Yes.

8 MR. STOECKLEIN: So what I'm trying to
9 -- there's a couple of, I guess, issues here to
10 try to address. So what I was trying to
11 establish, and I think we did, was that the
12 information was provided in the fashion that it
13 was provided because that was responsive to
14 Inspector Glasgow's request.

15 CHAIRPERSON ANDERSON: Did --

16 MR. STOECKLEIN: So --

17 CHAIRPERSON ANDERSON: What is the --
18 sir, hold on. Hold on. What's established. She
19 requested e-mail from you?

20 MR. STOECKLEIN: She requested -- I
21 believe we'd have to ask for the reporter to pull
22 the transcript back. But when we were just
23 speaking, I believe it was established that that
24 Ms. Glasgow requested that I compile the
25 statements of the witnesses that I received and

1 provide the relevant portions thereof.

2 CHAIRPERSON ANDERSON: I'm not quite
3 sure if that's what the testimony is. I think
4 what -- this is what I'm taking from this. Ms.
5 Glasgow asked you for -- you stated that there
6 are other witnesses. There are other residents
7 who had concerns.

8 Ms. Glasgow asked you to provide those
9 statements from those witnesses. And you
10 compiled them -- you compiled e-mails, then you
11 provide them to her.

12 I don't think she -- I don't -- I --
13 the record doesn't establish that she told you
14 how to provide them to her. You elected to
15 provide these documents, for whatever reason, in
16 the way that they were provided. So that's what
17 the rest --

18 MR. STOECKLEIN: I understand. And
19 it's --

20 CHAIRPERSON ANDERSON: And so we can
21 move on from there, sir. I don't think that she
22 can testify --

23 MR. STOECKLEIN: Okay.

24 CHAIRPERSON ANDERSON: -- that these
25 are authentic, but I don't -- there were provided

1 --

2 MR. STOECKLEIN: I understand.

3 CHAIRPERSON ANDERSON: She asked for
4 information, they were provided. And so here
5 they are.

6 MR. STOECKLEIN: I understand, Mr.
7 Chair. And so responsive to Mr. Bianco's
8 objection, these are being offered as rebuttal
9 evidence, right?

10 Rebuttal evidence is always
11 permissible in order to address claims that have
12 been made in the course of argument by opposing
13 parties. So there --

14 CHAIRPERSON ANDERSON: That's --

15 MR. STOECKLEIN: It's not possible --

16 CHAIRPERSON ANDERSON: You're -- hold
17 on, sir. Hold on, sir. You're cross-examining
18 the witness. Mr. Bianco --

19 MR. STOECKLEIN: Mr. Bianco objected
20 to me actually showing this Board.

21 CHAIRPERSON ANDERSON: That's -- that
22 -- no, sir. No, sir. That's not what you --
23 this -- you asked Ms. Glasgow whether or not
24 these were authentic e-mails. That's what you
25 asked. Ms. Glasgow, she is not in a position to

1 testify to that fact.

2 MR. STOECKLEIN: No, I asked --

3 CHAIRPERSON ANDERSON: She can't
4 testify to that fact. But she can testify, which
5 she has testified, that she requested for you to
6 provide these e-mails from other individuals who
7 were -- who had concerns. You provided that to
8 her.

9 But she can't say that any specific
10 person that because you -- because -- who the e-
11 mail came from, that information was not provided
12 to her.

13 She just got e-mails from you and that
14 reported to that come from separate individuals.
15 But she can't say this particular e-mail came
16 from Tom, who lived in apartment --

17 MR. STOECKLEIN: Mr. Chairman, I
18 really do understand. With all due respect, sir,
19 I grasp everything that you're saying fully.

20 So if there is a way in which I could
21 -- without offending you or the other members, if
22 there's a way that we could if maybe I can
23 readdress the witness and then provide sufficient
24 foundation to try to introduce this rebuttal
25 evidence merely so that we can confirm that --

1 CHAIRPERSON ANDERSON: This is not
2 rebuttal evidence, Mr. Stoecklein. You are
3 cross-examining the witness. This is not
4 rebuttal. This is not rebuttal. You're cross-
5 examining the witness about her report, so just.

6 She wrote a report. She testified
7 about her report. You are cross-examining her
8 about her report. This is our witness. She
9 cannot -- she's not your rebuttal witness.

10 She is the Board's witness that now
11 you have an opportunity to question her about the
12 report.

13 This is what we're going to establish
14 today. What we're establishing today is that you
15 -- she asked you for e-mails -- she asked you for
16 e-mails because --

17 MR. STOECKLEIN: Statements, Mr.
18 Chairman. It's important that we be clear. She
19 asked me for statements. If she had asked me for
20 the e-mails, I would've produced the original e-
21 mails, but she did not. I produced what I was
22 asked to produce.

23 CHAIRPERSON ANDERSON: Ms. Glasgow,
24 what did you ask him for?

25 INVESTIGATOR GLASGOW: I asked that --

1 because he -- on the letter here, he stated -- it
2 stated that he was a representative for the
3 association. So I asked him -- he said he had a
4 lot of people who had issues with the
5 establishment. He can provide that for me.

6 And I specifically said, Please. Any
7 statement, anything that you can send to me, I
8 will add it to the report to properly document
9 it.

10 MR. STOECKLEIN: And, Ms. Glasgow, for
11 what it's worth, I appreciate that. And I'm --
12 this is not intended to be directed at your
13 credibility or anything like that.

14 I'm just trying to establish that
15 everything that was -- that we've all looked at
16 now is accurate and a verbatim reflection of the
17 statements that I have in my possession.

18 And if there was some way for me to
19 demonstrate that to the Board so that we can move
20 on, I would be thrilled --

21 CHAIRPERSON ANDERSON: Let me remind
22 him something, Mr. Mr. Stoecklein. Okay. I need
23 to remind you that this is the appropriateness of
24 the request of the substantial change, okay?

25 I don't -- it's not helpful for the

1 Board that we're spending a significant amount of
2 time on hearsay in the sense that -- this is
3 hearsay regarding these e-mails.

4 I mean, this is tangential to the
5 issue that is at hand. Let's spend our time on
6 whether or not it is -- whether or not the Board
7 should or should deny the substantial change,
8 okay?

9 You have established that there are
10 other residents who are concerned about the
11 operation of this business. Fine. I don't think
12 -- I don't -- counsels not objecting to that. So
13 that's fine.

14 You have stated that -- you have
15 provided some e-mails. I think what you cannot
16 get this witness to testify that -- who sent
17 these e-mails because she does not know. So
18 let's move on from there.

19 Let's focus this hearing on the
20 appropriateness of whether or not the Board can
21 grant the substantial change, okay?

22 MR. STOECKLEIN: Okay, Mr. Chair.

23 Ms. Glasgow, based on your
24 investigation, report that you've created, how
25 many documented violations of the settlement

1 agreement appear in your report?

2 INVESTIGATOR GLASGOW: How many -- I'm
3 sorry?

4 MR. STOECKLEIN: How many documented
5 violations of the settlement agreement did you
6 identify in your report? And if you need a
7 minute to look at the synopsis, that's fine.

8 INVESTIGATOR GLASGOW: I can't say
9 specifically because -- as what I can see so far
10 on their investigative history, they have
11 violated their settlement agreement on two
12 occasions, 29 -- March, 2019 and April, 2019.

13 MR. STOECKLEIN: And if you proceed to
14 the next page, Ms. Glasgow, on page 12 of your
15 report. Are Items 19 and 20 reflective of the
16 same violations, or -- actually 18, 19, and 20.

17 Is that all related to the same two
18 violations, or are those in fact separate
19 violations? Because I count four, I'm just --
20 I'm not sure.

21 INVESTIGATOR GLASGOW: Yes, you're
22 right. It is four. I did not have this page in
23 front of me, so there is four.

24 MR. STOECKLEIN: No problem.

25 MR. BIANCO: Mr. Chair, I -- again,

1 for the record, I just note that any alleged
2 violations that resulted in either the OAG
3 declining to prosecute or that are unadjudicated
4 or did not result in a violation, should be not
5 considered by the Board.

6 CHAIRPERSON ANDERSON: I guess what
7 I'm saying, are -- so are we going through the
8 investigative history? Is that where -- that's
9 where we are?

10 MR. STOECKLEIN: That's not where
11 we're going.

12 CHAIRPERSON ANDERSON: All right. If
13 we're -- unless they're -- unless the matters are
14 adjudicated on the investigative history, then we
15 can -- we cannot talk about violations.

16 So I -- Ms. Glasgow, in your -- within
17 our reports, and I briefly mentioned that there's
18 an investigative history that ran from, I think,
19 January 20, 2019 to June 7, 2022.

20 So if they're adjudicated in fractions
21 there, we can talk about that. But if it's not
22 listed there, then it's not really relevant
23 because they have not been adjudicated to say
24 that, I mean, any infraction occurred.

25 MR. STOECKLEIN: Sir, I'm just reading

1 from what is listed, Mr. Chair. So I -- the --
2 you know, the neighborhood is only able to speak
3 to what's been made available.

4 And so I'm just speaking to the
5 investigative history to try to establish the
6 frequency with which this establishment readily
7 violates the -- freely violates the settlement
8 agreement. But we can move on.

9 Ms. Glasgow, you mentioned that the
10 overcrowding -- that the crowding of the bar -- I
11 believe you mentioned that the crowding situation
12 at Empire was being covered by another inspector;
13 is that accurate?

14 INVESTIGATOR GLASGOW: At the time,
15 yes, that is what I was told that the incident
16 was -- did happen prior and an investigative
17 report is being drafted as -- at that moment.

18 MR. STOECKLEIN: And do you know the
19 status of that report and/or can you provide an
20 indication of why that's not included because I
21 don't see it anywhere. But --

22 INVESTIGATOR GLASGOW: According to
23 the investigative report, December 16, 2021 was
24 the first incident of the expanded space. And
25 the Board requested a warning for that first

1 violation.

2 MR. STOECKLEIN: Sorry -- right. No,
3 I was speaking to the fact that the -- just to
4 the crowding issue. I'm about to jump to where
5 you just went, but I just want to understand if
6 another inspector was covering the crowding
7 issue.

8 Do you know anything about the status
9 report because I don't see it included in your
10 investigative document?

11 INVESTIGATOR GLASGOW: So I said that,
12 I -- when I went in there, the area was crowded
13 and also I referenced that Sound Bar, at that
14 time when I visited that area, it was new to me.

15 So when I contacted my supervisor that
16 I believe Sound Bar is not a licensed
17 establishment, he said -- he stated that another
18 investigator came across the -- there -- the
19 space that is being used and realized that it is
20 not an approved area to be used and a report is
21 being written. So --

22 MR. STOECKLEIN: Okay.

23 INVESTIGATOR GLASGOW: -- it covers --

24 MR. STOECKLEIN: I see. I understand.
25 Okay. Okay. Thank you. So then moving on to

1 what you were just describing. So related to the
2 unlawful operation of Sound Bar, the operation of
3 Sound Bar without a license, what is the date
4 upon which ABRA first identified that operation
5 was occurring without a license?

6 INVESTIGATOR GLASGOW: I'm sorry,
7 December 16, 2021.

8 MR. STOECKLEIN: Okay. And when was
9 the warning actually issued? When would the
10 recipient have received -- when would the
11 establishment have received the warning that
12 seems to have been issued?

13 INVESTIGATOR GLASGOW: According to
14 the investigative history, January 26, 2022.

15 MR. STOECKLEIN: Okay. And then am I
16 stating correctly that there was -- that the
17 establishment continued to operate for some
18 period of time --

19 MR. BIANCO: I'm going to object as
20 he's referencing an unadjudicated violation.
21 Most of this are -- that we're dealing with
22 unadjudicated violations or otherwise dismissed.
23 But I'm trying to give some latitude to get
24 through it. But at this point, I have to object.

25 CHAIRPERSON ANDERSON: I'm going to

1 overrule the objection in that sense that I -- we
2 can look at the -- we can we can look at the
3 investigative history and would state what it is.
4 It has not been adjudicated, so we can state what
5 the investigator history is and one can state
6 that it's not adjudicated.

7 So therefore, whether or not it's
8 factual or not, we don't know because the Board
9 hasn't addressed it. It states that there was a
10 violation. It states -- on the investigative
11 history, it states that there was another
12 violation on February 19, 2022.

13 And I -- it has said that a show cause
14 hearing was scheduled for July 13, 2022, which
15 was supposed to have been last week. I don't
16 recall whether or not this -- we had a hearing
17 last week, so I don't know. Okay. But let's
18 move on from there.

19 MR. STOECKLEIN: Okay.

20 CHAIRPERSON ANDERSON: So that's what
21 the history states.

22 MR. STOECKLEIN: Ms. Glasgow, did you
23 -- in speaking with Mr. Nigussie, did you inquire
24 as to whether he was aware of Sound Bar, which is
25 the first floor that we're discussing here.

1 Was -- he was aware that Sound Bar was
2 being was in operation without a license?

3 INVESTIGATOR GLASGOW: The
4 conversation Mr. Nigussie and I -- he explained
5 that it is not a separate establishment. It is a
6 -- basically an expanded space to -- of Empire
7 Lounge.

8 He addressed that he is not seeking an
9 additional occupancy or a expansion of the
10 occupancy.

11 He explained that patrons can move
12 around from the first floor -- from the second
13 floor, the third floor, down to the new expanded
14 space that he has there, Sound Bar, so it's --

15 I can't say how he was thinking, what
16 he -- what his line of thinking was regarding
17 Sound Bar, but his explanation is that it's just
18 an additional space that is --

19 MR. STOECKLEIN: Sure. Yes, but
20 nonetheless, I'm just asking about whether he was
21 aware that there were people, patrons, on the
22 first floor drinking and doing whatever the
23 patrons do there, whether he was aware of that
24 occurring on the first floor?

25 MR. BIANCO: I'm going to object as to

1 speculation. The original question is about
2 their conversation, which I suppose is arguably
3 an admission, but her speculating as to what he
4 knew or didn't know and when is not appropriate
5 testimony.

6 CHAIRPERSON ANDERSON: I'm going to
7 end on this, okay? I'm going by the
8 investigative history and so we can move on from
9 there. In reviewed on -- in review of the
10 investigative history, there was, as of January
11 26, 2022, as per the investigative history, Mr.
12 Nigussie was issued a warning regarding the use
13 of the first floor area.

14 A warning was issued January 26, 2022.
15 Outside of that, if you want to ask -- if you
16 want to ask questions of Ms. Glasgow or whether
17 or not he was aware after January 26, 2022, fine.

18 But the investigative history states
19 that on January 26, 2022, he was issued a warning
20 about the use of the expanded space. So he was
21 aware as of January 26, 2022. Let's move on.

22 MR. STOECKLEIN: Okay. So, Ms.
23 Glasgow, based on your investigative history, is
24 it fair to say that -- I'm approximating here
25 doing the math -- but that from roughly mid-

1 December -- at least mid-December through-mid
2 February, the first floor was being operated? So
3 three months, at least?

4 INVESTIGATOR GLASGOW: According to
5 the investigative history, the first time on
6 document that we have, they were operating the
7 establishment that we documented was December 16,
8 2021.

9 MR. STOECKLEIN: Okay. And are you
10 aware of whether the floor was being operated
11 anytime before that?

12 INVESTIGATOR GLASGOW: No. I'm not
13 aware.

14 MR. STOECKLEIN: Okay. In the course
15 of your investigation, do you recall our
16 discussion about the concentration of bars, in
17 particular, tavern licenses, that occurs on the
18 1900 block on 9th Street?

19 INVESTIGATOR GLASGOW: Yes, you stated
20 that there were way too many taverns, or I should
21 say, license establishment on 9th Street, that
22 there should not be allowed to have another
23 establishment on the street.

24 But you were, I -- you were referring
25 to that as they were operating the establishment

1 as a separate entity from Empire Lounge and not
2 just a additional space of Empire Lounge.

3 MR. STOECKLEIN: Right. I'm speaking
4 to the question of whether you -- did you, per
5 our conversation, investigate the specific number
6 of tavern licenses held by establishments on the
7 1900 block of 9th Street at this time?

8 INVESTIGATOR GLASGOW: There are 18
9 establishment on 9th Street between T street and
10 U Street.

11 MR. STOECKLEIN: And are you aware of
12 any other part of the city that has a higher
13 concentration of tavern license issued within
14 sensibly a single block?

15 INVESTIGATOR GLASGOW: I can't put a
16 number for any other populated area of the
17 district. But 9th Street is very populated with
18 bars. U Street is very -- has a lot of bars as
19 well. But I can't actually put a number on what
20 I have to, you know, reference in this protest
21 hearing.

22 MR. STOECKLEIN: Fair enough. So to
23 -- but to the best of your knowledge, is it --
24 would it be accurate to say that this block
25 represents one of the most highly concentrated

1 tavern license or ABRA -- concentration of ABRA
2 licensed facilities in the district.

3 INVESTIGATOR GLASGOW: I can't --

4 MR. STOECKLEIN: To the best of your
5 knowledge.

6 INVESTIGATOR GLASGOW: I guess, Golden
7 Triangle. It's quite, populated with bars and
8 restaurants. As I said, U Street is as well.

9 MR. STOECKLEIN: And are you aware of
10 similar incidences of violence in either of the
11 areas that you just referenced? Crime of any
12 type, whether it's non-violent, violent, of just
13 -- are you aware of?

14 INVESTIGATOR GLASGOW: I --

15 MR. BIANCO: I'm going to object on
16 relevance, foundation, and scope. None of this
17 has really anything to do with this base
18 expansion.

19 We're talking now about violence in
20 other neighborhoods and concentration in other
21 neighborhoods. There's just no straight line
22 here.

23 MR. STOECKLEIN: I'm simply trying to
24 find out whether Ms. Glasgow, based on the
25 research that she did, can tell us whether or not

1 this particular little block, in fact, has the
2 highest number of tavern license holders in the
3 entire District of Columbia. That's what I'd
4 like to know. And I think that's highly
5 relevant.

6 CHAIRPERSON ANDERSON: I'm going to --

7 MR. BIANCO: She talked --

8 CHAIRPERSON ANDERSON: I'm going to
9 sustain the objection. She has answered the
10 question. She has stated that she wasn't -- she
11 couldn't state for sure. She gave example of U
12 Street and she also gave example of Golden
13 Triangle.

14 This is -- we're not -- we are -- this
15 hearing is not about overconcentration. All this
16 hearing is, is whether or not it's appropriate
17 for the ABC Board to approve the utilization of
18 the first floor to add this to this license.

19 The Board has not been -- the Board is
20 not asked -- has not been requested to add
21 another establishment on the street. Whether or
22 not we add this second space or not, the first
23 floor space, it will have -- at least on paper,
24 it should not have any impact on what's going on
25 on the overconcentration because the occupancy

1 will still remain 125 individuals for the Empire
2 Lounge.

3 So we're not adding -- at least as far
4 as I'm concerned today, this Board is not asking
5 to increase the expansion. Whether or not the
6 Board agrees to this expansion, it's not going to
7 have any impact on the over concentration of
8 establishments on 9th Street because this Empire
9 Lounge currently has a license.

10 So it's whether or not we will allow
11 them to utilize an additional space without
12 expanding their occupancy. So having sustained
13 conversation about overconcentration of license
14 on U Street, that is not a relevant concern for
15 this hearing.

16 If we're deciding to do a renewal
17 hearing -- if this was a hearing on whether or
18 not we should renew their license, well, then
19 that's an appropriate issue. But this is not --
20 it's not relevant right now for the purpose of
21 this hearing. So it's not -- so let's move on
22 from this, sir. And I think --

23 MR. STOECKLEIN: I have no further
24 questions, Mr. Chair.

25 CHAIRPERSON ANDERSON: Thank you, sir.

1 Any other questions by any of the Board members?
2 Any questions by -- any follow-up questions by
3 any Board members?

4 Okay. All right. So the Board has
5 presented its case. Now, where we are right now,
6 we're now going to have the licensee ready.
7 We're going to take a break, but I just need to
8 get some clarification moving forward.

9 Mr. Bianco has already -- so we now
10 need a licensee to put forward with -- to move
11 forward with this case. Once the licensee has
12 moved forward with his case and we have the court
13 testing good to move forward. How many witnesses
14 do you have, Mr. Bianco?

15 MR. BIANCO: So I have three, but
16 during the break, I am going to speak with my
17 client and see if we can cut through some of this
18 and reduce it to two. And hopefully with my
19 encouragement, we'll get there.

20 CHAIRPERSON ANDERSON: But you believe
21 that you have two witnesses.

22 MR. BIANCO: At least two, maybe
23 three, yes.

24 CHAIRPERSON ANDERSON: And, Mr.
25 Stoecklein, how many additional? You have

1 already had two witnesses. How many additional
2 witnesses do you have, sir?

3 MR. STOECKLEIN: Four.

4 CHAIRPERSON ANDERSON: Four additional
5 witnesses, sir?

6 MR. STOECKLEIN: That's correct.

7 CHAIRPERSON ANDERSON: But during the
8 protest hearing status, I informed all parties
9 that they cannot have more than five witnesses.
10 So you've had -- you've never -- you have not
11 asked permission for six witnesses.

12 Well, how do we have six witnesses if
13 it was now clearly told you that you can only
14 have five witnesses? And neither party requested
15 from the Board that they want to have more
16 witnesses than five.

17 MR. STOECKLEIN: Mr. Chairman, both
18 parties, on their PIF forms and pre-trial
19 submissions, identified more than five witnesses.
20 I was not aware of a procedural requirement that
21 --

22 CHAIRPERSON ANDERSON: No, no, Mr. --

23 MR. STOECKLEIN: -- my ability to put
24 on five witnesses and only five witnesses, but I
25 --

1 CHAIRPERSON ANDERSON: Mr. Stoecklein,
2 I'm sorry.

3 MR. STOECKLEIN: Yes?

4 CHAIRPERSON ANDERSON: Did you
5 participate in the protest hearing status
6 hearing? Yes, you did.

7 MR. STOECKLEIN: To be quite candid
8 with you, I don't recall because there are three
9 designated co-representatives for the Westminster
10 Neighborhood Association.

11 And I'm not sure if I or another one
12 of the representatives was on that status call.

13 CHAIRPERSON ANDERSON: We are now, in
14 two years, off -- we start with COVID, since we
15 have been doing virtual hearings. The
16 instruction that were -- that's what has been
17 given to all parties, is that you're limited to -
18 - you only have one hour to move on with your
19 case and you only have five witnesses.

20 That has been the established
21 procedure for our protests here since we have
22 been on -- we've virtual. Now, if I want to go
23 by the clock, since you've had two witnesses, I
24 could easily say to you that you have exceeded
25 probably 30 to 40 minutes in the two witnesses

1 that you've had.

2 But I'm going to move forward to say
3 that you have an hour to present your case, sir.
4 You have had two witnesses. You can only call
5 three more witnesses moving forward, sir. You
6 have had two --

7 MR. STOECKLEIN: Okay. Mr. Chairman,
8 then I'm prepared to do that and I'm also, just
9 for a little bit of foreshadow, and I could share
10 with you that three of the four that I had
11 intended to put on are providing what I expect to
12 be fairly limited, you know, testimony.

13 That will be similar, albeit, from
14 their own perspectives, but -- so I think we can
15 move through it quickly. The fourth, would only
16 need to be offered as an impeachment witness, if
17 it comes to that.

18 CHAIRPERSON ANDERSON: All right.
19 Fine. So if it comes to that, three witnesses.
20 You're going to have an hour and I'm going to
21 time it moving forward. And I'm also informing
22 parties, moving forward, the time that you spend
23 on cross-examination can be used against you.

24 You have an hour to present your case,
25 then we move forward. It is now 6:26 and I've

1 been taking an -- I've been taken a break every
2 two hours to be mindful of everyone, the court
3 reporter, the Board, the witnesses, the
4 attorneys, myself, who have to be on camera the
5 entire time.

6 So every two hours -- that's why I've
7 been trying to take a break every two hours. So
8 it's 6:26 We're going to be back -- we'll be back
9 on the record at -- we're going to take 13
10 minutes this time, at 6:40 -- at 6:00 -- at 6:40
11 we'll be back in the record and Mr. Bianco will
12 present his case. He has an hour to present his
13 case.

14 Once Mr. Bianco is presenting his
15 case, the protestant will have an hour to present
16 their case. And I will allow the ANC -- they can
17 do a closing.

18 All right. So 6:27. We're off the
19 record until 6:40. All right. We're off the
20 record until 6:40. Thank you.

21 All right. We're back on the record.
22 You have a witness you wish to call, sir?

23 MR. BIANCO: Yes, Mr. Anderson. I'm
24 going to call Dess Nigussie, the applicant/owner.

25 CHAIRPERSON ANDERSON: Mr. Nigussie,

1 where are you, sir?

2 MR. BIANCO: He may not be elevated.
3 I don't see him in the panel.

4 CHAIRPERSON ANDERSON: He shouldn't
5 have left. He was on.

6 Ms. Fashbaugh, have you -- do you see
7 Mr. Nigussie? I don't know what would've
8 happened to him.

9 MR. BIANCO: He just texted me.

10 CHAIRPERSON ANDERSON: Great. Thank
11 you.

12 MR. NIGUSSIE: I just got unmuted.

13 CHAIRPERSON ANDERSON: Can you go back
14 on cameras, sir?

15 MR. NIGUSSIE: Yes.

16 CHAIRPERSON ANDERSON: Pull your
17 camera down a little bit further so we can see
18 your face. Perfect.

19 MR. NIGUSSIE: Okay.

20 CHAIRPERSON ANDERSON: Can you raise
21 your right hand, sir? Do you swear or affirm to
22 tell the truth and nothing but the truth? Hello,
23 sir?

