

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:                   :  
  :  
Upshur Burger Concepts,        :  
LLC,                                 :  
t/a Lucky Buns                   :  
2000 18th Street NW            :  
Retailer CR - ANC 1C           :  
License No. 107929             :  
Case #19-PRO-00084            :  
  :  
(Application to Renew the:  
License)                           :

Wednesday  
December 4, 2019

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson  
BOBBY CATO, JR., Member  
RAFI ALIYA CROCKETT, Member  
JAMES SHORT, JR., Member

ALSO PRESENT:

ASHLEY WILSON, Protestant  
DENNIS JAMES. Protestant  
AMIR IRANI, ANC 1C, Protestant  
ALEX McCOY, Applicant  
MARK LUIZ, Witness  
MARCUS MIRRA, Witness  
LORRIE CLARK, Witness

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

2 7:35 p.m.

3 CHAIRPERSON ANDERSON: Okay, we're  
4 back on the record, and our next case is case  
5 number 19-PRO-00084, Lucky Buns. License number  
6 107929. Will the parties please approach to  
7 identify themselves for the record, please?

8 MR. MCCOY: Yes, sir.

9 MS. WILSON: Do you need an  
10 introduction?

11 CHAIRPERSON ANDERSON: No. No, I mean  
12 normally you're sitting out in the audience. So  
13 when I said approach, I said move forward. So,  
14 yes.

15 MR. MCCOY: My name's Alex McCoy, I'm  
16 the owner of Lucky Buns.

17 CHAIRPERSON ANDERSON: Your last name?

18 MR. MCCOY: McCoy, M-C-C-O-Y.

19 CHAIRPERSON ANDERSON: Mr. McCoy.  
20 Okay.

21 MS. WILSON: I am Ashley Wilson. I'm  
22 a resident on Vernon Street, and I am also  
23 representing the group of nine protestants.

24 CHAIRPERSON ANDERSON: Hi. I'm Dennis  
25 James, president of the Kalorama Citizens

1 Association.

2 MR. IRANI: Hello. Amir Irani  
3 representing ANC 1C.

4 CHAIRPERSON ANDERSON: How do you  
5 spell your last name, sir?

6 MR. IRANI: I-R-A-N-I.

7 CHAIRPERSON ANDERSON: All right. ANC  
8 1C. Now there are three protestors? Do you have  
9 a designated -- do you have one designated  
10 representative who's going to represent all  
11 three?

12 MR. JAMES: We don't, but through  
13 discussion with Board's general counsel, we  
14 understand one person will ask questions of just  
15 one witness, and then in other cases -- for  
16 instance, both of these worthy folks are going to  
17 become witnesses at some point.

18 CHAIRPERSON ANDERSON: Sir, hold on.  
19 Hold on one minute. Where's my rule book?

20 MR. JAMES: But we understand the  
21 desire for efficiency, and we will respect that  
22 to the greatest extent possible.

23 CHAIRPERSON ANDERSON: Yes.  
24 Basically, I was going to give you the provision.  
25 Basically we're going to have -- there's going to

1 be one designee who will make the opening,  
2 closing and cross-examine witnesses. So we can't  
3 have three people -- so if you want to split it  
4 up to say, okay, fine, this person will make the  
5 opening, this person will make the closing, but  
6 it should be one consistent person who's going to  
7 cross-examine any witnesses and stuff.

8 MS. WILSON: Can I ask a clarifying  
9 question?

10 CHAIRPERSON ANDERSON: Yes.

11 MS. WILSON: So I will make the  
12 opening and closing.

13 CHAIRPERSON ANDERSON: Right.

14 MS. WILSON: Do I need to also be the  
15 one that asks the witnesses questions?

16 CHAIRPERSON ANDERSON: Not necessarily.

17 MS. WILSON: Okay. So that can be  
18 among the three of us.

19 CHAIRPERSON ANDERSON: But it's not  
20 going to be all three of you asking --

21 MS. WILSON: Yes, understood.

22 CHAIRPERSON ANDERSON: -- the witness.

23 MS. WILSON: Yes.

24 CHAIRPERSON ANDERSON: So it has to be  
25 one person --

1 MS. WILSON: Per witness.

2 CHAIRPERSON ANDERSON: -- asking the  
3 witness per witness.

4 MS. WILSON: Yes.

5 MR. JAMES: Yes, that's the way we  
6 designed it, and it was based on the conversation  
7 that I had with Ms. Jenkins.

8 CHAIRPERSON ANDERSON: Okay. All  
9 right.

10 MR. JAMES: Yes

11 MS. WILSON: Yes.

12 CHAIRPERSON ANDERSON: All right. Now  
13 have you done a protest hearing before?

14 MR. MCCOY: No.

15 MS. WILSON: I have not.

16 CHAIRPERSON ANDERSON: All right. So  
17 this process is -- the way the process is going  
18 to operate is that the Board will have its  
19 witness testify which is the investigator who  
20 should have spoken to all the parties, written a  
21 report. And so the investigator will testify,  
22 the Board will question the investigator about  
23 the report.

24 Once the Board questions the  
25 investigator, then the applicant will have an

1 opportunity to question the investigator about  
2 his report, and then the protestant will have an  
3 opportunity to question the investigator about  
4 his report. After the Board has presented its  
5 case, then the applicant will present its case by  
6 calling its witnesses.

7           Once a protestant has -- I'm sorry,  
8 the applicant has put his case on, then the  
9 protestant will put his case one. I'll give you  
10 five minutes for opening, five minutes for  
11 closing. And each side has an hour and a half to  
12 present its case. And I want to let you know  
13 that you should not spend most of your time  
14 cross-examining witnesses because that's off part  
15 of the time, too. So I think your time is better  
16 spent if it's spent on direct examination rather  
17 than cross-examine because you don't want to  
18 cross examine a witness for 30, 40 minutes and  
19 then you haven't presented your case and we're  
20 telling you that you