24 MR. NIGUSSIE: I didn't hear you, I'm
25 sorry.

1 CHAIRPERSON ANDERSON: Do you swear or
2 affirm to tell the truth and nothing but the
3 truth?

4 MR. NIGUSSIE: I do.

5 CHAIRPERSON ANDERSON: Thank you.
6 Your witness, sir.

7 MR. BIANCO: Thank you. Mr. Anderson.

8 Dess, I'm going to try and go through
9 this early part quickly because it's late in the
10 day and we've heard a lot of this already.
11 You're the owner of Empire Lounge, correct?

12 MR. NIGUSSIE: That is correct.

13 MR. BIANCO: And it's been an
14 operations in 2019, correct?

15 CHAIRPERSON ANDERSON: Hold on, hold
16 on. Mr. Bianco, hold on one minute, please.

17 MR. BIANCO: Yes?

18 CHAIRPERSON ANDERSON: Mr. Nigussie,
19 I need you to be -- I need you to be stationary.

20 MR. NIGUSSIE: Okay. That's what I'm
21 trying to do.

22 CHAIRPERSON ANDERSON: All right. So
23 hold on.

24 MR. NIGUSSIE: Okay.

25 CHAIRPERSON ANDERSON: Pull the camera

1 down so we can see a good -- your face.

2 MR. NIGUSSIE: There?

3 CHAIRPERSON ANDERSON: Perfect.

4 Please don't move.

5 MR. NIGUSSIE: Okay.

6 CHAIRPERSON ANDERSON: Okay. Thank

7 you. Go ahead.

8 MR. BIANCO: Mr. Nigussie, do you have
9 any co-owners, or is it just you?

10 MR. NIGUSSIE: It's just me.

11 MR. BIANCO: And we're here for a
12 substantial change to your license, correct?

13 MR. NIGUSSIE: That is correct.

14 MR. BIANCO: And the change -- what's
15 the change to your license? Please describe it.

16 MR. NIGUSSIE: Just to use the first
17 floor of the building.

18 MR. BIANCO: Okay. And presently, you
19 use the second and third floor, correct?

20 MR. NIGUSSIE: That is correct.

21 MR. BIANCO: And you're expanding to
22 the first floor?

23 MR. NIGUSSIE: That is correct.

24 MR. BIANCO: Okay. But you're not
25 adding any occupancy; is that correct?

1 MR. NIGUSSIE: That is correct.

2 MR. BIANCO: And your current
3 occupancy is 125?

4 MR. NIGUSSIE: That is correct.

5 MR. BIANCO: Okay. Now, can you
6 describe before the Board how the first floor is
7 going to operate?

8 MR. NIGUSSIE: Basically, it's the
9 same business. I want people to freely move
10 within first floor, second floor, and third
11 floor.

12 MR. BIANCO: Okay.

13 MR. NIGUSSIE: There's an inside door
14 that goes from first floor to the second floor
15 and third floor.

16 MR. BIANCO: Okay. Are you going to
17 be using the trade name Sound Bar?

18 MR. NIGUSSIE: That is my intention,
19 yes.

20 MR. BIANCO: Okay. And what portion
21 of the premises will be called Sound Bar?

22 MR. NIGUSSIE: The first floor.

23 MR. BIANCO: Okay. And are the second
24 and third floor are still going to be called
25 Empire?

1 MR. NIGUSSIE: That is correct.

2 MR. BIANCO: And you're -- are you
3 going to be able to get from the upper floors to
4 the first floor from inside the establishment?

5 MR. NIGUSSIE: Yes.

6 MR. BIANCO: Okay. When you walk in
7 the front door on the Empire side, can you
8 describe how you would get to the Empire portion
9 of the establishment.

10 MR. NIGUSSIE: As you open the door,
11 you will see a stair. That leads up to second
12 floor.

13 MR. BIANCO: Okay. And is that where
14 Empire is?

15 MR. NIGUSSIE: That is correct.

16 MR. BIANCO: Okay. And from that
17 door, are you also able to access Sound Bar?

18 MR. NIGUSSIE: That is correct. The
19 door to the right is first floor, yes.

20 MR. BIANCO: Okay. And is there
21 another -- does Sound Bar have another 9th Street
22 entrance?

23 MR. NIGUSSIE: Yes.

24 MR. BIANCO: Okay. And where's that
25 located?

1 MR. NIGUSSIE: That one located facing
2 9th Street up front.

3 MR. BIANCO: Okay. So there will be
4 two doors to enter the Empire Sound Bar
5 establishment; is that true?

6 MR. NIGUSSIE: That is correct.

7 MR. BIANCO: Okay. And how many doors
8 are there presently with just Empire?

9 MR. NIGUSSIE: Just one.

10 MR. BIANCO: Now, if I could ask, Mr.
11 Chair, that I be given the ability to share my
12 screen. There's some exhibits I'd like to go
13 through.

14 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
15 can you please give Mr. Bianco the ability to
16 share his screen, please.

17 MS. FASHBAUGH: This has been
18 accomplished. Thank you.

19 CHAIRPERSON ANDERSON: Thank you.

20 MR. BIANCO: All right. Mr. Nigussie,
21 are you able to see my screen?

22 MR. NIGUSSIE: Yes.

23 MR. BIANCO: Okay. Now, I'm also
24 going to ask, are you able to see my pointer as
25 well because I may point to some things.

1 MR. NIGUSSIE: Yes.

2 MR. BIANCO: Okay. So can you tell
3 the Board, please, what that photograph shows?

4 MR. NIGUSSIE: That is the back door
5 from the first floor and the parking area for two
6 cars.

7 MR. BIANCO: Okay. So directing your
8 attention to the door behind this red car here in
9 the lower part of the photo, where does that door
10 lead?

11 MR. NIGUSSIE: That door leads to the
12 first floor.

13 MR. BIANCO: Okay. And then I see on
14 the upper right-hand side of this photograph, a
15 set of stairs and a door next to some trash cans.
16 Do you see that as well?

17 MR. NIGUSSIE: Yes, I can.

18 MR. BIANCO: And where does that go?

19 MR. NIGUSSIE: That goes to second
20 floor.

21 MR. BIANCO: Okay. And is this how
22 the rear of the building looks today?

23 MR. NIGUSSIE: That is correct.

24 MR. BIANCO: Okay. Mr. Chair, I would
25 move admission of Applicant number 1.

1 CHAIRPERSON ANDERSON: Mr. Stoecklein?
2 Mr. Stoecklein?

3 MR. STOECKLEIN: No objections.

4 CHAIRPERSON ANDERSON: I'll move
5 exhibit -- so this is Exhibit 1?

6 (Whereupon, the above-referred to
7 document was marked as Applicant Exhibit 1 for
8 identification.)

9 MR. BIANCO: Exhibit 1, correct.
10 Okay. Mr. Nigussie, I'm now going to show you
11 what we have marked as Applicant Exhibit number
12 2. Do you see that?

13 (Whereupon, the above-referred to
14 document was marked as Applicant Exhibit 2 for
15 identification.)

16 MR. NIGUSSIE: Yes, I can see now.

17 MR. BIANCO: Okay. And could you
18 describe what that is?

19 MR. NIGUSSIE: That is the first floor
20 facing 9th Street. That's a picture taken --

21 MR. BIANCO: Okay.

22 MR. NIGUSSIE: -- to --

23 MR. BIANCO: So that was my next
24 question. Where is this picture taken from?

25 MR. NIGUSSIE: Yes, from the back door

1 to -- facing 9th Street.

2 MR. BIANCO: Okay. So these windows
3 in the upper middle portion of the photograph,
4 those are the windows out to 9th Street?

5 MR. NIGUSSIE: That is correct.

6 MR. BIANCO: Okay. And is there a
7 dance floor on the first floor of the
8 establishment?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: Okay. Is there going to
11 be a dance floor on the first floor of the
12 establishment?

13 MR. NIGUSSIE: No.

14 MR. BIANCO: Okay. Bear with me while
15 I bring up the next item that I'd like to talk
16 about. So in the investigative report, we're
17 going to go to page 5. Okay.

18 And it says here on page 5, under,
19 Nearby establishments, that there are 55 licensed
20 ABC establishments within 1,200 feet, correct?

21 MR. NIGUSSIE: That is correct.

22 MR. BIANCO: Okay. And 37 of them
23 have entertainment endorsements; is that correct?

24 MR. NIGUSSIE: That is correct.

25 MR. BIANCO: Okay. And we had some

1 testimony on this from the investigator, so I
2 want to go through it very, very briefly. There
3 are five within a few 100 feet of your
4 establishment, correct?

5 MR. NIGUSSIE: That is correct also.

6 MR. BIANCO: Okay. I'm going to show
7 you a document that we are going to mark as
8 Exhibit number 3, which is a printout from the DC
9 GIS system. And I'm going to zoom in on your
10 building.

11 It is suddenly not cooperating with
12 me. Okay. Okay. So I'm going to zoom in on
13 your building there at 1909 9th Street. Do you
14 see where I'm -- do you see where I'm looking?

15 MR. NIGUSSIE: Yes.

16 MR. BIANCO: Okay. And does that
17 truly and accurately represent the number of ABC
18 license establishments in proximity to yours?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: Okay. And at the back of
21 your building -- I'm sorry. What is at the back
22 of your building?

23 MR. NIGUSSIE: There is an alley and
24 after that, there is the building.

25 MR. BIANCO: Okay. And does Mr.

1 Stoecklein live in that building?

2 MR. NIGUSSIE: I'm not sure.

3 MR. BIANCO: Okay. And do the other
4 ABC establishments also back up to the alley, or
5 do they lead somewhere else?

6 MR. NIGUSSIE: They do. All of them.

7 MR. BIANCO: Move admission of
8 Applicant's Exhibit 3.

9 CHAIRPERSON ANDERSON: Mr. Stoecklein?

10 MR. STOECKLEIN: No objection.

11 CHAIRPERSON ANDERSON: So moved.

12 (Whereupon, the above-referred to
13 document was marked as Applicant Exhibit 3 for
14 identification.)

15 MR. BIANCO: So I'd like to move on to
16 Applicant's Exhibit number 4.

17 (Whereupon, the above-referred to
18 document was marked as Applicant Exhibit 4 for
19 identification.)

20 MR. BIANCO: Do you -- this is a Board
21 order in 20-PRO-2015. Do you recall having a
22 protest over the renewal of your license?

23 MR. NIGUSSIE: Yes.

24 MR. BIANCO: Okay. And specifically
25 what I want to look at in the Board's findings of

1 fact, conclusions of law and order is paragraph
2 number 3 of the findings of fact, which states
3 that there are 69 licensed establishments located
4 within 1,200 feet of the proposed location. Do
5 you see that?

6 MR. NIGUSSIE: Yes. Yes, right there.

7 MR. BIANCO: Okay. Do you know why
8 there are now 14 fewer in the same area?

9 MR. NIGUSSIE: I imagine because of
10 COVID and neighborhood complaining, they're out
11 of business.

12 MR. BIANCO: Okay.

13 MR. NIGUSSIE: It's in grace of God we
14 are still here.

15 MR. BIANCO: And in the investigative
16 report, you heard Investigator Glasgow testify
17 that your hours -- your approved hours are 10:00
18 a.m. to 2:00 a.m. and 3:00 a.m. on the weekends;
19 is that accurate?

20 MR. NIGUSSIE: That is accurate.

21 MR. BIANCO: Okay. Now, what hours do
22 you actually operate?

23 MR. NIGUSSIE: We open every day at
24 6:00 p.m..

25 MR. BIANCO: And when do you close?

1 MR. NIGUSSIE: And then we close at
2 2:00 a.m. during the week, except Friday. We
3 close at 3:00 am., Friday and Saturday. And
4 Sunday, we close at 2:00 a.m. as well.

5 MR. BIANCO: Okay. So I -- you were
6 here for Investigator Glasgow's testimony --
7 excuse me -- about the calls to MPD for 1909 9th
8 Street, correct?

9 MR. NIGUSSIE: That's correct.

10 MR. BIANCO: Okay. So I want to look
11 at her Exhibit 24 to her report, but I've
12 highlighted some specific entries, okay?
13 Starting with the first page I filed, there are
14 four that I want to look at. Are you open at
15 12:27 p.m.?

16 MR. NIGUSSIE: I'm not.

17 MR. BIANCO: 1:30 --

18 MR. NIGUSSIE: No.

19 MR. BIANCO: -- a.m.? 10:45 a.m.?

20 MR. NIGUSSIE: No.

21 MR. BIANCO: 12:24 p.m.?

22 MR. NIGUSSIE: No. We don't open
23 until 6:00 p.m. every day.

24 MR. BIANCO: Okay. On Thursday, are
25 you open at 2:35 a.m.?

1 MR. NIGUSSIE: No, we not.

2 MR. BIANCO: Okay. Are you open at
3 2:35 p.m.

4 MR. NIGUSSIE: No.

5 CHAIRPERSON ANDERSON: 11:48 a.m.?

6 MR. NIGUSSIE: No.

7 MR. BIANCO: Okay. And then I see
8 11:25 a.m.?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: 3:30 a.m.?

11 MR. NIGUSSIE: No.

12 MR. BIANCO: 10:28 a.m.?

13 MR. NIGUSSIE: No.

14 MR. BIANCO: Okay. And then there I
15 see three more entries on this page -- I'm sorry,
16 two more entries on this page that are before
17 6:00 p.m. and you're closed, correct?

18 MR. NIGUSSIE: That is correct.

19 MR. BIANCO: And then another one at
20 3:44 a.m. and you're closed, correct?

21 MR. NIGUSSIE: That's correct.

22 MR. BIANCO: Okay. You were here for
23 the testimony about some of the codes, under,
24 Type, that very used in this report, correct?

25 MR. NIGUSSIE: That is correct.

1 MR. BIANCO: Okay. So there's one
2 here that I am looking at that is highlighted on
3 330 of 2019 and the code used is mental. Do you
4 know if that has anything to do with your
5 operations?

6 MR. NIGUSSIE: No.

7 MR. BIANCO: Okay. And then there are
8 some highlighted items labeled, Miscellaneous.
9 Do you have any idea what those are indicating?

10 MR. NIGUSSIE: It could be anything.
11 I'm not sure.

12 MR. BIANCO: Okay. And at the bottom
13 of the first page, there is an entry for a DUI.
14 Do you see that?

15 MR. NIGUSSIE: Yes.

16 MR. BIANCO: Okay. Do you have any
17 information that that is in any way related to
18 your establishment?

19 MR. NIGUSSIE: No.

20 MR. BIANCO: Moving on from there.
21 Now, Mr. Nigussie, one of the concerns that the
22 neighbors have raised in their protest is
23 disturbance of the peace, order, and quiet.

24 Have you done anything to address --
25 I'm sorry, strike that. Have you done anything

1 to evaluate the noise emanating from the
2 establishment?

3 MR. NIGUSSIE: Yes. We have
4 rearranged the location of the speaker and
5 basically, we sealed every suspected way of
6 emitting voice -- noise from our -- from the
7 establishment.

8 MR. BIANCO: Okay. And how did you
9 seal it?

10 MR. NIGUSSIE: Well, the technicians
11 did it with the foreman.

12 MR. BIANCO: Okay. And did you do
13 anything to verify or test the effectiveness of
14 the measures that were taken?

15 MR. NIGUSSIE: Yes, we did.

16 MR. BIANCO: Okay. So if you'll bear
17 with me for just a moment, I am now going to
18 bring up a video. Okay. Are you able to see
19 that, Mr. Nigussie?

20 MR. NIGUSSIE: Yes.

21 MR. BIANCO: Okay. So I'm going to
22 press play and then I may stop the 1-minute-and-
23 22-second video as it runs to ask you questions.
24 Is that all right?

25 MR. NIGUSSIE: That's okay.

1 MR. BIANCO: Okay. So -- okay. So
2 what portion of the premises is that?

3 MR. NIGUSSIE: That is the first
4 floor.

5 MR. BIANCO: Okay. And were you
6 personally present while this was going on?

7 MR. NIGUSSIE: Yes.

8 MR. BIANCO: Okay. And can you tell
9 me what volume the music is set at in this video?

10 MR. NIGUSSIE: That we set it up to
11 the maximum volume possible.

12 MR. BIANCO: Okay. So I just want to
13 make sure I understand. Is that the maximum
14 volume that the sound system will play, or the
15 maximum volume that you intend to use?

16 MR. NIGUSSIE: The maximum volume the
17 sound system can play.

18 MR. BIANCO: Okay. And who else was
19 present on the first floor of the establishment
20 at the time this video was made?

21 MR. NIGUSSIE: My contractor was there
22 as well.

23 MR. BIANCO: Okay. And what is his
24 name?

25 MR. NIGUSSIE: His name is John

1 Yohannes.

2 MR. BIANCO: Okay. So is Mr. Yohannes
3 the one that is taking the video, or are you
4 taking the video?

5 MR. NIGUSSIE: Mr. Yohannes is the one
6 who's taking the video.

7 MR. BIANCO: Okay. So now I'm going
8 to let it play. And is that you on the left-hand
9 side of the video there?

10 MR. NIGUSSIE: Yes, that's me.

11 MR. BIANCO: And where are you going?

12 MR. NIGUSSIE: Opening the door to the
13 alley.

14 MR. BIANCO: Okay.

15 MR. NIGUSSIE: The backdoor.

16 CHAIRPERSON ANDERSON: I just -- I got
17 a question, Mr. Bianco. Is there supposed to be
18 some volume to this? I'm not hearing anything.
19 Am I missing something?

20 MR. BIANCO: There is volume. Yes,
21 that's actually the entire point.

22 MR. STOECKLEIN: Yes, we can't -- I
23 can't hear anything either.

24 CHAIRPERSON ANDERSON: There wasn't
25 volume inside, so I'm just saying was your volume

1 configured, that's what I'm saying?

2 MR. BIANCO: Yes, I was definitely
3 getting volume on my end and I had the --

4 CHAIRPERSON ANDERSON: You're the only
5 one who's getting -- I didn't get any volume,
6 sir, so I didn't hear anything --

7 MR. BIANCO: I certainly --

8 CHAIRPERSON ANDERSON: -- from the
9 video.

10 MR. BIANCO: I certainly understand
11 the confusion as it would be pretty pointless
12 without the volume. Okay. So let me see on my
13 end what I can do to address this.

14 MR. STOECKLEIN: Now, we can -- now
15 you're able to hear it?

16 MR. BIANCO: Okay. Great. So
17 hopefully you're still able to hear me as well.

18 CHAIRPERSON ANDERSON: But I would
19 ask, Mr. Bianco, why don't you start the video
20 back over? Because we heard no volume when you
21 started. So why don't you start the video back
22 over, please, sir?

23 MR. BIANCO: Absolutely. Glad to do
24 that. Was just trying to save time. Here we go.

25 MR. STOECKLEIN: Mr. Chair, I'd like

1 to gently object because I take it that Mr.
2 Bianco is trying to give us some indication of
3 what the decibel level is.

4 But without any kind of quantitative
5 measure here, it seems impossible to really
6 appreciate what's being asserted here.

7 CHAIRPERSON ANDERSON: Mr. Stoecklein,
8 that is -- you will have an opportunity on cross-
9 examination to cross-examine the witness on what
10 you're trying to prove. So I'm going to -- I'm
11 overruling the objection.

12 You will have cross-examination to
13 make that point, sir, if you need to make a
14 point. So let's move on -- let's go on.

15 MR. BIANCO: Okay. No doubt as I'm
16 going to stop the video there. At this point in
17 the video, where are you?

18 MR. NIGUSSIE: I'm inside, but from --
19 I don't know if it was just my phone or everybody
20 heard it like that, but the volume of the sound
21 is way louder than what I heard on the video,
22 when you going to get it from inside. But
23 there's just no loud when -- from what you are
24 showing me right now, It was way louder.

25 MR. BIANCO: Okay. Dess, I'm just

1 going to need you to answer the questions that I
2 ask, okay?

3 MR. NIGUSSIE: All right.

4 MR. BIANCO: So at this point in the
5 video, where are you standing?

6 MR. NIGUSSIE: I'm inside.

7 MR. BIANCO: Okay. And are you --
8 where are you in relation to the backdoor?

9 MR. NIGUSSIE: Right next to the
10 backdoor.

11 MR. BIANCO: Okay. And as Mr.
12 Yohannes's went outside, did you adjust the
13 volume in any way?

14 MR. NIGUSSIE: I did not.

15 MR. BIANCO: Okay. And where -- if
16 someone were to adjust the volume, where is the
17 sound system located?

18 MR. NIGUSSIE: The sound system is
19 further to -- well, right -- it's in front of the
20 other side of the wall.

21 MR. BIANCO: Okay. So is it on --
22 near the 9th Street windows, the middle of the
23 establishment, or the rear of the establishment?

24 MR. NIGUSSIE: I would say toward the
25 middle.

1 MR. BIANCO: The middle. Okay. Now,
2 I'm going to play the video for a few more
3 seconds here and then I'll ask you another
4 question.

5 MR. NIGUSSIE: It's 10 feet.

6 MR. BIANCO: Okay. Now, at this point
7 in the video, are you able to hear any music
8 emanating from the establishment?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: Okay. And I hear a white
11 noise in the background. Do you know what's
12 making that noise?

13 MR. NIGUSSIE: That is the noise that
14 comes out of the AC unit. You would see it on
15 the left side.

16 MR. BIANCO: Okay.

17 MR. NIGUSSIE: You can see it.

18 MR. BIANCO: Okay. Mr. Nigussie, does
19 that truly and accurately depict the video that
20 was taken on the day of the sound test?

21 MR. NIGUSSIE: No, that is correct.

22 MR. BIANCO: Okay. And move admission
23 of Applicant's Exhibit number 5?

24 CHAIRPERSON ANDERSON: Mr. Stoecklein?

25 MR. STOECKLEIN: No objection.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-referred to
3 document was marked as Applicant Exhibit 5 for
4 identification.)

5 MR. BIANCO: Okay. And, Mr. Nigussie,
6 did you -- in addition to this video, did you do
7 any other sound testing?

8 MR. NIGUSSIE: We tested the volume
9 from the -- behind the alley, but we didn't hear
10 anything. And this a formal video we did.

11 MR. BIANCO: Okay. So I'm sorry. I
12 heard was having trouble hearing you there. What
13 other sound tests did you do?

14 MR. NIGUSSIE: Basically, we tested
15 just like this for behind the building, if there
16 is a noise that comes out of the building. But
17 we approved that. There's no music sound you can
18 hear right standing where the car is parked. It
19 actually not even going any farther from the back
20 of the building.

21 MR. BIANCO: Okay. And how did you
22 test that?

23 MR. NIGUSSIE: Basically, we turn the
24 volume up to the level you could call it, like,
25 really loud inside and we shut down the door and

1 make sure that door is closed and, basically, we
2 measure with decimeter. What is it called? The
3 noise measurement.

4 MR. BIANCO: And what --

5 MR. NIGUSSIE: And --

6 MR. BIANCO: Go ahead.

7 MR. NIGUSSIE: And it shows it's
8 really -- well, it would say, like, quiet, very
9 quiet, office loud. So what we find out from the
10 major month was, like, really quiet of his quiet
11 -- it says, Office quiet, actually.

12 MR. BIANCO: Okay. So what did you
13 use to measure that level?

14 MR. NIGUSSIE: That's a noise
15 measuring app we have on iPhone app.

16 MR. BIANCO: Okay. So you have an
17 iPhone noise measuring app? Is that what your
18 testimony is?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: Okay. I'm going to show
21 you what we've marked as Applicant Exhibit number
22 6. Can you describe for me what that is?

23 MR. NIGUSSIE: That is the --
24 basically that's a noise measuring app standing
25 outside the building. Not inside, but outside.

1 MR. BIANCO: Outside of the building.
2 And outside in the front or the rear?

3 MR. NIGUSSIE: At the rear.

4 MR. BIANCO: Okay. And does that
5 truly and accurately depict what your phone app
6 showed on the day that you did that test?

7 MR. NIGUSSIE: That is correct.

8 MR. BIANCO: Okay. Move admission of
9 Applicant's number 6.

10 CHAIRPERSON ANDERSON: Mr. Stoecklein?

11 MR. STOECKLEIN: I would object. We
12 -- there's no way of determining whether this
13 image is actually a screenshot of Mr. Nigussie's
14 phone, that it reflects what he says that it
15 reflects, whether it, in fact, is tied to any
16 measurement taken in reality anywhere near his
17 property, et cetera.

18 CHAIRPERSON ANDERSON: And you are
19 submitting this exhibit for what purpose, Mr.
20 Bianco?

21 MR. BIANCO: The purpose is to show
22 the results of the test that Mr. Nigussie
23 performed. His testimony is that this was taken
24 from a phone app to support the evidence and the
25 objections that are being made go to weight and

1 not admissibility.

2 If the Board decides in its judgment
3 that a phone app decibel measurement is not great
4 evidence, well, then that's the decision the
5 Board gets to make. But his testimony supports
6 that, for whatever it's worth, this is the
7 measurement taken.

8 CHAIRPERSON ANDERSON: I mean, I would
9 admit it for what's worth. Mr. Stoecklein, you
10 have the ability to cross-examine him on this --
11 on the weight that the Board -- what weight, if
12 any, the Board would give this docket -- this --
13 whatever this is.

14 But so -- but I'll admit it, but
15 you'll have an opportunity to cross-examine him
16 on this document and the Board will -- based on
17 that information, will give it whatever weight,
18 if any. So this is Exhibit 6.

19 (Whereupon, the above-referred to
20 document was marked as Applicant Exhibit 6 for
21 identification.)

22 MR. BIANCO: That's number 6, correct.

23 Okay. Mr. Nigussie, now, in the
24 course of this substantial change application,
25 did you have any communications with Mr.

1 Stoecklein?

2 MR. NIGUSSIE: Yes.

3 MR. BIANCO: Okay. And can you
4 describe the communications that you had with him
5 in connection with this substantial change
6 application?

7 MR. NIGUSSIE: So when we start this
8 process for substantial change of, there was the
9 -- it was the Neighborhood Association. First of
10 all, they didn't give us any platform when they
11 decided to protest.

12 They didn't offer me, basically, a
13 platform to hear what I had to say. Literally,
14 they voted to protest and they didn't hear what I
15 had to say. They didn't give me any platform
16 when the application was protested.

17 After that, I've tried to work out a
18 resolution through the representative, Mr.
19 Stoecklein, but the responsible guy has denied I
20 had pending negotiation with the business.

21 MR. BIANCO: Okay.

22 MR. NIGUSSIE: Then after that, a few
23 months down the road, on 5/21/22, Mr. Stoecklein
24 himself showed up to our business around, I would
25 say, 12:00 midnight.

1 I actually I was happy to see him
2 because he was ready for -- to come to an
3 agreement, but instead I was met by a trade that
4 I've never encountered before.

5 MR. BIANCO: Okay. And can you
6 describe the specific facts and circumstances
7 surrounding that interaction on 5/21?

8 MR. NIGUSSIE: Yes. Basically Mr.
9 Stoecklein came in. He ordered a drink at the
10 bar and the bartender helped him out. And she
11 gave him a receipt for him to sign. And he wrote
12 on the receipt to the bartender, saying that, If
13 you don't get all your tips, call me. And there
14 is a phone number for it.

15 MR. BIANCO: Okay. And how do you
16 know that that was written on the receipt?

17 MR. NIGUSSIE: I have the receipt.

18 MR. BIANCO: Okay. And after this
19 interaction with the bartender, what happened
20 next?

21 MR. NIGUSSIE: I didn't realize --
22 when he wrote this, I didn't make any sense of
23 it. But after that, I realized he wanted to
24 start, like, wage complaint by employees against
25 me. That's what he was trying to do at that

1 point, I guess.

2 MR. BIANCO: Well, hang on, Mr.
3 Nigussie. That's not what I'm asking. I'm
4 asking, after he had the interaction with the
5 bartender on 5/21, what happened next that night?

6 MR. NIGUSSIE: Okay. Then he tried to
7 go to the third floor. There is security guard
8 up to the stairs, going to the third floor, he
9 was trying to bypass security floor and going to
10 third floor. But the security guy stopped him
11 and told him that the third floor is not open
12 yet.

13 MR. BIANCO: Okay. And where were you
14 at this time?

15 MR. NIGUSSIE: I was on third floor by
16 myself.

17 MR. BIANCO: Okay. And after Mr.
18 Stoecklein tried to get to the third floor and
19 was stopped by security, what is the next thing
20 that happened?

21 MR. NIGUSSIE: Then one of my security
22 guys notified me that there is this white guy
23 downstairs, he want to talk to you. That's when
24 I came down the stairs and let him know that is
25 too loud in inside of -- and invite him to go at

1 the back where it's quieter so that -- we hoping
2 we can have a productive conversation.

3 MR. BIANCO: Okay. So when you got --
4 which floor did you walk out on when you walked
5 out of the establishment?

6 MR. NIGUSSIE: Second floor.

7 MR. BIANCO: Second floor. Okay. And
8 when you got out of the second floor door, where
9 did you go?

10 MR. NIGUSSIE: Out the back door of
11 the second floor.

12 MR. BIANCO: Okay. And could you tell
13 me what was discussed in that conversation?

14 MR. NIGUSSIE: Well, to start to the
15 conversation, I tried to explain to him that -- I
16 tried to work with the ANC on resolution and I
17 told him basically my intentions to work with the
18 Westminster Neighborhood Association as well.

19 After I said that, he was, like -- you
20 can tell he's -- right off the bat, like he
21 wasn't in conversation. He was like, Then what?
22 I was like, What do you mean, then what? But at
23 -- that's why you can see, like, he is angry. I
24 don't know why he was angry to start the
25 conversation.

1 And he said, Do you know who I am? I
2 didn't say anything to that. And then he said,
3 I'm an FBI agent. I want you to be gone. Then
4 there's not going to be any negotiation here. I
5 said, Good for you, but that's not up to you to
6 decide.

7 After that he -- I didn't know what to
8 say and then at this point he -- you can see the
9 anger and the confrontational face. You can
10 observe that. He was pointing fingers to my face
11 as he was speaking and then he goes off, How many
12 employees did you claim for SBA loan?

13 MR. BIANCO: And what did --

14 MR. NIGUSSIE: I said, That is none of
15 your concern, sir.

16 MR. BIANCO: Then what happened?

17 MR. NIGUSSIE: And then he keep on
18 saying, Do you know that guy across the street?
19 He has you, he said. And they said he always
20 invited me to his meetings, so why don't you
21 invite me too?

22 And I realized I didn't know at that
23 point who he's talking about. I told him, I
24 don't have any personal meeting to invite you to.
25 And he say, The guy has second lounge. All I

1 told him, I don't know the guy. And at this
2 point in time -- really afraid at this point, so
3 I ask him to leave.

4 MR. BIANCO: And did he?

5 MR. NIGUSSIE: He slowly, still
6 talking, got down the stairs from second floor to
7 the first floor. And I let him out through the
8 back door of the fence.

9 MR. BIANCO: Okay. So I'm going to
10 share video that does not have any volume to it.
11 Can you describe what we are looking at here?

12 MR. NIGUSSIE: Yes. You can see the
13 guy standing on the left side of -- it looks
14 like, white shirt -- white short sleeved shirt,
15 but actually, that's blue shirt.

16 MR. BIANCO: Okay.

17 MR. NIGUSSIE: And then the left
18 camera that there is a white shirt, that was Mr.
19 Stoecklein standing at the bar.

20 MR. BIANCO: So this is Mr. Stoecklein
21 standing at the bar?

22 MR. NIGUSSIE: Right.

23 MR. BIANCO: And which bar is that
24 within your establishment?

25 MR. NIGUSSIE: That is the second

1 floor bar.

2 MR. BIANCO: Okay. So I'm not going
3 to play this video all the way through because
4 it's 2 minutes and 48 seconds. But I am going to
5 stop and ask you questions and go to different
6 parts of the video. Is that okay?

7 MR. NIGUSSIE: That is okay.

8 MR. BIANCO: Okay. So do you know
9 what's going on at that part of the video?

10 MR. NIGUSSIE: Yes. That is -- my
11 bartender tried to help Mr. Stoecklein.

12 MR. BIANCO: Okay.

13 MR. STOECKLEIN: Objection.
14 Relevance. I don't know what this has -- I mean,
15 what, if anything, this has to do with whether or
16 not the -- Empire should be allowed to expand to
17 the first floor.

18 CHAIRPERSON ANDERSON: So I don't know
19 why -- I don't -- I really don't know why we're
20 watching this video. So I think that we had some
21 conversation regarding your interaction with him
22 in this particular day, so I'm not quite sure.

23 I think at this juncture, this is just
24 Mr. -- the licensee testified that he had an
25 interaction with you on this specific occasion

1 and I guess he's just showing the video to say,
2 Here is the -- this is the video of interaction
3 that we have. I don't know why it's being --

4 MR. STOECKLEIN: Mr. Nigussie is not
5 present in this video. He can't speak to the
6 nature of this interaction. He has no idea
7 what's being said. There's no volume. I can
8 stipulate to the fact that that is me on the
9 video. I have good cause for being there, just
10 like any other patron.

11 But that's not what's at issue here
12 and that's not what we're talking about. So far,
13 I've heard nothing that suggest any shred of
14 relevance to the issue in question. I do look
15 forward to getting to the bottom of this and
16 discussing it at some point, but this is --

17 CHAIRPERSON ANDERSON: Why are we --
18 all right. We had testimony about a video about
19 -- Mr. Nigussie talk about he had a conversation.
20 So you're showing us a video without any volume.
21 Why are we watching this video?

22 MR. BIANCO: Sure. We were watching
23 the video -- well, the -- first of all, the
24 relevance of the video is because, 1, these
25 representations have been testified to in a court

1 and in the investigative report. Mr. Nigussie
2 testified to them. They bolster his testimony.

3 Number 3, it goes to witness bias,
4 witness credibility, the underlying modus
5 operandi of this particular protest, and that it
6 is something other than the purpose for which it
7 is purported.

8 And this particular video that doesn't
9 show the conversation does show Mr. Stoecklein
10 writing on this receipt in the manner that Mr.
11 Nigussie testified to in an effort to harm his
12 business in some way other than through this
13 protest process.

14 CHAIRPERSON ANDERSON: Mr. -- but, Mr.
15 Bianco -- all right.

16 MR. STOECKLEIN: It doesn't show that.

17 CHAIRPERSON ANDERSON: Mr. Stoecklein,
18 can you give me -- can you give me an
19 opportunity, sir, please?

20 MR. STOECKLEIN: Of course. I
21 apologize, Mr. Chair.

22 CHAIRPERSON ANDERSON: You've showing
23 us the video. Your -- the applicant testified.

24 MR. BIANCO: Correct.

25 CHAIRPERSON ANDERSON: You're showing

1 a video to say that Mr. Stoecklein -- and I don't
2 believe that Mr. Stoecklein is going to deny that
3 he was in the establishment.

4 Now, are you going to show us -- I
5 don't know what it is that he wrote on the
6 receipt. Are you going to -- are you showing us
7 the receipt that basically -- so we can read the
8 receipt to see what's written on it?

9 MR. BIANCO: Possibly. I am going to
10 ask Mr. Stoecklein what was written on the
11 receipt. And if Mr. Stoecklein either doesn't
12 recall or denies writing that on the receipt that
13 we will show the receipt for impeachment
14 purposes.

15 CHAIRPERSON ANDERSON: But I don't
16 think he's denying that. I mean, I think the
17 bottom line, we don't know why he wrote that. I
18 mean, I guess the bottom line is that I don't see
19 why we're seeing -- we have the testimony.

20 Okay. There's a video to say that he
21 was in establishment, but I don't see why we need
22 to look at this video.

23 MR. BIANCO: Okay. Well, I mean, if
24 Mr. Stoecklein is willing to stipulate that he
25 wrote on the receipt, Are you not getting your

1 tips? Call me, then I'm fine with that. We
2 don't need to look at the video any further.

3 CHAIRPERSON ANDERSON: No. But what
4 I'm trying to say, Mr. -- what I'm saying, Mr.
5 Bianco, does this video clearly show what your --
6 does this video clearly shows the receipt and
7 that he wrote this -- what you're saying on the
8 receipt?

9 MR. BIANCO: No, it only shows him
10 writing on the receipt.

11 CHAIRPERSON ANDERSON: Okay. Then I
12 don't need to see this video. I mean, I think
13 that -- I mean, if -- because -- unless you're
14 going to show me a close up of the receipt in the
15 video to say this is what he wrote and the video
16 is going to document it -- I still don't
17 understand why that's even relevant.

18 I mean, yes, you have the video has
19 established that on the day in question that Mr.
20 Stoecklein was -- okay. He was there. Your
21 client testified that he was there and the nature
22 of his conversation.

23 And so therefore, let's move on from
24 there. So we don't need to -- we don't need this
25 video unless Mr. Stoecklein was going to state

1 that he has never been to the establishment, and
2 he --- and this never occurred, at least the
3 conversation never occurred. That has been
4 testified to.

5 MR. BIANCO: Okay. Yes, I'm fine with
6 that. We can just move on from there. Thank you
7 very much, Mr. Chair. I appreciate that.

8 CHAIRPERSON ANDERSON: Thank you.

9 MR. STOECKLEIN: So, Chair, is -- I --
10 is the objection sustained or overruled, Mr.
11 Chair? I'm not sure because --

12 CHAIRPERSON ANDERSON: We're not
13 watching the video, sir. You're objecting to the
14 showing of the video. I mean -- so we're not
15 going to watch the video, but the video
16 established that you were in the establishment.

17 I assume this is -- that was the
18 purpose of it. He stated that you're in the
19 establishment. You had an interaction with --

20 MR. STOECKLEIN: That's right. I'm
21 certainly willing to stipulate to that. But
22 beyond that, I -- again, I renew my objection on
23 relevance. I would ask for certain -- from --
24 some discretion from the Court because this is a
25 pretty unusual attempt to actually discredit the

1 credibility of opposing counsel, which I find
2 pretty exceptional --

3 CHAIRPERSON ANDERSON: Mr. Stoecklein

4 --

5 MR. STOECKLEIN: -- so --

6 CHAIRPERSON ANDERSON: -- the witness
7 testified. We have direct testimony. The
8 witness testified about, you were there, what you
9 said, what you did, you can cross-examine him on
10 that. And the video has established that you
11 were there.

12 MR. STOECKLEIN: Yes. I just don't
13 understand how any of this is relevant. Mr.
14 Chair, you've pointed out on multiple occasions
15 over the course of this many-hour proceeding that
16 we're here to focus on the very narrow question
17 of whether there's an adverse impact on the
18 community if the first floor is allowed to go
19 into operation or to continue to be operated, as
20 Mr. Nigussie's been operating. So we're so far
21 afield for -- from that right now.

22 MR. BIANCO: I completely agree that
23 the proceeding Mr. -- that Mr. Stoecklein's put
24 on is completely out of control, but here we are.
25 And the other thing I would say is this testimony

1 is on the record and the exhibits withdrawn.

2 What are we arguing about?

3 CHAIRPERSON ANDERSON: And that's what
4 I'm saying. If we are --

5 MR. STOECKLEIN: Well, that's great.
6 I just was asking what the status exhibit was.
7 That if I missed, Mr. Bianco indicated that he
8 withdrawn exhibit, then I apologize because we
9 could have dispensed with all this conversation.
10 But I just was asking for clarification, so --

11 CHAIRPERSON ANDERSON: I don't have a
12 problem with the video being shown, if -- because
13 the video established that you, sir, you're in
14 the establishment, as was testified by the
15 witness, that you were there, you had an
16 interaction with his -- with one of his servers.

17 MR. STOECKLEIN: But it doesn't
18 support the truth of the facts being asserted,
19 right?

20 CHAIRPERSON ANDERSON: I don't know.
21 Sir, sir, sir, where we are, the witness
22 testified and the witness showed a video to say
23 you were there. Okay. And he gave his
24 testimony. You will have an opportunity to
25 cross-examine him about the truth of what his

1 testimony --

2 MR. STOECKLEIN: I understand, Chair.
3 I'll just still --

4 CHAIRPERSON ANDERSON: Okay. Let's
5 move on. We don't need to see any further off a
6 video that have no -- that has -- now, if there
7 was a video that recorded the conversation, then
8 that's different. But here's a video that have
9 no volume. All that is video establishes is that
10 you were there.

11 MR. BIANCO: And I think we have a
12 stipulation to that fact, so we don't need the
13 video, correct?

14 CHAIRPERSON ANDERSON: Fine. So let's
15 move on.

16 MR. BIANCO: Okay. Fine. Mr.
17 Nigussie, do you have a security plan for your
18 establishment?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: And I believe the
21 security plan was attached to the investigative
22 report, which I will pull up momentarily.

23 Okay. And this -- so I'm showing you
24 what is attached to the investigative report as
25 your security plan. Is this your current

1 security plan?

2 MR. NIGUSSIE: Yes, it is.

3 MR. BIANCO: And it's dated June 17,
4 2022. Is that when this was approved?

5 MR. NIGUSSIE: That is about right,
6 yes.

7 MR. BIANCO: Okay. And have you
8 adopted a new security plan to include use of the
9 first floor?

10 MR. NIGUSSIE: Yes.

11 MR. BIANCO: And does that security
12 plan -- well, let me just ask you this: On the
13 new first floor, if allowed, what is your plan
14 with respect to cameras?

15 MR. NIGUSSIE: I'm sorry. I didn't --
16 can you repeat the question?

17 MR. BIANCO: Sure. If you're allowed
18 to operate on the first floor, do you have a plan
19 with respect to cameras?

20 MR. NIGUSSIE: Yes. We have installed
21 a separate camera just for first floor, front and
22 the back of the building.

23 MR. BIANCO: Okay. And have you
24 installed those cameras yet?

25 MR. NIGUSSIE: Yes.

1 MR. BIANCO: Okay. And as -- I'm
2 going to show you a document that should be up on
3 your screen right now that is marked as Applicant
4 Exhibit number 9. Do you see that?

5 MR. NIGUSSIE: What am I looking at?

6 MR. BIANCO: This is Applicant Exhibit
7 number 9. Do you see that?

8 MR. NIGUSSIE: Yes, yes, yes.

9 MR. BIANCO: Okay. And have you done
10 a diagram for the first floor cameras as they
11 have been installed?

12 MR. NIGUSSIE: Yes.

13 MR. BIANCO: And is that -- does that
14 diagram appear anywhere in your security?

15 MR. NIGUSSIE: A camera diagram?

16 MR. BIANCO: Correct?

17 MR. NIGUSSIE: I don't see, no.

18 MR. BIANCO: I am scrolling down to
19 what is marked as --

20 MR. NIGUSSIE: Exhibit B is -- yes.

21 MR. BIANCO: And what does that show?

22 MR. NIGUSSIE: That shows, basically,
23 the front, the back, and the inside cameras. It
24 shows that you have one camera at the back, two
25 cameras up -- one, two, three, four, five, six,

1 six cameras inside, on the first floor. That's
2 on the first floor.

3 MR. BIANCO: Okay. So this is all the
4 first floor shown on this exhibit?

5 MR. NIGUSSIE: That is correct.

6 MR. BIANCO: Okay. And this diagram
7 here that says, Exhibit A, what does that show?

8 MR. NIGUSSIE: That is the camera
9 locations for second floor and third floor.

10 MR. BIANCO: Second floor and third
11 floor. Okay. So, Mr. Nigussie, is this a true
12 and accurate copy of your amended security plan?

13 MR. NIGUSSIE: That is correct.

14 MR. BIANCO: And with respect to entry
15 procedures, how are you going to handle people
16 entering the establishment once Sound Bar is
17 allowed to operate?

18 MR. NIGUSSIE: Our plan is to have
19 more security, obviously. And I hope it's more
20 convenient and safe when we have two securities
21 and the two doors versus one security gate.

22 MR. BIANCO: Okay. So are you going
23 to have -- how are you going to have security
24 stationed at each store?

25 MR. NIGUSSIE: There is going to be

1 security right in front of the Empire door and
2 the first floor door as well.

3 MR. BIANCO: Okay. So what are those
4 security guards going to do when patrons enter
5 the property?

6 MR. NIGUSSIE: They properly ID them.
7 Pat down, search them, and we have a wand as
8 well, according the security plan. So pretty
9 much they will make sure that everybody that
10 comes through the door is properly ID'd and
11 searched.

12 MR. BIANCO: And are those procedures
13 laid out in your amended security plan?

14 MR. NIGUSSIE: Yes, it.

15 MR. BIANCO: And I would move
16 admission of Applicant number 9, the amended
17 security plan.

18 MR. STOECKLEIN: No objection.

19 CHAIRPERSON ANDERSON: So moved.

20 (Whereupon, the above-referred to
21 document was marked as Applicant Exhibit 9 for
22 identification.)

23 MR. BIANCO: So, Mr. Nigussie, you
24 testified that -- about your interactions with
25 the WNA. Did you make any efforts to work with

1 the ANC on this particular application?

2 MR. NIGUSSIE: Yes.

3 MR. BIANCO: What did you do?

4 MR. NIGUSSIE: We -- actually after we
5 attended the meeting, I reached out to the ANC,
6 e-mailed them actually, and try to work out a
7 resolution. Further promised to give us a
8 settlement agreement and --

9 MR. BIANCO: Now, Mr. Nigussie, let me
10 stop you right there. I do not -- I am not
11 asking you, and I don't want you to talk about,
12 any specifics of any negotiations. I just want
13 to get a sense of the communications between the
14 parties, okay?

15 MR. NIGUSSIE: Okay.

16 MR. BIANCO: So after the meeting and
17 after you reached out to them, what happened?

18 MR. NIGUSSIE: Pretty much no response
19 for a long time.

20 MR. BIANCO: Okay. And were there
21 ever any substantive discussions about
22 settlement?

23 MR. NIGUSSIE: No.

24 MR. BIANCO: Were you willing to have
25 those discussions?

1 MR. NIGUSSIE: Absolutely.

2 MR. BIANCO: I don't have anything
3 further at this time, Mr. Anderson.

4 CHAIRPERSON ANDERSON: Thank you.

5 Mr. Stoecklein, do you have any
6 questions?

7 MR. STOECKLEIN: Yes, Mr. Anderson.
8 So -- I'm trying to get to where to start.

9 I believe that you indicated in your
10 testimony that you, and please correct me if I'm
11 not phrasing this exactly as you've stated it,
12 that you were not given the opportunity to
13 interact with the Westminster Neighborhood
14 Association?

15 MR. NIGUSSIE: I did not say no
16 opportunity. I said I didn't given a platform to
17 present what I have to say.

18 MR. STOECKLEIN: So is it your
19 testimony that you were not given notice of the
20 WNA meeting at which the protest was discussed?

21 MR. NIGUSSIE: They did. That's not
22 what I said. I was invited to the video
23 conference. But you remember when you guys
24 voted? The procedure is supposed to have -- to
25 hear what the owner have to say.

1 MR. STOECKLEIN: Mr. Nigussie, I just
2 -- I asked you a yes or no question. So I would
3 appreciate if you could just stick to the yes or
4 no answer. So is it your testimony that you were
5 not given notice of the WNA meeting at which the
6 protest was discussed?

7 MR. NIGUSSIE: I did not say that. I
8 did not say that.

9 MR. STOECKLEIN: Okay. So you were
10 given notice; is that correct?

11 MR. NIGUSSIE: That's correct.

12 MR. STOECKLEIN: Okay. And you did
13 participate in that call; did you not?

14 MR. NIGUSSIE: I did.

15 MR. STOECKLEIN: Okay. Thank you.
16 You indicated that the -- can you tell us -- and
17 it's clear that you've done construction with
18 Sound Bar. It was -- we saw extensive video that
19 -- did the construction include the installation
20 of additional speakers?

21 MR. NIGUSSIE: Everything, yes.

22 MR. STOECKLEIN: Okay. And how many
23 additional speakers?

24 MR. NIGUSSIE: On the first floor, I
25 believe, but I could be wrong, three.

1 MR. STOECKLEIN: Three speakers. You
2 only have three speakers on the first floor?

3 MR. NIGUSSIE: That's correct.

4 MR. STOECKLEIN: Okay. Mr. Nigussie,
5 do you have a DJ booth on the first floor or any
6 other kind of sound equipment?

7 MR. NIGUSSIE: Yes.

8 MR. STOECKLEIN: Okay. With respect
9 to the speakers that you indicated you installed,
10 do you have any idea what their maximum sound
11 levels are on -- specifically in terms of
12 decibels or wattage? Do you get any -- can you
13 provide us with any specifics about their maximum
14 possible output?

15 MR. NIGUSSIE: I can't say.

16 MR. STOECKLEIN: Okay. So you have no
17 idea how loud they can actually get from a
18 decibel and a wattage standpoint; is that
19 accurate?

20 MR. NIGUSSIE: The volume is set --
21 basically, the speakers are set --

22 MR. STOECKLEIN: Mr. Nigussie, I'm
23 asking whether you know, based on a quantitative
24 reading, what the maximum output of the speakers
25 are?

1 Speakers output are measured in
2 wattage and decibels. I'm wondering if you can
3 tell us what the maximum limits are on those
4 speakers.

5 MR. NIGUSSIE: I don't remember off
6 the top of my head, but I --

7 MR. STOECKLEIN: Okay. Thank you.
8 That's good. Thank you. And can you tell me
9 what equipment you installed on the DJ booth to
10 ensure that the sound levels are kept within the
11 allowable parameters specified under the code --
12 under the DC Code?

13 MR. BIANCO: Objection.

14 MR. STOECKLEIN: Can you tell me what
15 equipment?

16 MR. BIANCO: Objection. Calls for a
17 legal conclusion. Assumes facts not in evidence.

18 CHAIRPERSON ANDERSON: Right, sir.
19 What were you saying?

20 MR. STOECKLEIN: Mr. Nigussie just
21 spent at least five minutes testifying about the
22 permissible decibel levels. We saw his purported
23 iPhone screenshot of what is and is not allowable
24 decibel level. So I think it's -- I'm simply
25 following the thread established by counsel and -

1 -

2 MR. BIANCO: He did no such thing. He
3 showed a photograph of a decibel meter that he
4 read while he was doing a sound test. He made no
5 testimony about what the law said, doesn't say,
6 allows, doesn't allow, that was the legal
7 compliance or not. We played a video based on a
8 sound test that he himself attended.

9 CHAIRPERSON ANDERSON: All right. I'm
10 going to rule -- overrule the objection. If he
11 can answer it, he can answer. If he doesn't have
12 an answer, he doesn't have an answer. You can
13 answer the question, Mr. Nigussie.

14 MR. NIGUSSIE: Can you repeat the
15 question again? I'm sorry.

16 MR. STOECKLEIN: Yes. Mr. Nigussie,
17 are you -- can you please indicate what equipment
18 exists specifically on the DJ -- I'll call it, to
19 set up, the DJ booth. That's what we're speaking
20 about it as before. Can you indicate what
21 equipment exists to maintain sound levels at or
22 beneath the level mandated by the district's
23 ordinance?

24 MR. NIGUSSIE: There is some --

25 CHAIRPERSON ANDERSON: All right. I'm

1 not --

2 MR. STOECKLEIN: Okay. I'll rephrase
3 the question. I'll withdraw the question.

4 CHAIRPERSON ANDERSON: All right.

5 MR. STOECKLEIN: Are you aware that --
6 are you aware of the Noise Control Act in the
7 District of Columbia?

8 MR. NIGUSSIE: Well, I don't.
9 Specifically no.

10 MR. STOECKLEIN: Specifically, no.
11 Okay. Are you aware that the Noise Control Act,
12 that's the proper name for this provision of law,
13 prohibits establishments like yours from
14 exceeding the maximum limit of 60 decibels within
15 exterior walls? Are you aware of that?

16 MR. NIGUSSIE: You have --

17 CHAIRPERSON ANDERSON: All right.
18 Hold on. Hold on. All right. Let me go back to
19 the settlement agreement. Can you -- can -- I --
20 what controls the noise in this establishment,
21 sir, is the settlement agreement, okay?

22 I think -- so I'm going to -- so I --
23 if you're going to talk about noise, I need you
24 to go to the settlement agreement. Not because -
25 - that's not -- I don't -- that is not relevant,

1 at least for this hearing because --

2 MR. STOECKLEIN: Mr. Chairman --

3 CHAIRPERSON ANDERSON: -- I believe --

4 MR. STOECKLEIN: I'm sorry. I'm not
5 sure I understand. So the Noise Control Act,
6 which pertains to all ABRA licensed
7 establishments, doesn't apply in this case to Mr.
8 Nigussie's establishment for some reason? Is
9 that what I'm understanding?

10 CHAIRPERSON ANDERSON: I'm --

11 MR. STOECKLEIN: That I cannot speak
12 to him about the Noise Control Act?

13 CHAIRPERSON ANDERSON: I'm not sure
14 what Noise Control Act you're talking about, sir,
15 but I can only go back to the settlement
16 agreement and this settlement agreement controls
17 the noise in this establishment.

18 And if you review the settlement
19 agreement, which specific says what can -- that
20 noise should not be.

21 MR. STOECKLEIN: Mr. Chairman, I'm
22 citing to DC Code provision 25-725, the Noise
23 Control Act.

24 MR. BIANCO: Mr. Chairman --

25 MR. STOECKLEIN: I think that it's

1 applicable in --

2 MR. BIANCO: -- the specifics of my
3 objection is he's asking my lay witness about the
4 specifics of the DC Code.

5 MR. STOECKLEIN: Well, what I'd like
6 to know --

7 MR. BIANCO: And then -- Mr.
8 Stoecklein, I sat here and listened to your
9 objection, I will ask for the same courtesy.
10 Thank you.

11 My specific objection is that Mr.
12 Stoecklein continues to pursue a legal conclusion
13 from my client or lay witness. This is argument.
14 He's free to present argument in his closing
15 statement when he testifies. He's free to put
16 facts on the record.

17 What he should not be permitted to do
18 is to continually badger my client about his
19 knowledge of the law. It's not relevant.

20 MR. STOECKLEIN: Ignorance of the law
21 is never a defense, Mr. Bianco. I think we both
22 learned that in law school. I'm asking whether
23 Mr. -- I'm not asking Mr. Nigussie to opine on
24 whether 60 decibels, for example, is appropriate
25 or what levels might be, or what equipment will

1 achieve that.

2 I'm asking whether he is aware of the
3 laws that he is obliged to adhere to as an
4 operator of an establishment.

5 CHAIRPERSON ANDERSON: All right.
6 Okay. I'm going to -- all right. Hold on. Hold
7 on. I'm going to overrule the objection. If the
8 owner's aware, he can answer the question. If
9 he's not aware, let's move on. Are you able to
10 answer the question, sir?

11 MR. STOECKLEIN: Understood. Thank
12 you, Mr. Chair.

13 Mr. Nigussie, are you aware of the
14 Noise Control Act in the District of Columbia
15 which restricts the national allowable decibel
16 level in a club like yours to 60 decibels?

17 MR. NIGUSSIE: I can't say --

18 MR. STOECKLEIN: It's a yes or no
19 question, sir.

20 MR. NIGUSSIE: I'm not aware of this
21 law.

22 MR. STOECKLEIN: Okay. So if you're
23 not aware of this law, then how can we possibly
24 believe that you know whether or not the sound
25 being emitted by any of the speakers at any part

1 of your club, Sound Bar or otherwise, are
2 actually kept under the allowable limit specified
3 in the law?

4 MR. BIANCO: Objection --

5 MR. STOECKLEIN: If you don't even
6 know what the limit is how can we -- how can you
7 --

8 MR. BIANCO: Hang on. There's, like,
9 six questions here. Can we ask just one question
10 at a time?

11 CHAIRPERSON ANDERSON: What's the
12 nature of the objection? What's the nature of
13 the objection, Mr. Bianco?

14 MR. BIANCO: Multiply compound. I
15 would ask that he ask one question and get an
16 answer.

17 CHAIRPERSON ANDERSON: Fine. Mr.
18 Stoecklein, can you please ask the witness one
19 question at a time?

20 MR. STOECKLEIN: Absolutely.

21 CHAIRPERSON ANDERSON: Let's move on.

22 MR. STOECKLEIN: Mr. Nigussie, how can
23 you be sure that your sound system is operating
24 in compliance with the law that we just discussed
25 if you don't know what law -- what limits the law

1 prescribes?

2 MR. NIGUSSIE: You want me to answer?

3 MR. STOECKLEIN: Please, yes.

4 MR. BIANCO: If you can answer the
5 question, sir.

6 MR. NIGUSSIE: Okay. So the volume
7 control is not on the speakers. The volume
8 control is on the DJ mixer. So what we did is
9 that we turn up the volume all the way on the DJ
10 mixer, not on the speaker.

11 But by even listening to the music,
12 the music is too loud because I've been running
13 this business for almost three years and up to
14 right now, I know when the music is too loud.
15 And we --

16 MR. STOECKLEIN: When is that, Mr.
17 Nigussie? When --

18 CHAIRPERSON ANDERSON: Mr. Stoecklein,
19 can you let -- can you allow him to finish answer
20 the question, sir? He's not done. Just allow
21 him to answer the question. When he's done, you
22 can ask your other question, sir.

23 Go ahead, sir.

24 MR. NIGUSSIE: Then when we set the
25 volume all the way up on that mixer and it was

1 really loud, loud than usual. And we tested
2 outside the building after we closed the door.
3 That's what we did, sir.

4 MR. STOECKLEIN: Okay. So you know,
5 based on your ear, what is in compliance with the
6 law and what is not with respect to the sound
7 level? Is that what you're -- is that your
8 testimony?

9 MR. NIGUSSIE: Are you talking about
10 the DC Code provision you're --

11 MR. STOECKLEIN: Well, I just want --
12 I mean, I think I heard you testify that you have
13 -- you just -- you have an ear, you've developed
14 an ear for what is or not -- is not a legally
15 compliant noise level; is that correct?

16 MR. NIGUSSIE: They --

17 MR. STOECKLEIN: It's a yes or no, Mr.
18 Nigussie. Is that your testimony that you have
19 developed that sense with your own ear? I'll
20 withdraw the question. Mr. -- it's okay. Mr.
21 Nigussie, I'm --

22 MR. NIGUSSIE: If you can answer the
23 question, go ahead.

24 MR. STOECKLEIN: I'm withdrawing the
25 question, Mr. Nigussie. I'll move on. You

1 indicated that you did sound testing. Can you
2 tell me who specifically conducted that sound
3 testing?

4 MR. NIGUSSIE: It's myself and my
5 contractor.

6 MR. STOECKLEIN: Okay. And are you a
7 licensed sound engineer?

8 MR. NIGUSSIE: Am I?

9 MR. STOECKLEIN: Yes. Are you?

10 MR. NIGUSSIE: No, no.

11 MR. STOECKLEIN: Okay. And is your
12 contractor a licensed sound engineer?

13 MR. NIGUSSIE: He's not.

14 MR. STOECKLEIN: Okay. Do you have
15 any technical credentials related to noise
16 mitigation, acoustic engineering, or something
17 else that would be relevant to your technical
18 ability to measure sound levels?

19 MR. NIGUSSIE: No.

20 MR. STOECKLEIN: Okay. You indicated
21 that you used a phone app to measure sounds --
22 sound levels at your establishment. Can you tell
23 me how that phone app is calibrated?

24 MR. NIGUSSIE: That wasn't my phone
25 app, actually. That was my contractor's phone

1 app.

2 MR. STOECKLEIN: Interesting. Okay.
3 Can you tell me how your contractor's phone app -
4 - I would move to -- in light of Mr. Nigussie's
5 testimony, I would move to strike the previously
6 admitted exhibit which he purported to display a
7 screenshot of the sound app that he used from his
8 phone.

9 MR. BIANCO: The contractor's my next
10 witness.

11 MR. STOECKLEIN: My motion stands.

12 CHAIRPERSON ANDERSON: You have a
13 witness. Why don't you -- once the witness
14 testifies, I will reserve judgment --

15 MR. STOECKLEIN: Understood.
16 Understood, Mr. Chair. Okay. That's fine. Mr.
17 Nigussie, did you attend the February 16, 2022
18 ANC ABR committee meeting?

19 MR. NIGUSSIE: I don't know which
20 meeting you referring to.

21 MR. STOECKLEIN: So you indicated that
22 you attended -- I believe you indicated in your
23 testimony that you attended an ABR committee --
24 the ANC 1B, you know, ABRA committee, ABR
25 committee meeting.

1 MR. NIGUSSIE: Yes. Over video
2 conference, yes.

3 MR. STOECKLEIN: Yes. And my
4 understanding is that's the February -- that
5 there's one meeting a month, right? So my
6 understanding is that that was the February 16,
7 2022 meeting. Does that sound right to you?

8 MR. NIGUSSIE: I don't remember the
9 exact date, but there is one I attend, sir.

10 MR. STOECKLEIN: Okay. And at that
11 meeting, did you indicate that you were unaware
12 that your establishment had been operating on the
13 first floor for some period of time?

14 MR. NIGUSSIE: I don't recall what I
15 said on that meeting sir, you're referring to.

16 MR. STOECKLEIN: Okay. So then is it
17 your -- so you do not recall indicating to the
18 members of the ABR committee on February 16th --

19 MR. BIANCO: Objection --

20 MR. NIGUSSIE: -- that --

21 MR. BIANCO: Asked and answered.

22 CHAIRPERSON ANDERSON: Sustained.

23 Let's move on, sir. He said he doesn't recall,
24 so I'm not sure -- if you have evidence to --

25 MR. STOECKLEIN: I do.

1 CHAIRPERSON ANDERSON: -- refresh his
2 recollection, then let's have the evidence
3 refresh his recollection, sir.

4 MR. STOECKLEIN: Okay. We'll take a
5 few minutes to -- that's actually the rebuttal
6 testimony that I indicated the fourth witness
7 would be able to speak to, so we'll have the --
8 I'll have to circle back to that --

9 CHAIRPERSON ANDERSON: And I think --
10 I'm not quite sure of how that's relevant. I
11 mean, the --

12 MR. STOECKLEIN: I'd like to prove
13 that Mr. Nigussie is, in many instances, quite
14 frankly, to put it blankly, about -- just about
15 everything. So I have evidence to -- I have
16 testimony that I can offer from several witnesses
17 that were at the meeting who can tell you that,
18 in fact, Mr. Nigussie did claim that he was
19 unaware that the first floor was operating.

20 CHAIRPERSON ANDERSON: As of what
21 date? As stated earlier in his investigative
22 reports, the ABC Board issued a warning, I think,
23 in February -- the date in February. So this --
24 we've established that as of, I think, February
25 16, 2022, he was aware that he was operating the

1 first floor illegally.

2 MR. STOECKLEIN: Yes. And I'm
3 suggesting that prior to that date, he indicated
4 to the committee, it's my understanding, but I --
5 again, I would --

6 CHAIRPERSON ANDERSON: I mean, he can
7 state whatever he wanted, but at least the record
8 indicates that on February 16, 2022, the ABC
9 Board issued him a warning.

10 So as of February -- if he stated on
11 February the 20th that he was not aware, we can
12 have an argument. But we don't really need to
13 establish whether or not he was aware prior to
14 February 16 because, since he was issued a
15 warning by the Board, he was aware as of February
16 16th.

17 MR. STOECKLEIN: Right. I agree with
18 that and I'm suggesting that -- okay. I'll come
19 back to that if we have time, Chair.

20 Mr. Nigussie, do -- can you tell me
21 when the Sound Bar first -- when you first
22 commenced operations on the first floor of your
23 establishment?

24 MR. NIGUSSIE: Say -- what was the
25 question again? I'm sorry. I missed it.

1 MR. STOECKLEIN: What was the date
2 upon which you first commenced or became aware of
3 operations commencing on the first floor of your
4 establishment?

5 MR. BIANCO: Mr. Anderson, I'm going
6 to object here. We discussed earlier the fact
7 that there is an unadjudicated violation. A
8 hearing's not been held.

9 And I know we've been very careful to
10 dance around this issue, but I don't want to get
11 into any issue that could put my client in a
12 position to have to testify as something that's
13 an issue in the show cause.

14 MR. STOECKLEIN: This speaks -- I
15 mean, this -- the show cause is on the period of
16 time following the warning. This speaks to -- my
17 line of questioning speaks to Mr. Nigussie's
18 underlying credibility as a witness.

19 I'd like to know whether he was --
20 what he says he was or wasn't aware of during the
21 roughly four month span during which Sound Bar
22 was operating.

23 MR. BIANCO: Mr. Anderson, this
24 doesn't have anything to do with the
25 appropriateness of the request that's before the

1 Board. I understand that Mr. Stoecklein wants to
2 try and impeach the credibility of my client, I
3 get that.

4 I've given some latitude on that and
5 what my only objection is, is on the issue of
6 forcing my client to testify on an unadjudicated
7 violation that's coming up for a hearing, is not
8 appropriate, especially where it is more
9 prejudicial than probative.

10 CHAIRPERSON ANDERSON: I'm going to
11 sustain the objection. And let the record
12 reflect that a warning was issued on -- by the
13 ABC Board, it's in the investigative history, on
14 -- and let me -- all right. Let me -- rather
15 than me give in, let me go back to the report
16 itself. Hold on please.

17 In the report -- the case report,
18 which is a part of the record and in the
19 investigative history, Case number 22CMP00 -- I'm
20 sorry. Hold on. In Investigative History number
21 4, Case 21, CMP00082 expanded its operation to
22 the first floor without approval.

23 On January 26, 2022, the Board issued
24 a warning. Let the record reflect. As of, the
25 Board issued a warning to the applicant on

1 January 26, 2022 about expansion of its operation
2 in the first floor.

3 That's already established because a
4 warning was issued. I'm not quite sure how much
5 more relevant it is for us to further explore
6 this issue.

7 MR. BIANCO: Okay.

8 CHAIRPERSON ANDERSON: That is not
9 relevant moving forward. We are aware that --
10 and the Agency's aware and that is why we issued
11 a warning to him on January 26, 2022 about
12 expanding the operation on the first floor.
13 Let's move on.

14 MR. STOECKLEIN: Mr. Chairman, can --
15 is there any period of time that I'm -- during
16 which -- over the four-month span during which
17 Sound Bar was in operation that I'm allowed to
18 inquire with Mr. Nigussie about his knowledge or
19 his involvement or is that all off limits?

20 CHAIRPERSON ANDERSON: But why is that
21 relevant, sir? We have already established that
22 he was operating the first floor as the Board
23 issued a warning on -- the Board issued a warning
24 on Case 21 CMP00082, was generated on December
25 16, 2021, on January 22nd, on January 26, 2022,

1 the Board issued a warning, right? So --

2 MR. STOECKLEIN: Mr. Chairman, I
3 understand. I think that it's relevant and I
4 would hope that the Board would agree --

5 MR. BIANCO: What is relevant, sir?
6 We have already established that on -- we -- that
7 our -- one of our investigators went to the
8 establishment on January -- on December 16, 2020
9 --

10 MR. STOECKLEIN: Yes, I know that. I
11 understand that, Mr. Chairman. And what I'm
12 trying to demonstrate is a persistent pattern of
13 disregard for every -- nearly every rule that
14 ABRA is responsible for enforcing and every
15 issuance or citation or warning that you have
16 issued to Mr. Nigussie, he's continued to ignore
17 it.

18 And I have evidence indicating that
19 even following the warning, Mr. Nigussie was
20 intimately involved with the operation of the
21 club. He continued to be aware of --

22 CHAIRPERSON ANDERSON: If there are
23 other cases on his investigative history that
24 have not been adjudicated, that the Board will
25 make a decision. The Board could determine that

1 that was not true. I don't know. All right.

2 But I think that this is not an
3 appropriate -- this is not an appropriate --
4 let's move on from here, sir. I've sustained the
5 objection. Let's move on.

6 This is of the appropriateness of
7 expanding of -- whether or not the Board, excuse
8 me, should issue a substantial change for him to
9 operate on the first floor.

10 It has been established that he was
11 operating on the first floor and the Board issued
12 him a warning in January. That already is
13 established. Let's move on from there.

14 MR. STOECKLEIN: Okay. Mr. Nigussie,
15 do you allow smoking to occur inside your club?

16 MR. NIGUSSIE: I do not.

17 MR. STOECKLEIN: Does smoking occur
18 inside your club even though it's not allowed?

19 MR. NIGUSSIE: Not that I'm aware of.
20 We don't allow any smoking here.

21 MR. STOECKLEIN: Are your security
22 personnel instructed to -- what are your security
23 personnel instructed to do if they see someone
24 smoking inside your club?

25 MR. BIANCO: I'm going to object as to

1 relevance on smoking. I don't see what this has
2 to do with anything.

3 CHAIRPERSON ANDERSON: I am going to
4 sustain the objection. The ABC Board does not
5 regulate smoking as an establishment. That is
6 regulated by Department of Health. It's -- so
7 therefore --

8 MR. STOECKLEIN: Mr. Chair, one of the
9 other Board members, it's my recollection,
10 specifically inquired about this -- applicability
11 of the smoking statutes to make an --

12 CHAIRPERSON ANDERSON: And I know,
13 sir. And I but what I'm trying to say to you is,
14 sir, a Board member can ask a question, but I'm
15 the Board chair and I'm saying to you, we do not
16 regulate smoking or hookah in an establishment.

17 And so therefore, we're not going to
18 have any testimony regarding any type of smoking
19 in this ABC establishment because this is not
20 something that we regulate, okay?

21 MR. STOECKLEIN: All right. I --

22 CHAIRPERSON ANDERSON: It's not -- we
23 do not regulate that, so therefore, we're not
24 going to have testimony on that issue. If you --
25 if there are --

1 MR. STOECKLEIN: Mr. Chair, for the
2 record, I would respectfully request that my
3 objection be recorded on the basis that there is
4 applicable DC circuit law that --

5 CHAIRPERSON ANDERSON: All right.
6 There is -- sir -- let me say this to you, sir,
7 okay? We do not regulate that. The most recent
8 court case regarding this issue. We do not
9 regulate and we made no decisions on the
10 operation of smoking in an ABC establishment. We
11 --

12 MR. STOECKLEIN: I'm absolutely aware
13 of that.

14 CHAIRPERSON ANDERSON: By the Office
15 of Attorney General. And so therefore, we do not
16 make decisions and we no longer opine on smoking
17 or hookah in the establishment. This is not an
18 area that we regulate and so therefore, you need
19 to address that with the appropriate agency,
20 ABRA.

21 MR. STOECKLEIN: And in order to do
22 that, Mr. Chairman, I'd like to just renew my
23 objection for the record and I will gladly move
24 on.

25 CHAIRPERSON ANDERSON: Yes, sir. And

1 your objection is for the record and I've
2 overruled it. I'm sorry -- I've overruled the
3 objection --

4 MR. STOECKLEIN: Understood.

5 CHAIRPERSON ANDERSON: -- for the
6 record.

7 MR. STOECKLEIN: I will move on, Mr.
8 Chairman.

9 CHAIRPERSON ANDERSON: Let's move on,
10 yes.

11 MR. STOECKLEIN: Understood.

12 Mr. Nigussie, what is the total square
13 footage of your establishment currently?

14 MR. NIGUSSIE: I got to find out. I
15 don't exactly know the square feet.

16 MR. STOECKLEIN: Is it approximately
17 -- would you -- are you aware whether it is in
18 excess of 3,000 square feet or not, if you'll put
19 all three levels?

20 MR. NIGUSSIE: I can't say. I don't
21 want to speculate.

22 MR. STOECKLEIN: Are you aware that a
23 facility, a commercial building, in access of
24 3,000 fees required to provide all street private
25 parking for its customers?

1 MR. NIGUSSIE: You said private
2 parking?

3 MR. STOECKLEIN: Yes.

4 MR. NIGUSSIE: I'm not aware of that.

5 MR. STOECKLEIN: Okay. And do you
6 provide any parking for your customers as it
7 stands today?

8 MR. NIGUSSIE: We do not.

9 MR. STOECKLEIN: Okay. You indicated
10 that you have no other co-owners; is that
11 correct? At Empire?

12 MR. NIGUSSIE: You said --

13 CHAIRPERSON ANDERSON: I didn't hear
14 the question, sir. And I think he's having a
15 problem. So I did not understand the question
16 you were asking.

17 MR. STOECKLEIN: Was it your testimony
18 that you do not have any other co-owners in
19 Empire?

20 MR. NIGUSSIE: That is correct.

21 MR. STOECKLEIN: Do you know a
22 gentleman named Keayon Kassem?

23 MR. NIGUSSIE: Yes.

24 MR. STOECKLEIN: Do you know why this
25 individual would have reached out to the

1 Westminster Neighborhood Association in early
2 June of this year and represent himself as a
3 partner of Empire?

4 MR. NIGUSSIE: I don't know.

5 MR. STOECKLEIN: Okay. Mr. Chairman,
6 I know that you were explicit about our time
7 restrictions and that each party would have an
8 hour left. Would it be possible to find out how
9 much time I have remaining?

10 CHAIRPERSON ANDERSON: I have not been
11 keeping track, sir. But, you are -- yes.

12 MR. STOECKLEIN: Okay. I will -- I'm
13 going --

14 CHAIRPERSON ANDERSON: I'm being
15 judicious in the sense that I'm counting your
16 time for -- when you present your actual case and
17 not necessarily using time against you for you to
18 do cross-examination because I think it's more
19 appropriate for you to do direct testimony. So
20 I've not been keeping track of --

21 MR. STOECKLEIN: I just wanted to be
22 respectful of your -- the requirements, Mr.
23 Chairman, so I appreciate that. And I'm
24 finishing up with the witness momentarily.

25 Mr. Nigussie, are you aware that

1 you're under oath today?

2 MR. NIGUSSIE: Yes.

3 MR. STOECKLEIN: And do you understand
4 it's a crime to lie under oath?

5 MR. BIANCO: I'm going to object.
6 This is not relevant to anything. Can we wrap
7 this up, please?

8 CHAIRPERSON ANDERSON: I don't know
9 where he's going, but what -- was -- what -- is
10 there a question pending?

11 MR. STOECKLEIN: Oh, there -- yes,
12 they are and it specifically pertains to Mr.
13 Nigussie testimony about me. And so I would
14 appreciate some latitude to explore the multiple
15 assertions made about my actions within the bar,
16 my assertions at the bar, et cetera.

17 CHAIRPERSON ANDERSON: You are -- sir,
18 he testified. You're asking questions on cross-
19 examination. You're welcome to ask questions on
20 cross-examination, sir.

21 MR. STOECKLEIN: Mr. Nigussie?

22 MR. NIGUSSIE: Yes.

23 MR. STOECKLEIN: Do you have any
24 evidence to support any of your claims regarding
25 alleged threats or to verify any of the alleged

1 contents of the exchange, the conversation that
2 you and I had on the evening that -- portrayed in
3 the video? I don't have the date in front of me,
4 I'm sorry, but --

5 MR. NIGUSSIE: Yes, I do have a
6 witness, actually.

7 MR. STOECKLEIN: I'm sorry? You have
8 a witness who can --

9 MR. NIGUSSIE: Yes.

10 MR. STOECKLEIN: Are we hearing from
11 that -- have we heard from that witness or --

12 MR. NIGUSSIE: Not yet.

13 MR. STOECKLEIN: Okay. You know who
14 I am, right, Mr. Nigussie? And I think it's
15 abundantly clear to everybody that we know each
16 other, right? We've interacted over a period of
17 several years now; is that correct?

18 MR. NIGUSSIE: Yes, I know you.

19 MR. STOECKLEIN: Yes. Do you know the
20 difference between the FBI and the SBA?

21 MR. NIGUSSIE: I don't know what SBI
22 is, but I know what CBA is.

23 MR. STOECKLEIN: I'm sorry, I'm not
24 sure I understood your answer. Could you just
25 repeat it again for me, please?

1 MR. NIGUSSIE: Yes, I don't know what
2 a CBI is, but I don't know -- I know what a CBA
3 is.

4 MR. STOECKLEIN: I'm not sure that I
5 asked either of those, but I just want to be --
6 just be clear here. So the Federal Bureau of
7 Investigation, the FBI, is a federal agency.

8 And I'm asking you whether you know
9 the difference between the Federal Bureau of
10 Investigation and the Small Business
11 Administration, the SBA?

12 MR. NIGUSSIE: Yes, I know the
13 difference.

14 MR. STOECKLEIN: Okay. And is it
15 possible -- and you are aware that I'm an
16 attorney, correct? And that -- correct?

17 MR. NIGUSSIE: I wasn't aware.

18 MR. STOECKLEIN: Okay. And, you know
19 --

20 CHAIRPERSON ANDERSON: He's aware that
21 you are an attorney, Mr. Stoecklein, so are you -
22 - I wasn't aware prior to hearing that you're an
23 attorney so -- okay.

24 MR. STOECKLEIN: And are you -- at any
25 point in our two years of interacting together,

1 Mr. Nigussie, have you had any reason to believe
2 that I am an agent of the FBI?

3 MR. NIGUSSIE: That's what you told
4 me, sir. I don't have any choice but to believe
5 what you told me.

6 MR. STOECKLEIN: Mr. Nigussie, do you
7 think that it's possible, particularly given the
8 noise that we've all discussed in your
9 establishment, that you may have misunderstood
10 what was being said?

11 MR. NIGUSSIE: Sir, I remember what I
12 heard and I'm very clear. It wasn't that loud.

13 MR. STOECKLEIN: Okay. Well, Mr.
14 Chair, I'm not sure how to do this because
15 there's nobody else that's here on my side to
16 actually cross-examine me. So I don't know if
17 it's appropriate for me to make a statement or
18 how --

19 CHAIRPERSON ANDERSON: As an attorney,
20 sir -- as you've said, you're an attorney, it's
21 not appropriate for you to make a statement, sir,
22 unless you're going to testify later on. So if
23 you're going to testify --

24 MR. STOECKLEIN: I'm not sure how to
25 direct myself, Mr. Chairman --

1 CHAIRPERSON ANDERSON: Well, then you
2 can -- I can swear you in later on if you want to
3 testify, sir, or you want to give a statement. I
4 can swear you in and you can give a statement and
5 then Mr. Bianco will cross-examine you.

6 MR. BIANCO: And, Mr. Anderson, just
7 as a procedural point, I understood that Mr.
8 Stoecklein was a representative for WNA and a
9 witness. I didn't see that he had entered an
10 appearance, and I understand he is an attorney,
11 but I didn't understand that he was the attorney
12 in this --

13 MR. STOECKLEIN: That is correct. No.
14 You're -- that's right. Mr. Bianco, that's
15 correct. I am not representing WNA in my
16 capacity as an attorney. I just happen to be an
17 attorney.

18 MR. BIANCO: Yes, that's my
19 understanding.

20 MR. STOECKLEIN: Yes.

21 MR. BIANCO: I appreciate you
22 clarifying that. Thank you.

23 MR. STOECKLEIN: Which is an important
24 distinction and I appreciate --

25 MR. BIANCO: Yes, I --

1 MR. STOECKLEIN: I appreciate that.

2 MR. BIANCO: Yes. Absolutely.

3 MR. STOECKLEIN: Mr. Nigussie, you
4 indicated in your statement to Inspector Glasgow
5 that you -- please correct me if I'm wrong --
6 that you faced threats of physical violence; is
7 that accurate? That's your statement? From me?

8 MR. NIGUSSIE: Yes. That I was
9 referring to -- I was referring to the way you
10 were pointing fingers to my face while you were
11 talking. That's what I was referring to. I
12 wasn't referring to the fact that -- I didn't
13 say, you personally hit me. That's the violence
14 I was afraid of.

15 MR. STOECKLEIN: So point -- so when
16 you use the phrase physical violence, you mean me
17 pointing at you?

18 MR. NIGUSSIE: That is correct.

19 MR. STOECKLEIN: Okay. I'm glad we've
20 clarified that. And so notwithstanding the
21 significant threat or physical violence that you
22 felt from my finger pointing, is it accurate that
23 you, nonetheless, did invite me upstairs so that
24 we can have a conversation in quiet; is that
25 correct?

1 MR. NIGUSSIE: Yes. I invite you
2 upstairs and we went downstairs.

3 MR. STOECKLEIN: Right. I remember.
4 I remember. I know. So you developed a threat
5 of physical violence from my finger, but you --
6 but it was not so significant that you felt
7 uncomfortable going upstairs with me and having a
8 private conversation together; is that correct?

9 MR. NIGUSSIE: Not just your finger,
10 sir. The whole demeanor, your anger, your
11 agitation, the whole thing is -- it was a big
12 threat to me. That's what I was referring to.

13 MR. STOECKLEIN: Okay. Mr. Nigussie,
14 are you aware that it's illegal to withhold tips
15 from employees?

16 CHAIRPERSON ANDERSON: All right.
17 Okay. Mr. Stoecklein. All right. All right. I
18 have been more than reasonable. I should have
19 been counting your cross-examination against your
20 time. I have not been doing that, sir. I need
21 you to wrap up, sir. We're going to --

22 MR. STOECKLEIN: And I'm just trying
23 to be responsive to extensive --

24 CHAIRPERSON ANDERSON: And I'm saying
25 to you Mr. -- this is a hearing on the

1 appropriateness of whether the Board should issue
2 a substantial change for the first floor. We are
3 not going to have any evidence or any testimony
4 on withholding tips, okay?

5 MR. STOECKLEIN: I disagree, Mr.
6 Chairman. But what this -- I apologize.

7 CHAIRPERSON ANDERSON: I'm not going
8 there, sir. I need you to -- we're going to put
9 -- this is not relevant to what -- to our
10 decision, sir. And so I need you to --

11 MR. STOECKLEIN: I understand, Mr.
12 Chairman, but --

13 CHAIRPERSON ANDERSON: -- your cross-
14 examination on relevant issue to the Board. If
15 you want to maintain the Board's attention, you
16 need to provide relevant cross-examination. This
17 is the issue -- Mr. Nigussie is directed -- on
18 his direct examination he stated that's his
19 position.

20 That's not necessarily relevant to the
21 decision that the Board needs to make today. And
22 so therefore, I need you, sir, to ask relevant
23 questions that will help this Board to make a
24 determination.

25 If you're going to cross-examine him,

1 it's on issues that are relevant, that's going to
2 enable this Board to make a decision.

3 And I believe that -- to help your
4 case, I need you to present witnesses whose --
5 who are going to provide us direct -- the --
6 direct evidence on whether or not it is
7 appropriate for this Board to issue the
8 substantial change.

9 MR. STOECKLEIN: Okay. I understand,
10 Mr. Chair.

11 CHAIRPERSON ANDERSON: You're going
12 over a thousand questions. You cross-examining
13 this licensee, it is not helpful to the Board,
14 sir. It's not helpful for the Board. And I'm
15 asking you --

16 MR. STOECKLEIN: Your point is taken,
17 Mr. Chairman. I'll move on. And I'm -- and I
18 will -- there's two more questions --

19 CHAIRPERSON ANDERSON: I think about
20 ten minutes ago, you had stated that -- when you
21 asked for time, I thought you were wrapping up
22 because if I was keeping time, you would have
23 exceeded the time for you to present your case
24 and you would not present a case today because
25 you'd have exceeded your hour.

1 MR. STOECKLEIN: Understood, Mr.
2 Chairman. Shall I terminate my questioning of
3 Mr. Nigussie in that matter, in that case?

4 CHAIRPERSON ANDERSON: This what I'm
5 going to do, sir. I'm going to put my clock on
6 and I'm going to start keeping time of how much
7 time you have. And that's going towards the hour
8 that you have to present your case.

9 MR. STOECKLEIN: I understand, Mr.
10 Chairman.

11 CHAIRPERSON ANDERSON: So you can
12 decide what you want to do first. I'm not going
13 to -- if you want to continue asking questions,
14 you can do that.

15 But I'm now putting you on notice that
16 I'm now putting you on a timer regarding the one
17 hour that you have to present your case. And the
18 amount of time you spend cross-examination will
19 be subtracted from your time, okay? Move --

20 MR. STOECKLEIN: Duly noted, Mr.
21 Chairman.

22 CHAIRPERSON ANDERSON: Moving --
23 starting now. Okay.

24 MR. STOECKLEIN: Mr. Nigussie, did you
25 -- have you -- at any point in the past six

1 months, have you spoken with the third district
2 commander at MPD regarding -- let me withdraw
3 that question and rephrase.

4 Mr. Nigussie have you had occasion to
5 speak with the third district MPD commander at
6 any point in the past six months?

7 MR. NIGUSSIE: I don't recall, sir.

8 MR. STOECKLEIN: Do you know --
9 referred -- have you interacted at all with
10 Commander James Boteler of the Third District?

11 MR. NIGUSSIE: I don't recall,
12 honestly.

13 MR. STOECKLEIN: Okay. And so is it
14 accurate that you do not recall -- that you do
15 not recall a conversation between Ms. -- between
16 -- with Commander Boteler regarding an ATV rally
17 that was being advertised at your establishment?

18 MR. BIANCO: I'm going to object.
19 That has been now asked and answered for a third
20 time.

21 CHAIRPERSON ANDERSON: Sustained.

22 MR. STOECKLEIN: Okay. No further
23 questions.

24 CHAIRPERSON ANDERSON: Any questions
25 by Board members?

1 MEMBER SHORT: Mr. Short has a
2 question.

3 CHAIRPERSON ANDERSON: Go ahead, Mr.
4 Short.

5 MEMBER SHORT: To Mr. -- the licensee.
6 Good afternoon, sir.

7 MR. NIGUSSIE: Good afternoon, sir.

8 MEMBER SHORT: Okay. Not a problem.
9 Yes. Mr. Nigussie?

10 MR. NIGUSSIE: Yes.

11 MEMBER SHORT: Mr. Nigussie, on one of
12 the exhibits that was displayed, there were two
13 vehicles on the rear, close to the exit from the
14 second floor and, of course, the exit on the
15 first floor. Do you know whose vehicles those
16 were?

17 MR. NIGUSSIE: I believe you're
18 referring to the car -- the two car park at the
19 rear of the building?

20 MEMBER SHORT: That's correct.

21 MR. NIGUSSIE: That must be my car and
22 my employee car.

23 MEMBER SHORT: Okay. So when your
24 business is open, you don't park back there, do
25 you?

1 MR. NIGUSSIE: No. No. Well, we --
2 when we are open we don't park there.

3 MEMBER SHORT: Okay. That's a fair
4 question. Now, the gate that leads to the alley,
5 is there something in your security plan or
6 something in your operational plans that says if
7 there's an incident on 9th Street and it is
8 impossible to get out of that front door and you
9 had to get all three floors if this -- if you
10 actions is just permitted to happen and no cars
11 at the back there, who opens the gate to the
12 alley? And how long does that take for that to
13 go in operation?

14 MR. NIGUSSIE: There is a door, but
15 when business is operational, we usually -- we
16 don't lock the alley door. We just locked the
17 building door. I don't understand --

18 MEMBER SHORT: So explain to me again.
19 And I'll tried to ask this question as slowly as
20 possible so that you can understand what I'm
21 saying. Now, this -- let's hypothetically say
22 your businesses is open. It's 1:00 in the
23 morning on a Saturday night or early Sunday
24 morning.

25 And there's an incident on 9th Street,

1 maybe a shooting or maybe a fire, neighbor, what
2 -- and it becomes impossible for you to allow
3 your patrons to stay in and they all have to
4 exit, all 125 of them, out of the rear exits from
5 the second floor and from the first floor. What
6 happens and who has the key to the gate in the
7 back if there's an incident such as I described?

8 MR. NIGUSSIE: We do not lock the
9 door, sir. The pedestrians can exit at the back
10 door, actually.

11 MEMBER SHORT: So I'm not talking
12 about the rear door itself from the first floor
13 or from the second floor. I'm speaking of the
14 wooden gate that leads to the alley. Who's
15 responsible --

16 MR. NIGUSSIE: There is a --

17 MEMBER SHORT: Go ahead.

18 MR. NIGUSSIE: Sorry. I'm sorry to
19 interrupt you. There is a gate to the alley
20 fence. That gate is usually open on the -- when
21 the business is operational. We don't lock it.

22 MEMBER SHORT: So anytime the
23 investigator would have come and go through your
24 back door and to the gate, it would be open; is
25 that correct?

1 MR. NIGUSSIE: That is correct.

2 MEMBER SHORT: So would that be a part
3 of your plan that you're going to submit to the
4 Agency and make sure that there are no parking
5 signs back there while business is going on?

6 MR. NIGUSSIE: Yes.

7 MEMBER SHORT: Because sometimes
8 things can happen and you forget to move your car
9 if you're there during the day. But is there any
10 way that this Board or the -- our Agency, ABRA,
11 can be assured no one's going to park back there
12 and that the gate can be opened and accessible
13 for people to exit from your property into the
14 alley or wherever else they have to go?

15 Because if your car is back there and
16 people are trying to leave, it's going to be
17 almost impossible to get 125 people down the
18 steps from the second floor or from the first
19 floor.

20 Because we saw you in the video, when
21 you opened the door and walked out and they were
22 two vehicles back there, one of them being yours,
23 as you just testified, it would be kind of hard
24 for people to exit there; wouldn't it be?

25 MR. NIGUSSIE: I believe you're right,

1 sir.

2 MEMBER SHORT: So are there any signs
3 going to placed out there? Should you -- well,
4 actually the sign should be there whether you get
5 the first floor or not.

6 Because when people come down from the
7 second floor and the cars are there and the cars
8 are between the wooden gate and -- to exit into
9 the alley -- so how often do you park back there?

10 MR. NIGUSSIE: That is -- I don't know
11 if you notice on the picture, from second floor
12 to the alley door, there is the stairs that
13 doesn't even park to the left of the car, there's
14 a stairs that leads -- to the outside alley door.

15 MEMBER SHORT: Okay. Well, I did
16 observe that, so yes, I look very closely at
17 that. I looked -- when you left the first floor,
18 with the sound video and all that was played by
19 your attorney, when you walked out of that door,
20 I can see the steps to your left coming from the
21 second floor.

22 MR. NIGUSSIE: Right, right.

23 MEMBER SHORT: But also I saw that the
24 vehicles extended past those steps. Is it any
25 way possible we can ask your attorney to put that

1 video on again and show --

2 Mr. Chair, can we ask the attorney to
3 -- Mr. Bianco to show that video again so I can -
4 - the -- I can positively identify what I'm
5 addressing when I'm talking about the vehicles
6 parked in the rear and the access to the alley?

7 MR. NIGUSSIE: Right.

8 MEMBER SHORT: Can I request that?
9 Okay.

10 MR. BIANCO: It should be on the
11 screen right now. Do you need the sound on or
12 you just want to see it.

13 MEMBER SHORT: No, the sound won't
14 matter. I just want to see Mr. --

15 MR. BIANCO: Okay.

16 MEMBER SHORT: -- Nigussie go to the
17 back door. Can you backup a little bit more just
18 before we go -- okay. Right -- hold it right
19 there. Mr. Nigussie, is there -- required by law
20 for you to have an exit sign over that door?

21 MR. NIGUSSIE: Yes.

22 MEMBER SHORT: Is there an exit sign
23 over that door?

24 MR. NIGUSSIE: No. We got to -- we're
25 going to finish that. It's not complete.

1 MEMBER SHORT: Okay. And I can see
2 that you have a turn notch at the top of that
3 door or were -- opposed to your head at the door
4 level. Is that legal, or is that the way it's
5 going to be when you have people there --

6 MR. NIGUSSIE: No.

7 MEMBER SHORT: -- or is there going to
8 be some kind of mechanism on the door where
9 people can get out. It's -- they call that panic
10 hardware in the safety business. So that door
11 would have to have that kind of panic hardware on
12 it. It would have -- has -- also has some other
13 things happen.

14 But let's continue the video, please.
15 Stop right there. Now, I'm looking at the
16 stairways. I'm looking at your vehicle and I'm
17 looking at you coming out. So again, are there
18 any No Parking signs while the business is going
19 on back there?

20 MR. NIGUSSIE: No. But we can do
21 that.

22 MEMBER SHORT: You can do that?

23 MR. NIGUSSIE: Yes.

24 MEMBER SHORT: Okay. I just wanted to
25 point those things out, Mr. Chairman. And again,

1 for the record, that exit is going to be very
2 important even before -- if this wish is granted
3 for -- this application for the first floor is
4 granted.

5 Those airways and that rear exit door
6 are going to have to be very accessible should
7 something unfortunately or unforeseen happen on
8 9th Street.

9 That's all I have, Mr. Chair. Thank
10 you very much.

11 CHAIRPERSON ANDERSON: Is there any
12 other questions --

13 Mr. Bianco, please turn off your
14 screen, sir.

15 Any other question by any of the Board
16 -- any of the Board members? Yes, Mr. Grandis.

17 MEMBER GRANDIS: Mr. Nigussie, thank
18 you. How long have you had this --

19 CHAIRPERSON ANDERSON: Mr. Grandis,
20 your volume is very low, sir.

21 MEMBER GRANDIS: That better?

22 CHAIRPERSON ANDERSON: It's -- I don't
23 know why your volume is so low.

24 MEMBER GRANDIS: 84 out of 88. Is
25 this any better?

1 CHAIRPERSON ANDERSON: It is a little
2 better. Go ahead, sir.

3 MEMBER GRANDIS: That's all.

4 CHAIRPERSON ANDERSON: Hold on. Mr.
5 Short, can you please adjust your -- I know you
6 have switched equipment, so we can't see your
7 face, so -- yes, that's better. Go ahead.

8 MEMBER SHORT: I'm on my phone, Mr.
9 Chair. Please forgive me, but the -- my laptop,
10 unfortunately for me, it's dead again today, so
11 hopefully my phone will be a lot better off than
12 -- and I'll tried the best I can keep to my face
13 on the screen. Thank you, sir.

14 CHAIRPERSON ANDERSON: All right. Go
15 ahead.

16 MEMBER GRANDIS: Thank you. Mr.
17 Nigussie, how long have you been having a lease
18 at this particular building?

19 MR. NIGUSSIE: Since -- we had it
20 since 2019.

21 MEMBER GRANDIS: 2019. And did that
22 lease include the first floor, second floor,
23 third floor, and the roof?

24 MR. NIGUSSIE: That is correct.

25 MEMBER GRANDIS: So you have a lease

1 for the roof as well?

2 MR. NIGUSSIE: I -- well, we never we
3 never open the room, but yes.

4 MEMBER GRANDIS: And when did you make
5 the -- you know, the changes that we saw in the
6 video of what the first row currently looks like,
7 did you do that, or a prior tenant do that?

8 MR. NIGUSSIE: We did that. We did
9 ourselves. Yes, I did that.

10 MEMBER GRANDIS: You did that. Okay.
11 And I noticed that, and we've already brought it
12 up, there's a DJ booth on in -- on that level. I
13 think we've heard testimony today regarding the
14 settlement agreement that talks about the DJ
15 booth would be on the second floor.

16 So could you help me understand in the
17 context of wanting to expand to the first floor
18 what your business plan is for the first floor,
19 since you do seem to have a DJ booth down there?

20 MR. NIGUSSIE: Yes. On the first
21 floor, I will love to have DJ stand, hoping that
22 we have different customers who has different
23 taste to different music.

24 The second floor -- if we can play
25 some, like, hip-hop on the second floor, we can

1 play some other type of music on the first floor.

2 That's my hope. So that's why it's --

3 (Simultaneous speaking.)

4 MR. NIGUSSIE: -- designed, yes.

5 MEMBER GRANDIS: Thank you. But your
6 current settlement agreement, I believe, states
7 that a DJ can only be on the second floor. So
8 are you entering into negotiations to update your
9 settlement agreement?

10 MR. BIANCO: Mr. Grandis, if I could
11 just interject for a moment. I'll let him answer
12 the question to the extent that he can. But what
13 I -- what we had planned to do going forward is
14 most likely be seeking some relief to the award
15 on the interpretation issue of the applicability
16 of the DJ clause to the first floor. And I would
17 note it's in the record somewhere in connection
18 with this request.

19 There was some back-and-forth with the
20 Agency about the applicability of the first
21 floor, the settlement agreement to the first
22 floor, and what was prohibited and what was not.

23 So I think my point is, legally, my
24 position is it's an open issue and we'll likely
25 have to seek some decision or relief on it. But

1 I'm not objecting to your question. He can
2 testify as to what his plan is physically for the
3 space.

4 MEMBER GRANDIS: Mr. Bianco, I
5 appreciate your advice to the Board, but I don't
6 know if it's an open question. Let's move
7 forward. So let's just say, in your business
8 plan, you plan to have a DJ on that new first
9 floor if you can expand there, correct?

10 MR. NIGUSSIE: That is correct.

11 MEMBER GRANDIS: And you plan to
12 continue having a DJ on the second floor because
13 I think I heard you say that individuals have
14 different taste in music?

15 MR. NIGUSSIE: That is correct.

16 MEMBER GRANDIS: So does your business
17 plan have a vision to come back to the Board to
18 raise the occupancy because I think I heard your
19 attorney address that earlier, saying that DCRA
20 can give you occupancy loads to each of the
21 floor?

22 So is that part of your business plan,
23 to come back to the Board to raise your occupancy
24 level?

25 MR. NIGUSSIE: No, sir.

1 MEMBER GRANDIS: Mr. Bianco, is it no?

2 CHAIRPERSON ANDERSON: He said that --
3 he said no. He's not -- he doesn't have any plan
4 to come back to the Board to raise his occupancy.
5 He answered the question, sir.

6 MEMBER GRANDIS: And if you were to do
7 that, make some kind of these type of changes,
8 that could have also require perhaps placarding,
9 but that's another issue down the road.

10 Does your business plan have, in your
11 planning, to do any activity on the roof?
12 Because I heard earlier today that someone notice
13 something like a rooftop -- something on the
14 rooftop.

15 So does your business plan encourage,
16 based on being able to get what your relief is
17 seeking to also include, perhaps coming back to
18 the city to have the roof as a part of your
19 business plan?

20 MR. NIGUSSIE: I believe you heard
21 about Cortez next door, but we don't have any
22 plan about that as well.

23 MEMBER GRANDIS: So no plans at this
24 point. Okay.

25 Mr. Chairman, thank you very much.

1 CHAIRPERSON ANDERSON: Thank you, Mr.
2 Grandis. Any other questions by any of the Board
3 members?

4 Mr. Stoecklein, any questions based on
5 questions that were asked by the Board?

6 MR. STOECKLEIN: No, Mr. Chairman.

7 CHAIRPERSON ANDERSON: Mr. Bianco, any
8 redirect?

9 MR. BIANCO: Thank you.

10 CHAIRPERSON ANDERSON: Mr. Nigussie,
11 thank you for your testimony. Do you have
12 another witness?

13 MR. BIANCO: I do. Bayou Yohannes,
14 his rights have already been elevated.

15 CHAIRPERSON ANDERSON: Mr. Yohannes,
16 do you have camera you can elevate -- you can
17 turn on, sir?

18 MR. BAYOU: Good afternoon.

19 CHAIRPERSON ANDERSON: Good afternoon,
20 sir. Can you raise your right hand, please. Do
21 you swear or affirm to tell the truth and nothing
22 but the truth?

23 MR. BAYOU: Yes, I do, sir.

24 CHAIRPERSON ANDERSON: Your witness,
25 sir.

1 MR. BIANCO: Thank you very much.

2 MR. BIANCO: Mr. Yohannes, you were
3 here for Mr. Nigussie's testimony, correct?

4 CHAIRPERSON ANDERSON: Mr. Bianco, can
5 you have him spelling stasis name for the record?

6 MR. BIANCO: Absolutely. Mr.
7 Yohannes, could you please say your first name
8 and your last name and spell them for the record.

9 MR. BAYOU: Yes. Yohannes Bayou. Y-
10 O-H-A-N-N-E-S, last name Bayou, B-A-Y-O-U.

11 MR. BIANCO: Okay. Mr. Bayou, you
12 were here for Mr. Nigussie's testimony, correct?

13 MR. BAYOU: Yes, sir.

14 MR. BIANCO: And do you recall
15 watching the video of the sound tests on the
16 first floor?

17 MR. BAYOU: Yes, sir.

18 MR. BIANCO: And were you involved in
19 that sound test in any way?

20 MR. BAYOU: Come again? Sorry.

21 MR. BIANCO: Were you there on the day
22 of that sound test?

23 MR. BAYOU: Yes. Yes, sir.

24 MR. BIANCO: And what did you do on
25 that day?

1 MR. BAYOU: I was recording the video.

2 MR. BIANCO: Okay. I'm going to bring
3 up the video and I am going to try to get through
4 this very quickly. All right. Can you see the
5 video up on the screen there?

6 MR. BAYOU: Yes, sir.

7 MR. BIANCO: Okay. And it was your
8 testimony that you weren't taking this video,
9 correct?

10 MR. BAYOU: Yes, sir.

11 MR. BIANCO: Okay. So I don't want to
12 go through the whole thing because I want to get
13 everybody out of here. So I'm going to go to
14 this portion of the video, which is the 47-second
15 mark. Do you see that?

16 MR. BAYOU: Yes, sir.

17 MR. BIANCO: And where are you
18 standing at that point, the 47-second mark of the
19 video?

20 MR. BAYOU: I'm behind of the camera.

21 MR. BIANCO: Okay. And how far away
22 from the door are you, approximately?

23 MR. BAYOU: By this image, maybe 6 to
24 7 feet.

25 MR. BIANCO: Okay. And from that

1 position, were you able to hear any music coming
2 out of the establishment?

3 MR. BAYOU: No, sir.

4 MR. BIANCO: Okay. And it looks like
5 at that point you backed up. And were you able
6 to hear any music coming out of the establishment
7 from that vantage point?

8 MR. BAYOU: No, sir.

9 MR. BIANCO: And I just have one more
10 exhibit that I want to show you. And so do you
11 recall Mr. Nigussie's testimony about the sound
12 meter that was used?

13 MR. BAYOU: Yes, yes, I used that
14 application many times.

15 MR. BIANCO: Okay. So I'm going to
16 show you what has been marked as Exhibit number
17 6. Do you recognize that?

18 MR. BAYOU: Yes.

19 MR. BIANCO: And is that the sound
20 meter that you used to conduct that test?

21 MR. BAYOU: Yes, that sound meter
22 application.

23 MR. BIANCO: Okay. And where did you
24 get that sound meter application?

25 MR. BAYOU: From Apple store.

1 MR. BIANCO: Okay. And does that --
2 is that a true picture of what the sound meter
3 showed on the day that you measured it?

4 MR. BAYOU: Yes, sir.

5 MR. BIANCO: Thank you. I have no
6 further questions. Mr. Stoecklein -- please stay
7 on the line. Mr. Stoecklein and the Board will
8 likely have some questions for you.

9 MR. BAYOU: All right.

10 CHAIRPERSON ANDERSON: Mr. Stoecklein?

11 MR. STOECKLEIN: Sir, could you please
12 tell me, do you have any -- you indicated that
13 you conducted sound tests. Are you a licensed
14 sound engineer?

15 MR. BAYOU: On a legal liability, yes.

16 MR. STOECKLEIN: I'm sorry?

17 MR. BAYOU: I have a license, yes.

18 MR. STOECKLEIN: You have a acoustic
19 engineer or sound engineer license?

20 MR. BAYOU: Sound engineer, no.
21 Designer. As designer.

22 MR. STOECKLEIN: Okay. As a designer
23 -- as a -- what does that mean? As a designer of
24 physical spaces, a architect? Can you just
25 clarify for me, please.

1 MR. BAYOU: Interior designer, sir.

2 MR. STOECKLEIN: Okay. Interior
3 designer. Thank you. Do you have any other
4 technical credentials in acoustic measurement or
5 any kind of mathematical background or any other
6 kind of quantitative background that makes you
7 particularly expert or at all expert in sound
8 testing?

9 MR. BAYOU: No, sir. I don't have it.

10 MR. STOECKLEIN: Okay. That's okay.
11 I mean, neither do I. So, you know, good. You
12 indicated that you use a phone app to measure
13 sounds -- sound levels at the establishment. Can
14 you tell me how the application that you
15 downloaded is calibrated?

16 MR. BAYOU: Yes. I use these
17 application when I finish the job. When I
18 building interior designer, I use sound proof
19 installations.

20 MR. STOECKLEIN: But --

21 MR. BAYOU: And --

22 MR. STOECKLEIN: Sir, I'm sorry. I
23 just -- I'm going to ask you to please just stick
24 to the question for your sake and for mine so
25 that I don't get in further trouble.

1 Can you just tell me, do you have --
2 can you tell me -- so you said that you know how
3 the sound application that you used is
4 calibrated. How it -- how you know that what it
5 shows is an accurate reflection of what's
6 actually occurring? That's what I mean when I
7 say calibrated.

8 MR. BAYOU: Yes. That day image that
9 is -- so it is a screenshot, but the matter is
10 recording. It's about three minutes, if you see
11 in the image.

12 MR. STOECKLEIN: It's fair to say, I
13 think, that you are not aware of how the sound
14 meter that is purportedly portrayed in -- as
15 represented in this screenshot is actually
16 calibrated to measure sound at any level; is that
17 accurate?

18 MR. BAYOU: (No verbal response.)

19 MR. STOECKLEIN: Okay. No further
20 questions.

21 CHAIRPERSON ANDERSON: Any other --
22 any questions by the Board members?

23 MEMBER SHORT: Yes, Mr. Chairman. I'd
24 like to have a question.

25 CHAIRPERSON ANDERSON: Yes, Mr. Short?

1 MEMBER SHORT: Yes. Good afternoon --
2 well, wait a minute. Good evening now, Mr.
3 Bayou. Okay. Thank you. Now, you tested it.
4 What time of day was that when you did that
5 testing that video was taken?

6 MR. BAYOU: Around 2:00, 3:00.

7 MEMBER SHORT: P.m. in the --

8 MR. BAYOU: P.m., sir.

9 MEMBER SHORT: Okay. So if you would
10 mean --

11 MR. BAYOU: Sorry, a.m. I mean, p.m.
12 Yes, yes, 2 pm.

13 MEMBER SHORT: Okay. If you were
14 there at 1:00 a.m. and the club was fully
15 functioning, if you were there in that same
16 location using the same application at 1:00 a.m.
17 in the morning when the club is fully -- forgive
18 me -- the CT is fully packed with clients and you
19 were playing music, would that meter be reading
20 the same thing at that time? Is that possible?

21 MR. BIANCO: Objection. Speculation.
22 Assumes facts not in evidence.

23 MEMBER SHORT: I'd like to ask this
24 question, Mr. Chairman, because this person, Mr.
25 Bayou, has just testified that his application on

1 his iPhone, which he got through the Apple store
2 is pretty accurate.

3 And I was just wondering would he be
4 willing to take that same test with that meter
5 with an investigator standing beside him at 1:00
6 a.m. in the morning?

7 CHAIRPERSON ANDERSON: I'm going to
8 overrule the objection. If he can answer the
9 question, answer it. If he can't, just -- let's
10 move on. So are you able to answer the question,
11 sir?

12 MR. BAYOU: Yes. Absolutely yes, sir.
13 My answer is, yes, sir.

14 MEMBER SHORT: Okay. Well, we can ask
15 you, but I'd really liked to ask the attorney,
16 Mr. Bianco, if he would be willing to have a
17 private investigator come out there with Mr.
18 Bayou and yourself at 1:00 a.m. in the morning
19 and run this very same test and provide that
20 information to this Board. Would that be
21 possible, Mr. Bianco?

22 CHAIRPERSON ANDERSON: Mr. Short,
23 that's not something that we can ask the --

24 MEMBER SHORT: I'm sorry. I thought
25 I'd ask that question and I thought it would be

1 relevant because the testimony is that you can
2 hear any sound outside of the back door when the
3 music is playing. And that was just on one
4 floor.

5 And I was just wondering, since we're
6 going to be -- it's been requested of this Board
7 by the applicant to use all three floors. And

8 if they're going to use this same
9 tests to bring before this Board to grant them
10 their wishes for an application -- first floor,
11 then how would we know his sound mediation or
12 whatever else that Mr. Bayou had worked on and
13 using that very same meter, how would that affect
14 this hearing and effective the community?

15 CHAIRPERSON ANDERSON: Well, I don't
16 -- that's not -- we can't ask questions of the
17 attorney, Mr. Short. So if you if you have a
18 question for -- if you have a question for the
19 witness, you ask a question for the witness, but
20 we're not going to have -- that's not a question
21 we can ask the attorney at this juncture in the
22 case.

23 MEMBER SHORT: Well, again, I'd like
24 to ask the witness, does he think his sound
25 equipment he got on his -- he has on his Apple

1 phone would get the same results at 1:00 a.m. in
2 the morning with clients on all three floors or
3 two floors, the second and third floor -- would
4 he get the same reading he got at 1:00 p.m.
5 during the day? Can you answer that question?

6 MR. BAYOU: No, sir.

7 MEMBER SHORT: Why is he --

8 MR. BAYOU: I didn't hear. What did
9 --

10 MEMBER SHORT: Excuse me?

11 MR. BAYOU: Yes. The metal that I
12 check it, if I try it, say, 24 -- 1:00 a.m.,
13 whatever. It doesn't -- yes. My answer is yes,
14 so --

15 CHAIRPERSON ANDERSON: Sir, why did
16 you turn your -- the lights off, sir? We weren't
17 seeing you clearly. Then you turned the lights
18 off, so you're now in the shadows. Thank you,
19 sir.

20 MEMBER SHORT: Okay. And my last
21 question for you, sir, is: Would you be willing
22 to do it yourself, just for you and for the
23 applicant's sake, for the licensee's sake, to do
24 that same test at 1:00 a.m. in the morning with
25 your same equipment?

1 MR. BAYOU: Yes, yes.

2 MEMBER SHORT: Would you be willing to
3 provide that to this Board?

4 MR. BAYOU: Yes.

5 MEMBER SHORT: Thank you. That's all
6 I -- thank you, Mr. Chair, that's all I wanted to
7 get. Thank you.

8 CHAIRPERSON ANDERSON: Thank you, Mr.
9 Short. Any other questions by any of the Board
10 members?

11 Mr. Stoecklein, any questions based on
12 the questions that were asked by the Board?

13 MR. STOECKLEIN: (No verbal response.)

14 Mr. Bianco, any redirect?

15 MR. BIANCO: No.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you, sir, for your testimony. Have a great
18 day. Does the applicant rest?

19 MR. BAYOU: Thank you.

20 MR. BIANCO: Yes. I just got a text
21 from my client, and at my urging, he is allowing
22 me to not call our last identified witness. So
23 the applicant rests.

24 CHAIRPERSON ANDERSON: Thank you, Mr.
25 Bianco. All right. It's 8:47. We're going to

1 take another break.

2 Mr. Stoecklein, you have 55.57 minutes
3 to present your case, sir.

4 MR. STOECKLEIN: I promise not to use
5 them, or at least all of them.

6 CHAIRPERSON ANDERSON: It is 8:48.
7 We're in recess until 9:00. So you can start to
8 your presentation at 9:00. So we're in recess
9 until 9:00.

10 We're back on the record.

11 Mr. Stoecklein, are you there, sir?
12 Mr. Stoecklein?

13 MR. STOECKLEIN: Sorry, Mr. Chair, I'm
14 just -- yes, I apologize.

15 CHAIRPERSON ANDERSON: Do you have a
16 camera you can turn on, sir? Since you'll be now
17 doing your -- yes, sir. Thank you. Do you have
18 a witness that you want to call?

19 MR. STOECKLEIN: I do. As an initial
20 matter before I do, I have a -- I guess a
21 request.

22 CHAIRPERSON ANDERSON: What is that,
23 sir?

24 MR. STOECKLEIN: So I indicated to you
25 that we had three residents available to speak to

1 their experience, but given the long time that
2 we've been at this, one of them had a personal
3 situation. I don't want to call it an emergency.
4 I don't want to speak for them, but they had to
5 leave immediately.

6 Their partner and -- you know, their
7 live-in partner is available to speak to the same
8 experience. And I would like to be able to call
9 that person.

10 CHAIRPERSON ANDERSON: The person's in
11 the same household?

12 MR. STOECKLEIN: Correct.

13 CHAIRPERSON ANDERSON: Mr. Bianco?

14 MR. BIANCO: Mr. Anderson, I am too
15 tired to object, so let's have it.

16 CHAIRPERSON ANDERSON: Mr. Bianco, I
17 --

18 MR. STOECKLEIN: Rich, I appreciate
19 the charity. Thank you.

20 MR. BIANCO: All right. We have the
21 -- without objection.

22 CHAIRPERSON ANDERSON: You know, Mr.
23 Stoecklein, this is what you need to do, just
24 wear them down, wear them down, wear them down.

25 MR. BIANCO: If at this late time, Mr.

1 Stoecklein, there's any, like, reasonable facts
2 we can stipulate to, then whatever moves this
3 thing along. Let's just get through it.

4 MR. STOECKLEIN: Yes. I'm going to
5 ask the same three questions to each of these
6 folks and it's going to be, I think -- that'll be
7 the ballgame. All right?

8 MR. BIANCO: All right. Let's rock
9 and roll.

10 CHAIRPERSON ANDERSON: Who's the
11 witness, sir?

12 MR. STOECKLEIN: Okay.

13 CHAIRPERSON ANDERSON: Do we need --
14 are they -- do we need to elevate anyone, or are
15 they here?

16 MR. STOECKLEIN: Yes.

17 CHAIRPERSON ANDERSON: Who do we need
18 elevate?

19 MR. STOECKLEIN: Yes. So the first
20 witness is Kyle Dudzinski.

21 CHAIRPERSON ANDERSON: If -- Ms. --
22 well, let's -- who are the three witnesses? I'll
23 make sure that they're all -- okay. So he's
24 elevated. who else needs to be elevated?

25 MR. STOECKLEIN: So the second witness

1 is, pardon me, Ewa Sobczynska.

2 CHAIRPERSON ANDERSON: Okay. She's
3 been elevated. Who else?

4 MR. STOECKLEIN: And the third, I'm
5 texting with right now, this is the sort of the
6 substitute partner of -- she's trying to
7 determine whether she can participate via phone
8 if that -- is that -- if that is allowable.

9 CHAIRPERSON ANDERSON: That's fine.
10 We can -- you can provide her the phone line and
11 you can provide us with maybe her -- the last
12 four digits of her phone and we will have -- we
13 will elevate that -- unmute that line.

14 MR. STOECKLEIN: Okay.

15 CHAIRPERSON ANDERSON: So if you'd
16 provide us the last four digits of her phone
17 number, we will -- or his or her phone number, I
18 will have Ms. Fashbaugh unmute that line.

19 MR. STOECKLEIN: Okay. I'm going to
20 send her the number to get her to call in while
21 my -- Mr. Dudzinski is introducing himself. So
22 I'll --

23 CHAIRPERSON ANDERSON: All right.
24 Fine. All right. So, Mr. Dudzinski, do you have
25 a camera? Can you unmute your line and turn your

1 camera on, sir, if you have a camera?

2 MR. DUDZINSKI: Evening.

3 CHAIRPERSON ANDERSON: Good evening.

4 Can you raise your right hand, please. Do you
5 swear or affirm to tell the truth and nothing but
6 the truth?

7 MR. DUDZINSKI: Yes.

8 CHAIRPERSON ANDERSON: Let him -- your
9 first question, to have him, please, spell and
10 state his name for the record. That's the first
11 question should be asked. Okay. Thanks. Go
12 ahead. Your witness.

13 MR. STOECKLEIN: Okay. Mr. Dudzinski,
14 could you please state your -- can you spell your
15 name for the record? Are you with us, Kyle?

16 CHAIRPERSON ANDERSON: He's here. can
17 you hear us, sir? We can't hear you, sir.

18 MR. DUDZINSKI: Can --

19 CHAIRPERSON ANDERSON: Yes, we can
20 now. We can hear you.

21 MR. DUDZINSKI: Okay. Perfect. I
22 just -- I'll use my internal speakers.

23 CHAIRPERSON ANDERSON: Okay. So the
24 question was: Can you please spell and state your
25 name for the record, sir?

1 MR. DUDZINSKI: Yes, sir. Sorry.
2 Name is Kyle Dudzinski, spelled K-Y-L-E, last
3 name, D-U-D-Z-I-N-S-K-I.

4 MR. STOECKLEIN: Great. And, could
5 you please tell me -- could you state the address
6 which -- at which you own a condo at or near
7 Empire?

8 MR. DUDZINSKI: Yes, 1912 8th Street
9 Northwest.

10 MR. STOECKLEIN: Okay. And just to be
11 clear, is it correct that you are the owner of
12 that unit, formerly a resident of, and have since
13 moved out?

14 MR. DUDZINSKI: Yes, sir.

15 MR. STOECKLEIN: Okay. Kyle, could
16 you please explain to the Board, from the time
17 that you moved in 'til the present day, the
18 nature of your experience as a resident and owner
19 relative to Empire?

20 MR. DUDZINSKI: Yes, absolutely.
21 We'll take you guys through abbreviated timeline,
22 understanding, you know, it is 9:00.

23 So I bought my home back in September
24 of 2020 and had originally planned to be there
25 for the next five to seven years, loved DC, loved

1 the Shaw neighborhood.

2 And everything was great until, I
3 would say, by spring of 2020, around the -- or
4 excuse me, 2021, around the May time frame.

5 Started to hear some base and some
6 music that hadn't otherwise been there for the
7 first, you know, handful of months I was living
8 there.

9 Granted, understanding we were going
10 through a pandemic and operations weren't
11 necessarily in full swing anywhere. So that
12 being a reason and understandable one at that.

13 However, over the course of the next
14 couple of months, you know, it grew worse and
15 worse. So around the June 2021 month, you know,
16 the base that was able to allow me to sleep got a
17 little bit louder, but nothing that, you know, a
18 couple of melatonin didn't fix.

19 Unfortunately, you know, throughout
20 that summer, it just got worse and worse to the
21 point where, you know, in about August -- late
22 July, August my master bedroom was reverberating
23 and my bed was shaking, the windows were shaking
24 and I -- we couldn't sleep in there anymore.

25 It was, I mean, at least five days a

1 week. You know, weekends were certainly louder
2 and more raucous than the weekdays. But I
3 remember on countless occasions, Mondays,
4 Tuesdays, Thursdays, that these noises also just
5 permeated through my building.

6 So I -- in July, we started sleeping
7 in our second bedroom and initially, that was
8 okay.

9 But it got to the September time frame
10 and then it just seemed like the noise ratcheted
11 up that much further, to the point where, instead
12 of sleeping in our second bedroom, we moved one
13 of our beds into our living room and I started
14 sleeping in my living room with my mattress on
15 the ground, kind of make makeshift movie theater,
16 if you will.

17 Unfortunately, it wasn't a type of
18 vacation that I appreciated. So initially
19 started looking at, you know, how do we solve
20 this problem in September because that's when the
21 sleeping really became an issue, when we had to
22 move from our second bedroom into our living
23 room, but also stayed with friends and families
24 in certain times.

25 And initially called the police, not

1 knowing that there was an ABRA Board that's
2 specifically designed for these things, you know.
3 They came.

4 They heard the noise and they said,
5 Unfortunately, we can't do anything. If it was
6 one of your neighbors, sure, we could we could
7 talk, but this is an establishment and a licensed
8 establishment. You need to go to the ABRA.

9 So when I got, you know, back and we
10 were living there concurrently for a couple of
11 weeks in October after a couple of trips, made
12 three separate complaints to the ABRA late
13 October, where two of them, I believe one was the
14 27th of October, one was the 30th of October.

15 And then about a week-and-a-half after
16 -- and two weeks after the first one, on November
17 8th, was the third and final complaint.

18 We went back-and-forth with the ABRA,
19 filing oral requests to understand where these
20 cases were in the judicial process, understanding
21 that it does take time.

22 Didn't receive a fact briefing on any
23 of it until maybe at the beginning of December.
24 Unfortunately, it was at that time, living there
25 for another three weeks over the thanksgiving

1 holiday, that me and my girlfriend made the
2 decision to move out of the city.

3 We couldn't deal with the noise
4 anymore. Nothing was changing. And, you know,
5 for better or for worse, I started reading up on
6 no previous cases and, unfortunately, it didn't
7 seem like for this establishment, what was
8 discussed prior -- in settlements that may have
9 been discussed prior, unfortunately, you know,
10 the issues still were happening. So we moved
11 out.

12 I've kept the place in hopes of moving
13 back one day. Again, I love the city. I've
14 lived there for -- I lived there for six years
15 before moving across the river. And, you know,
16 the nature is what it is. At this point in time
17 when I felt compelled to address this Board to my
18 experience.

19 MR. STOECKLEIN: Thanks, Mr.
20 Dudzinski. So it was a pretty comprehensive
21 summary. I appreciate it. So just a few follow-
22 ups.

23 Did you, at any point in time, try to
24 contact the owners of Empire, Mr. Nigussie in
25 particular? And if so, what was the nature of

1 those conversations or interactions, if any?

2 MR. DUDZINSKI: No, I didn't. I mean,
3 at most points in time, it was very late at
4 night. And even if it was 10:00 or 11:00, you
5 know, I wasn't about to go over there in my
6 skivvies and knock on their door, telling them to
7 quiet it down.

8 I figured that our institutions in DC,
9 the checks and balances would be able to handle
10 such situations, which is why I didn't raise it
11 to the ABRA to hopefully have these issues dealt
12 with.

13 MR. STOECKLEIN: Are you of any -- are
14 you aware of any requirement within your condo
15 documents or any law in DC that would obligate
16 you, before calling ABRA to complain about noise,
17 to take it upon yourself to go try to address it
18 directly?

19 MR. DUDZINSKI: I'm not aware, sir.

20 MR. STOECKLEIN: Okay. And am I
21 correct in -- am I correct that your testimony is
22 that, on average -- let's start -- say that sort
23 of on a weekly average that this -- that the kind
24 of noise that you described that could be heard
25 and felt in your condo, occurred approximately

1 five nights a week, sometimes more?

2 MR. DUDZINSKI: Five nights a week,
3 sometimes more from -- starting at 9:30, 10:00
4 p.m. all the way until 3:00 a.m.

5 MR. STOECKLEIN: Okay. And how many
6 times did ABRA investigators come out and inspect
7 the sound levels?

8 MR. DUDZINSKI: Certainly on three
9 occasions, they came out physically. I believe
10 on one other occasion they just went directly to
11 their place, although I don't have record of that
12 from memory here.

13 And each time that came into my unit
14 and they took measurements from inside my unit,
15 heard noise, and then they went out to our back
16 patio, which is on the adjacent alleyway, and
17 they were able to hear the noise permeating
18 through there.

19 And then they had another officer in
20 my unit that was able to corroborate everything
21 that they were hearing outside.

22 So to the event that I saw that video
23 earlier, unfortunately, my experiences were --
24 you know, just the second and the third floor
25 operating, that was what was shaking my unit and

1 I can't imagine what adding another floor on top
2 of that would do to my building and neighboring
3 buildings. And that's unfortunate.

4 MR. STOECKLEIN: And is it fair to say
5 that the -- your decision to leave a condo that
6 you had likely just purchased, is -- was the
7 result of your experience of Empire?

8 MR. DUDZINSKI: That is the sole
9 reason that I left.

10 MR. STOECKLEIN: Okay. I have no
11 further questions.

12 CHAIRPERSON ANDERSON: Mr. Bianco?

13 MR. BIANCO: Yes, sir.

14 Good evening. I am going to try to
15 move through this in an abbreviated way. I am
16 going to share my screen here.

17 Are you able to see I have Applicant's
18 Exhibit 3 up on the screen? And can you see
19 where 1909 9th Street is marked on that map?

20 MR. DUDZINSKI: Yes, sir.

21 MR. BIANCO: And can you describe for
22 me where you live in relationship to 1909 9th
23 Street?

24 MR. DUDZINSKI: Yes. I live behind on
25 the 8th Street side, as testified.

1 MR. BIANCO: Okay. So one of these
2 buildings here?

3 MR. DUDZINSKI: That's correct.

4 MR. BIANCO: Okay. Or is -- which one
5 is it? Is it this building, or this building?

6 MR. DUDZINSKI: It's the building
7 directly behind it.

8 MR. BIANCO: Okay. So that would be
9 -- what's the address, this building here?

10 MR. DUDZINSKI: 1912, as I stated
11 earlier.

12 MR. BIANCO: Okay. 1912 8th Street.
13 And where is your unit inside of 1912 8th Street?

14 MR. DUDZINSKI: It was the ground
15 level, sir.

16 MR. BIANCO: Okay. And these symbols
17 here, one, two, three, four, five, represent
18 other ABC licensed establishments with
19 entertainment endorsements.

20 How is it that you know the noise that
21 was bothering you was coming from Empire and not
22 one of the other establishments?

23 MR. DUDZINSKI: Well, the taco joint,
24 which is directly to the left of Empire, has a
25 rooftop where they're serving food and they would

1 shut down all of their music and things by about
2 10:00, 11:00 because their lights would go off
3 and that's when the cleaning staff would be done.

4 I know that it was Empire because I
5 actually went back into that alleyway and opened
6 the door that they said was unlocked and just
7 listened from outside to make sure that's exactly
8 what I could hear.

9 The base that I could hear each time
10 that I walked outside was exactly what was
11 permeating from Empire.

12 So me being on the premises from the
13 alley way, not actually on their premises, I was
14 certainly able to tell if it was directly coming
15 from Empire Lounge.

16 MR. BIANCO: Okay. And it was your
17 testimony at that time that only the second and
18 third floor were operating, correct?

19 MR. DUDZINSKI: I moved out in
20 November of 2021, so I'm assuming, just based on
21 this timeline that was provided earlier, that
22 they weren't operating that first floor at that
23 time.

24 MR. BIANCO: Okay. And other than the
25 sound test video you watched today, you don't

1 have any understanding of how the first floor is
2 soundproofed, correct?

3 MR. DUDZINSKI: I don't, but from my
4 experiences, I can tell that the second and third
5 floor certainly aren't soundproofed.

6 MR. BIANCO: Okay. And you know we're
7 here today talking about the first floor,
8 correct?

9 MR. DUDZINSKI: Absolutely, but as my
10 testimony goes to --

11 MR. BIANCO: I'm not looking for
12 argument.

13 MR. DUDZINSKI: I'm sorry.

14 MR. BIANCO: He'll redirect you and
15 you can make all the argument you like. You
16 answer the question, thank you. Okay. So you
17 testified about some complaints to ABRA, correct?

18 MR. DUDZINSKI: Yes, sir.

19 MR. BIANCO: And you called ABRA and
20 they came out and they did some measurements, you
21 said?

22 MR. DUDZINSKI: Yes, sir.

23 MR. BIANCO: Okay. And you were
24 frustrated, you followed up, and what you didn't
25 testify about is what the results were.

1 MR. DUDZINSKI: I was never provided
2 the results.

3 MR. BIANCO: Would you be surprised to
4 learn that your noise complaints were dismissed,
5 sir?

6 MR. DUDZINSKI: I would be surprised
7 and I would ask, do you have reasons for why they
8 were dismissed?

9 MR. BIANCO: Yes, they couldn't be
10 substantiated.

11 MR. DUDZINSKI: And why is that?

12 MR. BIANCO: You can -- we can look at
13 the Board records, but I do appreciate your
14 testimony on that on that point. So you moved in
15 in 2020, correct?

16 MR. DUDZINSKI: That's correct.

17 MR. BIANCO: Okay. And at the time
18 you moved in, Empire was there and operating,
19 correct?

20 MR. DUDZINSKI: Correct. I believe,
21 but to a lesser so due to COVID protocols.

22 MR. BIANCO: Okay. And Cloud Lounge,
23 which is located here, they were operating at
24 that time as well?

25 MR. DUDZINSKI: I have no knowledge of

1 that establishment, sir.

2 MR. BIANCO: Okay. And how about
3 Right Spot? Do you know --

4 MR. DUDZINSKI: Again, I'm sure that
5 their lights were on, but I have no knowledge of
6 those establishments.

7 My knowledge is strictly based on what
8 I could hear from my unit directly behind me,
9 which is Empire Lounge. So I would like to
10 testify on that because I have no knowledge of
11 the other establishments.

12 MR. BIANCO: Okay. And finally, it
13 was your testimony that you did not communicate
14 any noise issues directly to the establishment,
15 correct?

16 MR. DUDZINSKI: No. I thought ABRA,
17 a city institution, would be able to help handle
18 this, but obviously not.

19 MR. BIANCO: Great. Thank you very
20 much. I have no further questions.

21 CHAIRPERSON ANDERSON: Thank you.
22 Close this screen, please, Mr. Bianco. Any
23 questions by any Board members? Yes, Mr. --
24 excuse me, yes, Mr. Grandis.

25 MEMBER GRANDIS: Thank you. Mr.

1 Dudzinski. Thank you for your testimony this
2 evening. Do you have someone currently living --
3 and you may have already said this, but just for
4 my knowledge, did you -- do you have someone
5 living in that unit that you had to move out of?

6 MR. DUDZINSKI: It was vacant for five
7 or six months.

8 MEMBER GRANDIS: And are they
9 complaining to you?

10 MR. DUDZINSKI: They have made some
11 complaints, but not on a regular basis. And I'm
12 not sure if that somewhat replicates, you know,
13 the line of them trying to expand business and
14 trying to play ball. So I can only speculate on
15 that, unfortunately.

16 MEMBER GRANDIS: Okay. Thank you.
17 And you said that your unit is on the ground
18 floor?

19 MR. DUDZINSKI: Yes, sir.

20 MEMBER GRANDIS: Correct? And that --
21 is there a -- do you have a door on that ground
22 floor that goes to a patio or to the back alley
23 as well?

24 MR. DUDZINSKI: Yes. So I have a
25 carport. I have my window unit, which does have

1 an egress, but there's also a door to my second
2 bedroom that provides a full egress to the
3 stairwell.

4 MEMBER GRANDIS: And if they do get
5 approval to expand their business to the first
6 floor, I think there's been testimony today that
7 they already have a DJ booth on that first floor.
8 I think I heard you say that would be more
9 problematic?

10 MR. DUDZINSKI: Well, to the extent I
11 can testify that my bedroom was shaking due to DJ
12 booths on the second floor and operations on the
13 third floor, I can only imagine that anything put
14 in on the first floor would only exacerbate that
15 issue.

16 MEMBER GRANDIS: Well, that's a good
17 point I'd like to ask you. And you may not be
18 knowledgeable enough to give an opinion, but when
19 you say shaking, I'm only speculating, but often
20 shaking may be actually the base as opposed to
21 the sound. So were -- are you disturbed both by
22 visible shaking and as well with sound?

23 MR. DUDZINSKI: So yes, sir. And they
24 both cause sleep problems. The shaking was the
25 window panes as well as the bed frame, but base

1 plus music also was able to get through the
2 window. So it's twofold.

3 MEMBER GRANDIS: And I heard testimony
4 that there may be some kind of soundproofing that
5 may be part of their business plan, which I don't
6 know specifically.

7 But perhaps if the bass, which usually
8 is why we have shaking, is resolved and they have
9 soundproofing, that may alleviate some of the
10 noise actually that goes into your --

11 I'm only speculating, but if they were
12 able to do that, would you have a problem with
13 them expanding to the first floor?

14 MR. DUDZINSKI: -- that I understood
15 that previous witness testimony is that he has
16 already installed the soundproofing on the first
17 floor. Again, to you, my experience was from the
18 second third floor and that being an issue.

19 So again, exacerbation, but I don't
20 understand how, unless their business plan
21 involves a complete, total overhaul,
22 deconstruction, and construction of soundproof
23 throughout the whole building, how just
24 soundproofing the first floor would make my
25 experience on the first floor any better.

1 MEMBER GRANDIS: And all residents
2 should be able to have a peaceful night. We all
3 agree with that. Well, I have one last question.

4 Putting -- and I know noise is an
5 issue with you and the impact it had onto your
6 sleep. But putting that aside, we heard other
7 testimony about so-called crime, other issues
8 that may or may not be related to this building.

9 Did you have other issues, other
10 experiences that emanated from the customers for
11 the staff of this building?

12 MR. DUDZINSKI: I can't say that the
13 customers or the staff were the ones committing
14 any of the violence. I do have an unfortunate
15 break-in attempt that I had -- I thwarted where
16 someone jumped in my back carport around bar
17 closing time and tried to break into my bedroom
18 window.

19 Again, I have no clue if that
20 individual was related to the club or not. But
21 just the litter was -- from the back alley, the
22 human feces, the pee smell, just the rat
23 overfestation in the area, I mean, it's not being
24 made better by any of these clubs and the garbage
25 that they have back there.

1 So it's not just crime, it's dirt and
2 it's just kind of a peace of mind that the
3 cleanliness of the community that we would all
4 hope to live in.

5 CHAIRPERSON ANDERSON: Any other
6 questions by any of the Board members?

7 Mr. Bianco, any questions based on --
8 any based on the questions of the Board?

9 CHAIRPERSON ANDERSON: Yes. Mr.
10 Grandis -- so Mr. Grandis asked you about the
11 establishment agreeing to sound proofing and the
12 like. Are you a member of WNA?

13 MR. DUDZINSKI: I'm not, sir, no.

14 MR. BIANCO: Okay. Did you
15 participate in any of their meetings or
16 discussions about this establishment?

17 MR. DUDZINSKI: I did not, sir, no.
18 I'm testifying on behalf.

19 MR. BIANCO: Okay. That's all. Thank
20 you.

21 CHAIRPERSON ANDERSON: Mr. Stoecklein,
22 any redirect?

23 MR. STOECKLEIN: Yes.

24 Mr. Dudzinski, is it correct, to the
25 best of your knowledge, that at this time, none

1 of the owners of the units in your building are
2 currently occupying those units?

3 MR. DUDZINSKI: I believe one of the
4 owners is only part-time and then I do believe we
5 have one couple that are full-time owners, but
6 they just moved in recently.

7 MR. ORLASKEY: Okay.

8 MR. DUDZINSKI: So they bought it this
9 past -- in the past few months.

10 MR. STOECKLEIN: Okay. And do you
11 recall in preparation for your testimony today
12 and in the multiple conversations and e-mail
13 exchanges that we had in this subject attempting
14 to connect me with certain other owners in the
15 building?

16 MR. DUDZINSKI: Yes.

17 MR. STOECKLEIN: And do you recall my
18 persistent efforts to secure testimony from
19 additional owners?

20 MR. DUDZINSKI: Yes, sir.

21 MR. STOECKLEIN: So can you indicate,
22 to the best of your knowledge and based on the
23 feedback of those owners, why it is that they
24 were concerned about testifying and ultimately
25 unwilling?

1 MR. BIANCO: Objection. Speculation.
2 He's asking him how other people think or feel.

3 MR. STOECKLEIN: I'm asking, based on
4 the conversations to which Mr. Dudzinski was a
5 party, what he was aware of.

6 MR. BIANCO: I mean, that wasn't the
7 question, one, and two, it calls for hearsay.
8 It's not appropriate in any of them.

9 CHAIRPERSON ANDERSON: All right. I'm
10 going to overrule the objection. If you can
11 answer the question, answer the question, if you
12 can.

13 MR. DUDZINSKI: So I can speak to my
14 experience first and I was extremely afraid of
15 retribution, which is why I did not consider
16 coming before this Board on numerous occasions
17 and Pierson was extremely persistent in saying
18 that, you know, only unfortunate, you know,
19 witness testimony can drive change.

20 And although I'm not living there, I
21 still own the unit and I would love to move back
22 some day. I think I made that clear earlier.
23 And I believe, through conversations with my
24 other Board members, as well as tenants of the
25 building, those were some shared concerns between

1 all of us.

2 I mean, we live in the same community.
3 We operate on the same streets. It's not crazy
4 to think that, you know, things could happen and
5 that is a very real fear.

6 MR. STOECKLEIN: Okay. Thank you, Mr.
7 Dudzinski. I have no further questions.

8 MR. BIANCO: I have a question based
9 on Mr. Stoecklein's line of questioning, just
10 answer --

11 CHAIRPERSON ANDERSON: I'm sorry, Mr.
12 Bianco, but I'm not going to give you another run
13 because if I do, then I -- he has to -- I would
14 give him -- I have to give him another
15 opportunity to ask. So with that line of
16 questioning it's over, sir. Thank you. So let's
17 move on. Do you have --

18 Thank you, sir, for your testimony.

19 MR. DUDZINSKI: Thank you, all.

20 CHAIRPERSON ANDERSON: Do you have
21 another witness, sir?

22 MR. STOECKLEIN: I do. I'd like to
23 call Ms. Ewa Sobczynska. I know I'm butchering
24 that name.

25 CHAIRPERSON ANDERSON: Ms. Sobczynska,

1 can you turn your camera on, please, ma'am. Can
2 you raise your right hand, please. Do you swear
3 or affirm to tell the truth and nothing but the
4 truth?

5 MS. SOBCZYNSKA: Yes, I do.

6 CHAIRPERSON ANDERSON: Can you have
7 her say and spell her name for the record,
8 please, sir.

9 MR. STOECKLEIN: Yes. Could you
10 please say and spell your name for the record?

11 MS. SOBCZYNSKA: Sure. My name is Ewa
12 Sobczynska, E-W-A S-O-B-C-Z-Y-N-S-K-A.

13 MR. STOECKLEIN: Thank you.

14 CHAIRPERSON ANDERSON: Ms. Sobczynska,
15 could you please indicate the address of the
16 building in which you live her on property

17 MS. SOBCZYNSKA: Yes. I lived -- I
18 own an apartment at 1912 8th Street, Northwest,
19 Apartment D.

20 CHAIRPERSON ANDERSON: Okay. And did
21 you see -- just for the record, did you see the
22 map that Mr. Bianco was showing to the prior
23 witness, Mr. Dudzinski?

24 MS. SOBCZYNSKA: Yes. I live in the
25 same building as Kyle -- or I own an apartment in

1 the same building as Kyle.

2 CHAIRPERSON ANDERSON: Okay. Okay.

3 Thank you.

4 MR. STOECKLEIN: Could you please tell
5 me how long you've -- you resided in and/or owned
6 in the building?

7 MS. SOBCZYNSKA: Yes. So I and my
8 husband bought the apartment in February 2012 and
9 we have lived here for a year-and-a-half. We
10 have been renting the space from 2014 to 2021 --
11 October 2021, and I have moved back here part-
12 time. I live in Washington DC and New York State
13 from October 2021 'til now.

14 MR. STOECKLEIN: Okay. So just -- so
15 I'm looking to focus just specifically on the
16 time that you spend in the 1912 building so just
17 so I'm clear, you --

18 MS. SOBCZYNSKA: Sure. I can be very
19 clear. I have lived here from February 2012 'til
20 December 2013, and then from October 2021 until
21 now.

22 CHAIRPERSON ANDERSON: Okay. And
23 during your time living in the building, can you
24 please describe the -- any observations at Empire
25 and any impact that it's had on, you know, your

1 peace and enjoyment of your property, your home?

2 MS. SOBCZYNSKA: Thanks, Pierson. So
3 just a general observation that -- my unit is
4 facing 8th Street. So I don't have any windows
5 of any bedrooms facing backwards. So I have not
6 experienced the same amount of sound distress
7 that Kyle has described and he -- and I --

8 But I want to underline that Kyle has
9 shared with us his concerns and his sound
10 distress for a number of months before I have
11 moved back to the building. I can hear loud
12 noises in the back in the evenings as I throw out
13 my trash.

14 I can't testify that they are coming
15 from Empire Lounge. There is -- this is a very -
16 - this has become a very noisy neighborhood since
17 the time we bought this apartment over ten years
18 ago. So I can't testify that the sound is coming
19 specifically from Empire Lounge, from my
20 knowledge.

21 I do want to make a statement that the
22 general quality of life has definitely declined
23 for residents of this area. It's very clear that
24 the City's placing a lot of value on inviting a
25 number of business owners to the area without

1 mainly be due respect to the fact that this is
2 still quite a residential neighborhood.

3 And so what Kyle has stated about the
4 quality of life, the trash in the alley behind
5 Empire and other accomplishments along the 9th
6 Street corridor, the human feces, the stink of
7 pee, that has definitely -- over the past ten
8 years, there's been a decline.

9 And I have to say I was -- it was
10 quite a stark difference from where the area has
11 been ten years ago.

12 MR. STOECKLEIN: Can you tell me, ten
13 years ago if you think about the 1900 block and
14 the establishments that existed there at the
15 time, can be described what the differences
16 between the establishments that existed then
17 exist today?

18 MS. SOBCZYNSKA: Yes.

19 MR. BIANCO: I'm going to -- hang on.
20 I'm going to object, Mr. Chair, on the -- on
21 relevance grounds to both this question and the
22 remainder of this witness's testimony.

23 She just testified that she can't say
24 that there's any disturbances coming from Empire.
25 What are we talking about here? I think we

1 should just move on and hear any relevant
2 testimony that remains.

3 MR. STOECKLEIN: The witness is --

4 CHAIRPERSON ANDERSON: Go ahead, sir.

5 MR. STOECKLEIN: Well, the witness
6 agrees she made that statement. She did,
7 however, speak specifically to other nuisances
8 that arise specifically out of Empire that she
9 has personally observed, so she can speak to
10 other adverse consequences of Empire's activities
11 on her life and her co-residents.

12 I think it's also highly probative of
13 the broader question that we're -- we continue to
14 try to address and to bring into focus, which is
15 that an expansion has to be considered in the
16 broader context of the impact on the area -- the
17 immediate area.

18 That is what the statutory obligation
19 -- I mean, that's what the requirement is. And
20 so she's -- I'm asking her to speak because she's
21 in a unique position over the course of a decade
22 to speak to the difference that she's observed
23 personally in the area.

24 MR. BIANCO: Empire hasn't been there
25 for a decade.

1 MR. STOECKLEIN: I couldn't agree
2 more, but that's the point. That's the whole
3 point, Mr. Bianco.

4 MR. BIANCO: I don't get the point.
5 She can't tie --

6 CHAIRPERSON ANDERSON: Gentlemen, all
7 right.

8 MR. BIANCO: What are we talking
9 about?

10 CHAIRPERSON ANDERSON: I'm going to --
11 for what it's worth, I'll have the witness
12 testify. However, the witness has, however,
13 testified that based on where her unit is, she
14 cannot --

15 I mean, the purpose of this hearing is
16 to state whether it's appropriate for us to allow
17 the substantial change for them to operate on the
18 first floor.

19 This witness, however, has testified
20 that she cannot specifically pinpoint whether or
21 not this establishment is responsible for the
22 noise.

23 But I will allow the witness to
24 testify, but -- for what it's worth, since she's
25 here and she has volunteered to testify, but I

1 think we need to keep in mind the limits of her
2 testimony regarding --

3 MR. STOECKLEIN: Understood, Mr.
4 Chair.

5 CHAIRPERSON ANDERSON: -- of the
6 expansion.

7 MR. STOECKLEIN: Ms. Sobczynska, I'm
8 going to withdraw that question, just try to
9 rephrase a narrower question and then we can
10 finish.

11 Could you please specifically speak to
12 the relative difference in the, you know, number
13 of clubs and loudness that you observed in your -
14 - you know, during your first year of residence
15 back in 2012 versus what you now see?

16 MS. SOBCZYNSKA: Yes. So none of the
17 owners that originally owned the unit in this
18 building had ever complained about excessive
19 noise at night. That was never a complaint we've
20 had about any of the establishments at 8th
21 Street.

22 And mind you, there has been -- and I
23 guess that's the building next to Empire, there
24 has been a rooftop deck that actually was, I
25 think, constructed around the time when we bought

1 an apartment here where there was noise coming
2 during the day that was turned off in the
3 evening.

4 So we've never had, really, complaints
5 about noise issues at all.

6 MR. STOECKLEIN: Just so I understand,
7 you're -- you mean when you first moved to the
8 area?

9 MS. SOBCZYNSKA: Yes. So between 2012
10 and 2013 when we reside --

11 MR. STOECKLEIN: Right.

12 MS. SOBCZYNSKA: -- resided here, yes.

13 MR. STOECKLEIN: And how does that
14 differ from the experience that you've observed
15 now?

16 MS. SOBCZYNSKA: There is a constant
17 noise that is coming from the alleyway in the
18 evenings.

19 MR. STOECKLEIN: Okay. And would you
20 say that that -- can you indicate to us the
21 extent to which that disrupts your ability to
22 enjoy your own property and to live your life, go
23 about your business peacefully?

24 MS. SOBCZYNSKA: It disrupts my
25 ability to enjoy my property in peace on the

1 weekends, especially.

2 MR. STOECKLEIN: Okay. Thank you very
3 much. I have no further questions.

4 CHAIRPERSON ANDERSON: Mr. Bianco? We
5 can't hear you, sir.

6 MR. BIANCO: Okay. So if I understand
7 your testimony, it is that your neighborhood is
8 noisier now than it was ten years ago? Is that
9 the crux of your testimony?

10 MS. SOBCZYNSKA: The quality of life
11 in our neighborhood has declined substantively
12 over the past ten years, correct.

13 MR. BIANCO: Okay. And the reason you
14 attribute to that is the number of ABC licensed
15 establishments in your neighborhood, correct?

16 MS. SOBCZYNSKA: Sorry. Can you
17 explain this to me?

18 MR. BIANCO: Sure. The number of bars
19 and restaurants that are now in your
20 neighborhood.

21 MS. SOBCZYNSKA: I would not attribute
22 the increased noise from the increase in
23 residency, which has also increased over the past
24 ten years. There is now two huge -- or actually
25 four apartment buildings.

1 So no, that noise does not come from
2 more people living here. It comes from more
3 establishments with, I guess, alcohol licenses,
4 correct.

5 MR. BIANCO: Okay. Good. So the
6 quality of life declines with the number of
7 alcohol licenses. And can you draw a direct line
8 to Empire Lounge in terms of the diminishing
9 quality of life in the neighborhood?

10 MS. SOBCZYNSKA: The simple answer is,
11 I can't because it is one of the establishment
12 and it is one of the establishments that is the
13 loudest on the block.

14 MR. BIANCO: Okay. And have you --

15 MS. SOBCZYNSKA: And that's -- and
16 just to be clear, when I say the loudest,
17 obviously, it's my qualitative assessment. I
18 don't have any data or evidence to substantiate
19 this.

20 MR. BIANCO: Okay. All right. That's
21 good enough. Thank you very much for your
22 testimony. I appreciate it.

23 MS. SOBCZYNSKA: Thank you.

24 CHAIRPERSON ANDERSON: Any other
25 questions? Any questions by any Board members?

1 All right. Well, I guess no -- there's no
2 questions by the Board members and I don't
3 believe that I need to give you a chance to do
4 redirect. So that is it okay.

5 All right. Thank you, ma'am, for your
6 testimony. Have a great day.

7 MS. SOBCZYNSKA: Thank you.

8 CHAIRPERSON ANDERSON: All right. Do
9 you have any other witnesses, sir?

10 MR. STOECKLEIN: Thank you. I'd like
11 to call the substitute witness, Ms. Lexi
12 Overholt. She is dialed in the phone.

13 CHAIRPERSON ANDERSON: Is she -- has
14 she been elevated? I don't know, that's what I'm
15 trying to find out, if I need to have her
16 elevated.

17 MR. STOECKLEIN: The last four digits
18 of her phone are 1026.

19 CHAIRPERSON ANDERSON: Ms. Fashbaugh,
20 can you please elevate 10426, please?

21 MR. STOECKLEIN: 1026.

22 CHAIRPERSON ANDERSON: 1026, I
23 believe.

24 MS. FASHBAUGH: 103969 is elevated.

25 Thank you.

1 CHAIRPERSON ANDERSON: Is that --
2 who's -- can the person who's --

3 MR. STOECKLEIN: That's correct.

4 CHAIRPERSON ANDERSON: I'm sorry --
5 all right. So hello? Hello? Can I -- yes, I
6 think she has to unmute herself and I think she
7 needs to --

8 MS. OVERHOLT: Hi. Can you hear me
9 now?

10 CHAIRPERSON ANDERSON: Yes, ma'am. We
11 can hear you.

12 MS. OVERHOLT: Okay.

13 CHAIRPERSON ANDERSON: Can you raise
14 your right hand, please. Can you raise your
15 right hand, please ma'am.

16 MS. OVERHOLT: Yes. Yes.

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

19 MS. OVERHOLT: I do.

20 CHAIRPERSON ANDERSON: All right. Can
21 you have -- Mr. Stoecklein, can you have her
22 spell and state her name for the record, please.

23 MR. STOECKLEIN: Yes, Lexi, could you
24 please state and spell your name for the record.

25 MS. OVERHOLT: Yes. My full legal

1 name is the Alexandra Overholt, A-L-E-X-A-N-D-R-
2 A, O-V as in Victor, E-R-H-O-L-T as in Tom.

3 MR. STOECKLEIN: Great. Thank you.
4 And could you please indicate your -- you know,
5 your address?

6 MS. OVERHOLT: Yes. I was residing in
7 1912 8th Street, Apartment E as in elephant.

8 MR. STOECKLEIN: Okay. And you just
9 said it in the past tense, so does that mean that
10 you are no longer living there?

11 MS. OVERHOLT: Correct. We still have
12 our lease until August 1st, but we've moved out.

13 MR. STOECKLEIN: Okay. And when did
14 you first move in?

15 MS. OVERHOLT: We moved in July 27th
16 of 2020.

17 MR. STOECKLEIN: Okay. And could you
18 please describe to us the nature of your
19 experience as it specifically relates to living
20 in your home and any observations or impacts to -
21 - directly tied to Empire Lounge?

22 MS. OVERHOLT: Yes, absolutely. So
23 the first night that we moved in, we started
24 experiencing very loud noise coming from Empire
25 Lounge. We actually went down into the carport

1 to see if we could tell what establishment it
2 was. And it was clear that it was coming from
3 the second and third floor of Empire.

4 We could tell because employees were
5 going down the stairs, opening the doors, and the
6 sound would increase. This continued to happen
7 for the duration of our time there, I would say a
8 minimum of five times a week, but it's honestly
9 more like seven.

10 And we were on the top floor of 1912,
11 so our bedroom balcony faced the top floor of
12 Empire Lounge. And our bedroom floor would
13 shake, our TV would shake, our head board would
14 shake.

15 I actually reached out to Empire and
16 they would never pick up their phone. So I
17 resorted to text. If you text the main line,
18 they will actually text you back.

19 And so they said that they would turn
20 the music down and in turn they actually would
21 turn it up, causing us to move to our guest room
22 on the other side of the apartment.

23 We called the ABRA many times. ABRA
24 never came to our apartment. I know that we had
25 been talking with the other owners of the

1 building and they had had ABRA come out a few
2 times to do the sound decibel measurements, but
3 they never came when we called.

4 On one occasion, I woke up at 3:00 in
5 the morning to what I thought was a table saw.
6 And I went and looked out the balcony, and they
7 were using the table saw to reconstruct new
8 bottle boxes and six signage. That lasted until
9 about 4:30 in the morning.

10 On about five or six different
11 occasions, usually on Thursday nights, around
12 midnight, a gold van would come.

13 They would open the back gate of the
14 Empire parking lot and everyone in the van
15 dressed in all black would load trash bags into
16 the back of the van, usually taking about 15
17 minutes.

18 The staff, one time was playing
19 basketball from about 1:00 a.m. to 2:00 a.m. I
20 know it was the staff because then they went back
21 up the entrance into the club.

22 There was a ton of garbage all the
23 time, causing rats and rodents. And I think that
24 that is probably about the extent of my
25 experiences.

1 MR. STOECKLEIN: Okay. Thank you for
2 that. Can you just confirm again the -- on a
3 weekly basis -- weekly or monthly, whatever is
4 appropriate, you know, the number of nights
5 during which -- you know, you endured the
6 circumstances that you described?

7 MR. BIANCO: Objection. Asked and
8 answered.

9 CHAIRPERSON ANDERSON: I'm going to
10 overrule the objection. Let her answer the
11 question if she can.

12 MS. OVERHOLT: Sure. I would say it
13 was a minimum of five nights a week and it
14 started around 10:00 p.m. and would go until 3:00
15 a.m.

16 MR. STOECKLEIN: Okay. Are you aware
17 of the -- sorry. Are you aware of the stated
18 closing time for Empire Lounge?

19 MS. OVERHOLT: I'm not.

20 MR. STOECKLEIN: Okay. Would you say,
21 during your experience, that Empire is a good
22 neighbor?

23 MR. BIANCO: Objection.

24 MS. OVERHOLT: No.

25 MR. BIANCO: Relevance.

1 CHAIRPERSON ANDERSON: Overruled.

2 MR. STOECKLEIN: Are there --

3 MS. OVERHOLT: No, I would --

4 MR. STOECKLEIN: Go ahead. Lexi.

5 MS. OVERHOLT: I'm sorry.

6 MR. STOECKLEIN: Go.

7 MS. OVERHOLT: I would say no, that
8 they're not. As I mentioned previously, I had
9 texted, asking them to turn down the music and
10 they would turn it up.

11 I think that if we're sitting here
12 today discussing Empire, that they have not been
13 respectful neighbors. As you can see, many
14 people are complaining about their quality of
15 life.

16 MR. STOECKLEIN: All right. And can
17 you tell me why it is that you decided not to
18 renew your lease?

19 MS. OVERHOLT: Solely because of
20 Empire Lounge.

21 MR. STOECKLEIN: Got it. Okay.
22 Thanks very much. I have no further questions.

23 CHAIRPERSON ANDERSON: Mr. Bianco?

24 MR. BIANCO: Yes. Very briefly, you
25 testified that you moved in in 2020, correct?

1 MS. OVERHOLT: Correct.

2 MR. BIANCO: And Empire Lounge was
3 there, when you decided to move in, correct?

4 MS. OVERHOLT: Correct.

5 MR. BIANCO: And could you tell the
6 Board why you decided to move behind a bar?

7 MS. OVERHOLT: Well, when we first
8 moved there, we were not aware of any of the
9 establishments on 9th Street. I had just moved
10 to DC and we had not heard about anything from
11 our leasing agent.

12 MR. BIANCO: Okay. Were you aware of
13 the five other bars within 100 feet of Empire?

14 MS. OVERHOLT: I was not. As I
15 mentioned, I was not aware of pretty much
16 anything in DC as I moved here from Florida.

17 MR. BIANCO: Okay. And if you were
18 aware that there were five bars with
19 entertainment endorsements within 100 feet of
20 Empire, would you have decided to move in?

21 MS. OVERHOLT: Yes, because I lived in
22 South Beach for 12 years and we never had
23 experiences like this. The other bars, to my
24 knowledge, do not disrespect the neighborhood
25 like Empire does.

1 MR. BIANCO: Okay. Thank -- oh, I'm
2 sorry. One more question. Are you a member of
3 the Westminster Neighborhood Association?

4 MS. OVERHOLT: I am not.

5 MR. BIANCO: Okay. Did you
6 participate with them in any way in the decision
7 to protest the substantial change?

8 MS. OVERHOLT: I spoke with Pierson,
9 but that's pretty much it.

10 MR. BIANCO: Okay. Did you gain any
11 insight as to why Westminster did not want to
12 discuss any of these issues you're raising with
13 us?

14 MS. OVERHOLT: I'm not aware.

15 MR. STOECKLEIN: Objection. She can't
16 --

17 CHAIRPERSON ANDERSON: Overruled.
18 Overruled. Let's move on.

19 MR. BIANCO: Thank you very much. I
20 don't have any more questions.

21 CHAIRPERSON ANDERSON: Hold on, ma'am.
22 Any questions by any Board members? There are
23 none. Thank you very much for your testimony,
24 ma'am. Have a great day.

25 MS. OVERHOLT: Thank you so much.

1 CHAIRPERSON ANDERSON: All right. Bye
2 bye. Do you have any other -- I think that was
3 your last witness, sir?

4 MR. STOECKLEIN: I do have the witness
5 that we discussed to I don't know whether we'll
6 call it impeach or rebut Mr. Nigussie's testimony
7 related to the ANC ABRA committee hearing, but
8 extremely limited scope of testimony there, but
9 it is highly relevant.

10 CHAIRPERSON ANDERSON: I'm sorry,
11 you're trying to -- the witness rebutted what
12 testimony?

13 MR. STOECKLEIN: Mr. Nigussie
14 indicated in his testimony -- he acknowledged
15 that he attended the ANC ABRA committee hearing
16 on February 16th.

17 CHAIRPERSON ANDERSON: Okay.

18 MR. STOECKLEIN: But indicated that --
19 but indicated -- I just want to say, this is when
20 we got into the back -- the extended back-and-
21 forth conversation, all of us, I think, about
22 whether he could -- what statements he made in
23 front of the committee regarding Sound Bar.

24 And so this witness will be able to
25 testify, based on first-hand knowledge,

1 specifically, the representations that Mr.
2 Nigussie made regarding Sound Bar when he,
3 according to his own testimony, was attempting to
4 secure some kind of settlement arrangement.

5 CHAIRPERSON ANDERSON: So you're
6 stating that the -- he made a -- when was this
7 meeting, I'm sorry, again?

8 MR. STOECKLEIN: February 16, 2022.

9 CHAIRPERSON ANDERSON: So you're
10 saying on February 16th, he made representation
11 that he was not aware of the operation of Sound
12 Bar?

13 MR. STOECKLEIN: That is correct.

14 CHAIRPERSON ANDERSON: I mean, I don't
15 believe that we need any rebuttal testimony -- I
16 mean, as I've stated earlier, on 12/16/21, there
17 was Case number 21 CMP00082 -- I'm sorry -- yes,
18 82, that on January 26, 2022, the Board issued a
19 warning to Mr. Nigussie regarding the operation
20 of the expansion onto -- into the first floor.

21 MR. STOECKLEIN: Right.

22 CHAIRPERSON ANDERSON: So I mean, I --

23 MR. STOECKLEIN: I agree.

24 CHAIRPERSON ANDERSON: -- irrespective
25 -- but what I'm -- my position, irrespective of

1 what he states to whoever he states, it -- as the
2 Board have decided issued January 26, 2022, he
3 was on notice.

4 So I don't think it's relevant what is
5 it that he tells the community. It's -- the
6 Board issued him a warning in January 26, 2022.
7 And the reason why the Board issued him a warning
8 in January 26, '22, it was the because of the
9 expansion of the operation into the first floor,
10 so --

11 MR. STOECKLEIN: All right. I agree,
12 Mr. Chair --

13 CHAIRPERSON ANDERSON: -- whether or
14 not he denies it -- this is my position, sir,
15 whether or not he denied that he knew, as of
16 January 26, 2022, the Board -- it -- factually,
17 the Board issued him a warning.

18 So I don't think it's relevant to --
19 us to -- for us to -- we don't need rebuttal
20 testimony on what is it that he claims he knew or
21 didn't know. Factually, as far as the Board is
22 concerned, he was aware on January 26, 2020, when
23 we issued the warning.

24 MR. STOECKLEIN: Mr. Chair, if I may?
25 The intention here is because of -- the timing

1 matters, so the fact that he came before the ANC,
2 which he did for a reason, but indicated to all
3 of us earlier today that the ANC had refused to
4 even speak to him or deal with him is directly
5 contradictory to what this witness will speak to.

6 Furthermore, because the warning was
7 issued prior to, and we all agree that if the
8 warning was issued, he has constructive knowledge
9 of the existence of the club, then an attempt to
10 go before the ANC and induce some kind of
11 settlement fraudulently is highly relevant in
12 this instance because the ANC is our highest
13 authority in the neighborhood.

14 CHAIRPERSON ANDERSON: But it just --
15 I think that's not relevant. Clearly, there was
16 no settlement. The ANC is one of the party --
17 for whatever reason, the ANC didn't settle the
18 matter. The ANC is a party at this hearing. So
19 therefore, whether or not whatever was done or
20 wasn't done, it's not relevant, as I've stated.

21 MR. STOECKLEIN: So am I understanding
22 correctly that it's the position of the Chair
23 that Mr. Nigussie's credibility is irrelevant to
24 this proceeding?

25 CHAIRPERSON ANDERSON: I -- but what

1 I'm trying to say to you, sir -- okay. If you're
2 saying he came to the Board and said he didn't
3 know anything in February --

4 MR. STOECKLEIN: I'm saying that I
5 provided about 15 cases where Mr. Nigussie has
6 clearly lied, not only to us, but to you. And
7 I'm trying to bear out the final instance of that
8 for the record. If that's not allowable, then I
9 will just -- I will just -- then we rest our
10 case.

11 MR. BIANCO: Mr. Chair, we're well
12 into fantasy land at this point. This doesn't
13 make any sense. The chair has already addressed
14 this issue of notice that Mr. Stoecklein keeps
15 harping on for no reason.

16 Mr. Nigussie testified that he went to
17 this meeting. The Board Chair has repeatedly
18 referenced evidence that is, in fact, on the
19 record with respect to the warning and I don't
20 know why on earth any of us would want to belabor
21 this any longer.

22 And it has no bearing on the ultimate
23 issue here, which is not credibility, it's not
24 trash, it's not garbage, it's not upset neighbors
25 that don't like having 55 establishments in their

1 neighborhood, even though they move directly
2 behind them.

3 The issue here is very simple, first
4 floor expansion, no increase in occupancy,
5 appropriateness. All this --

6 MR. STOECKLEIN: Have we entered into
7 closing statements? It feels like we may have at
8 this juncture.

9 CHAIRPERSON ANDERSON: Mr. Stoecklein,
10 Mr. Stoecklein?

11 MR. STOECKLEIN: Well, I'm just
12 wondering whether we have --

13 MR. BIANCO: Again --

14 CHAIRPERSON ANDERSON: All right.
15 Hold on. Gentlemen, gentlemen, gentlemen, it is
16 -- gentlemen, it is 9:59 and we've been going at
17 listens 1:30, 1:40. All right. So it's not
18 necessary to call rebuttal witness. So where --
19 let's do closing.

20 All right. Each side has five minutes
21 to do closing. And are you ready for closing,
22 Mr. Bianco, or do we need that get five-minute
23 break?

24 MR. BIANCO: I -- based on where we
25 are, I'm ready to go off the cuff. Let's just do

1 it.

2 CHAIRPERSON ANDERSON: All right. So
3 you have five minutes to do closing, sir. I'm
4 sorry. And this is what I want from each party,
5 what is it that the licensee is requesting and
6 what is it that the protesting is requesting of
7 the Board? Thank you. Five minutes, sir.

8 MR. BIANCO: Thank you, Mr. Anderson.
9 As I said at the outset nine hours ago, this is a
10 very simple issue that the WNA has needlessly
11 complicated.

12 The very simple issue is whether the
13 applicant in this case can expand its square
14 footage onto the first floor of 1909 9th Street
15 without a corresponding expansion and occupancy.

16 What you've heard from WNA is largely
17 noise and not motivated by a bona fide intention
18 about peace and quiet. Based on the testimony
19 that was presented, their motivation is shutting
20 down this establishment at all costs. That's not
21 why we're here.

22 We're here to consider a very limited
23 issue. The protest reasons that were cited were
24 done so in a form letter that was just a blanket
25 statement, checking off all of the boxes.

1 There has been no evidence presented
2 with respect to parking. There has been no
3 evidence that has been presented with respect to
4 vehicular safety. There has no evidence that has
5 been presented with respect to real property
6 values.

7 The evidence on peace, order, and
8 quiet is scant, if any, and weighs strongly in
9 our favor. For all of WNA's complaints,
10 something that they are not able to deny, that we
11 all heard with our own ears, is my client's
12 standing directly outside of his establishment
13 during the day, which is important because there
14 was no ambient noise coming from other
15 establishments.

16 So at a time when it was otherwise
17 silent, my client was standing directly -- or his
18 contractor was standing directly within a few
19 feet of the back door with the music at full
20 blast and none of us could hear it. That is an
21 important point that I think the Board needs to
22 rely very heavily on.

23 The testimony presented by the MPD,
24 again, I think, weighs in our favor in that the
25 issues cited are broader than just one

1 establishment.

2 Captain Kim stated very clearly that
3 the problem is outside. He further conceded, on
4 cross-examination, that there's nothing that
5 establishments can do to control the behavior of
6 adults in public space other than report it to
7 the police.

8 This case is not a fire marshal case,
9 it's not a DCRA occupancy issue, it's not even an
10 ABRA occupancy issue.

11 For whatever efforts were made to turn
12 it into that, there is no evidence that at any
13 point this establishment was over occupancy, nor
14 is there any evidence that they have been cited
15 for that.

16 And I think that's important because
17 the MPD testimony is that he has referred
18 complaints to both ABRA and to the fire marshal,
19 and notwithstanding those referrals, not only
20 were there no violations, there were no
21 citations. Occupancy is not an issue here as
22 much as WNA would like it to be.

23 The problem -- I think one of the very
24 big problems we have here is that 9th Street and
25 that U Street Corridor is dying. And the

1 evidence that is on the record indicates that
2 just one year ago, there were 69 licensed
3 establishments in a 1200-foot radius and that
4 could be found in the Board's order renewing the
5 license.

6 The report we heard today indicates
7 there's only 55 left. That's 14 gone in a year.
8 And what these businesses are, are small family-
9 owned neighborhood businesses.

10 And the testimony that we are hearing
11 that is quite concerning is Johnny-come-lately
12 people moving in, paying too much money for
13 condominiums directly behind a strip of five
14 bars, and then instantly complaining to anybody
15 who will listen that it's dirty and there's rats
16 and it's noisy and it's inappropriate.

17 And in the process of doing that, they
18 are murdering these businesses. The literal
19 corner and epicenter of the Don't Mute DC
20 movement is here and the people fighting against
21 it, unfortunately, are here as well.

22 What we're asking for -- oh, I'm
23 sorry. And there's one more thing I want to
24 mention, which is the conspicuous absence of the
25 ANC.

1 They have been completely disengaged
2 in this process. They've provided no reasoning,
3 no logic, no explanation as to why this
4 particular request would be inappropriate.

5 The testimony on the record
6 demonstrates my client made efforts to reach out
7 and address whatever concerns they had, they
8 didn't tell us, nor did WNA in a manner that
9 would be cooperative among the neighborhood and
10 allow people to work together.

11 Instead, the response that we get is,
12 no, we will never agree to anything. And here we
13 are after a nine hour hearing over largely
14 nothing.

15 Our position is that the increase in
16 square footage without a corresponding increase
17 in occupancy should be granted. Many of the
18 details that were the focus of the extensive
19 examination couldn't -- could have and should
20 have been worked out in the ordinary course of
21 this process that the Board uses.

22 Unfortunately, due to the attitudes of
23 the neighbors, they were not and we are where we
24 are.

25 It's my hope that the Board grants our

1 request and then I'm sure -- and, unfortunately,
2 we will all see each other again in the fall when
3 we're fighting over the renewal of this license
4 and all of the things that Mr. Stoecklein wanted
5 to raise in this hearing will be more
6 appropriately considered by the Board at that
7 time. Thank you very much.

8 CHAIRPERSON ANDERSON: Thank you. Is
9 Mr. Orlaskey -- is he still here?

10 MR. STOECKLEIN: Mr. Chairman, the --
11 ironically, the ANC's ABR committee meets
12 tonight. So Mr. Orlaskey had to leave to attend
13 that meeting --

14 CHAIRPERSON ANDERSON: All right.

15 MR. STOECKLEIN: -- to discuss, among
16 other things, this proceeding. So I don't know
17 that he is available right now, but I can
18 certainly find out.

19 CHAIRPERSON ANDERSON: Well, it's your
20 -- I'll give you an opportunity to do closing.
21 If he comes online, prior to your closing, then
22 we'll probably just close record.

23 Then if he wants to -- I mean, he has
24 basically stated that he's here for questions.
25 He didn't necessarily have anything to say. But

1 you have five minutes to close, sir.

2 MR. STOECKLEIN: Okay. Thank you, Mr.
3 Chairman. And I've texted Mr. Orlaskey to see if
4 he's available, so he may join.

5 To that point, Mr. Bianco has
6 suggested or implied that the ANC is completely
7 disengaged and that is simply not the case.

8 The ANC protested this proceeding.
9 They approved -- an approval of a protest to the
10 ANC requires rigorous process, multiple meetings,
11 and it include -- it requires substantial buy in
12 from the entire neighborhood.

13 So the reason that the ANC was not
14 more vocal in this process is because we were
15 required to choose one speaker, one
16 representative, to represent both the WNA and the
17 ANC and in that case for better and for worse, it
18 was me.

19 So this has -- it has nothing to do
20 with whether the ANC is supportive of the
21 position espoused by WNA, that's the first point.

22 Mr. Bianco has also seemed to suggest
23 that there is a wholesale unwillingness on the
24 part of the WNA or the ANC to reach any kind of
25 amicable agreement with these -- with the clubs

1 on the 1900 Block of 9th Street. And that too is
2 demonstratively false.

3 We, in fact, only have two pending
4 protest proceedings at all right now because we
5 are very judicious about the protests that we
6 file.

7 MR. BIANCO: Mr. Anderson, can we keep
8 this to the evidence on the record? None of this
9 is on the record --

10 CHAIRPERSON ANDERSON: Mr. Bianco,
11 he's doing his closing. Please do not interrupt.
12 Go ahead, Mr. Stoecklein.

13 MR. STOECKLEIN: Thank you, Mr. Chair.
14 And so we -- you know, I will tell you that we
15 have settlement agreements in place recently
16 negotiated with several establishments.

17 So we are more than willing to work
18 with our neighbors who actually have an intention
19 of being neighbors and would have been
20 comfortable doing so in this case, if not, for
21 the extensive history with Mr. Nigussie, in
22 particular, of making misrepresentation at every
23 possible turn to the road.

24 We simply cannot trust anything that
25 Mr. Nigussie says. And so how could we possibly

1 come to the table and negotiate anything on that
2 basis?

3 Mr. Bianco has also suggested to you,
4 I think, in an attempt to distract from the real
5 sort of substantive facts here, that somehow the
6 fact that some of the witnesses that you heard
7 from tonight and some of the members that WNA
8 that I represent may have moved to the area or
9 purchased property subsequent to the opening of
10 Empire Lounge, that that somehow -- that that
11 moots their rights as property owners and
12 residents in the district.

13 And I can't fathom how that is
14 supported or even reasonable to consider. The
15 fact remains, the law is the law. And there is
16 no first in time, first in right overarching rule
17 here.

18 If an establishment wants to continue
19 to operate, they need to operate in accordance
20 with the rules that you, among others, are
21 charged with enforcing.

22 And what, unfortunately, this club has
23 shown is that they have no interest in following
24 those rules. And in fact, they have -- they
25 flouted your authority left and right.

1 This isn't just about ignoring a
2 settlement agreement with the WNA. This isn't
3 just about some trash. And forget whether they
4 have misrepresented and broken promises to the
5 WNA, they have ignored your authority over and
6 over and over and over.

7 This establishment is one of the worst
8 ABRA violators in the District of Columbia. And
9 it has shown repeated disregard for statutes and
10 regulations.

11 Close to a year ago, in its order,
12 allowing Empire's license to be reviewed, this
13 Board, you, found that the record of compliance
14 raised, quote, serious questions about the
15 ownership's ability to properly superintend the
16 business. The ownership's knowledge of the
17 requirements of his license and ability to act
18 appropriately when confronted with crime,
19 violence, unruly crowds, and other issues that
20 may arise in the course of operating a tavern,
21 end quote.

22 Since that order, Mr. Nigussie has
23 continued his blatant, disregard and contempt for
24 ABRA, its laws, and its regulations. That
25 includes his contempt for your authority and all

1 of the time that you put him tonight and every
2 other night and very other day to try to help
3 support the good businesses, trying to do
4 business the right way in the district.

5 It is in a front to your authority and
6 a front to all the efforts of the law abiding
7 businesses that try to do it the right way.

8 Since your order, Mr. Nigussie
9 received citations, whenever inspectors
10 repeatedly operating on the first floor of the
11 building. And although we were prevented from
12 further engaging in and discovering facts around
13 those circumstances, the fact remains that he did
14 so without an endorsement, continued to do so
15 after receiving a warning, and he has
16 consistently failed to abide by settlement
17 agreements and a variety of other licensure
18 requirements.

19 Very recently, his license, as you
20 know, was suspended because he allowed a patron
21 to enter with a firearm. So my question to you
22 is: Is there any reason to think that if you
23 allow Mr. Nigussie to expand his premises by,
24 we'll call it a third, that somehow it won't make
25 it even harder for him to act, as you put it, to

1 superintend his business, that it won't simply
2 exacerbate the problems that Empire has caused
3 and continue to cause?

4 I don't think that there's any
5 possibility. We're not talking about random
6 events of violence without a causal connection.
7 We have talked tonight about a shooting that
8 occurred just outside, a discharge of a weapon
9 that occurred inside, an attempted murder inside
10 Empire, all within the past year.

11 If you lived next door to that
12 establishment, would you be comfortable with your
13 safety, with your family's safety? Do you think
14 that that's a reasonable way for this -- for a
15 club to operate? I hope not. I appreciate your
16 time and consideration.

17 CHAIRPERSON ANDERSON: Thank you, sir.
18 Before closing the record are there any documents
19 that you wish to move into evidence? I know
20 we've had some type of testimony that you want to
21 move into evidence?

22 MR. BIANCO: I believe we've moved all
23 our documents.

24 CHAIRPERSON ANDERSON: Thank you, Mr.
25 Bianco.

1 And, Mr. Stoecklein?

2 MR. STOECKLEIN: Other than the
3 Twitter video that I wasn't able to submit, no.

4 CHAIRPERSON ANDERSON: All right.
5 Thank you. The record is now closed. Do the
6 parties wish to provide -- to do proposed
7 findings of fact and conclusions of law or waive
8 your right to do so? We can opposed -- I'm
9 sorry.

10 MR. BIANCO: Sorry about that. This
11 is Richard Bianco. No, no, I'm ready to move on
12 with my life. I definitely don't want to brief
13 this.

14 CHAIRPERSON ANDERSON: Mr. Stoecklein?

15 MR. STOECKLEIN: Unfortunately, I
16 would say that we would err on the side of
17 caution and say that we would like to. But I
18 would -- if permissible, I'd like to take it back
19 to the Association and the ANC, since Mr.
20 Orlaskey is not here and I can't really speak for
21 the ANC, and then circle back with the general
22 counsel, if that's possible with your general
23 counsel. I just -- I'm not in a position to
24 speak for Mr. Orlaskey or the ANC, so I'm not
25 able to really -- to do that?

1 CHAIRPERSON ANDERSON: But what is
2 your position? His position -- I mean, his
3 position was that, I'm just here to listen if
4 there are questions that needs to be asked. If
5 question that needs to be asked, then I'll ask a
6 question, so there -- so I'm asking you, as part
7 of your client, whether or not you wish to do
8 that?

9 MR. STOECKLEIN: Yes.

10 CHAIRPERSON ANDERSON: All right. The
11 parties choose to file proposed findings of fact
12 conclusion of law from 90 days from when the
13 Board received proposed findings of fact and
14 conclusions of law. So therefore, you should get
15 the transcript within three weeks. They,
16 therefore, are due to the Board 30 days after
17 receipt of the transcript.

18 Now, the proposed findings of fact and
19 conclusions of law, you're not bringing any new
20 evidence, no evidence, no new evidence, no
21 testimony, no new testimony. It's basically
22 based on the transcript.

23 This is what was proven. These are
24 what the facts are in the transcript and this is
25 what the law -- as long as it's clear, this is

1 what needs to be done. You -- therefore, if you
2 change your mind, please advise the Board, sir,
3 if you will change your mind in doing this.

4 MR. STOECKLEIN: Mr. Chairman, I'm
5 very sorry to do this, but I'm told and just saw
6 that Mr. Orlaskey has joined the -- rejoined the
7 call. I don't know if the Chair is amenable to
8 reopening the record from Mr. Orlaskey to make a
9 brief statement, but I'm just conveying the
10 request.

11 MR. BIANCO: Mr. Chair, my position is
12 that the record is closed. There's been ample
13 opportunity here. Mr. Orlaskey opted to attend
14 another meeting, which is understandable, but at
15 the end of the day, we've been here all day
16 working on this and it's not for lack of
17 opportunity to present what he wanted to present.
18 I think the hearing should be closed at this
19 point.

20 CHAIRPERSON ANDERSON: You're correct,
21 Mr. Bianco. The record is closed. I said prior
22 to and so the record is closed. So if -- since,
23 Mr. Stoecklein, you have stated that on behalf of
24 your client, you're going to do proposed findings
25 of fact and conclusion of law, then -- Mr.

1 Orlaskey, then he can participate in that
2 exercise if he so desire, but the record is
3 closed, okay?

4 All right. So as I stated before, the
5 transcript will be available within, I think, two
6 to three weeks and you're just -- this -- the
7 proposed findings of fact and conclusions of law
8 argues the Board within 30 days after receipt of
9 the transcript. If you change your mind, please
10 so advise the Board, okay?

11 All right. As chairperson of the
12 Alcoholic Beverage Control Board for the District
13 of Columbia and in accordance with DC Code
14 Section 2-575 of the Open Meetings Act, I move
15 that ABC Board hold a closed meeting for the
16 purpose of seeking legal advice from our counsel
17 on Case number 22 PRO-00026, Empire Lounge,
18 pursuant to DC Code Section 2-575 B 4A of the
19 Open Meetings Act and deliberate upon Case number
20 22 PRO-00026, Empire Lounge for the reasons cited
21 in DC Code Section 2-575 B13 of the Open Meetings
22 Act.

23 Is there a second? Mr. Short has
24 seconded the motion. We'll now -- I'll now take
25 a roll call vote on the motion. Mr. Short?

1 MEMBER SHORT: Mr. Short, I agree.

2 CHAIRPERSON ANDERSON: Ms. Crockett?

3 MEMBER CROCKETT: I agree.

4 CHAIRPERSON ANDERSON: Ms. Hansen?

5 MEMBER HANSEN: Jeni Hansen, I agree.

6 CHAIRPERSON ANDERSON: Mr. Grandis?

7 MEMBER GRANDIS: Agree.

8 CHAIRPERSON ANDERSON: Mr. Anderson,
9 I agree as to appear through the motion has fast.
10 I hereby give notice that the ABC Board will
11 recess this proceedings to hold a closed meeting
12 pursuant to Section 2-575 of the Open Meetings
13 Act.

14 I would like to thank the parties for
15 their participation in the hearing today. And
16 again, the proposed findings of fact and
17 conclusions of law, I give the Board 30 days upon
18 receipt of the transcript.

19 If you change your mind that you no
20 longer wish to pursue this option, please advise
21 the Board through ABRA legal. Thank you very
22 much. Have a great night.

23 All right. The Board, our work is not
24 done. So we're going to go into a short
25 executive session and then we will come back to

1 close the record.

2 So we -- the Board, will go into
3 executive session and we will come back to
4 officially close the record. So let us move into
5 executive session and then we'll come back to
6 close the record, please. Thanks.

7 (Whereupon, the above-entitled matter
8 went off the record at 10:21 p.m.)

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In the matter of: Empire Lounge

Before: DC ABRA

Date: 07-20-22

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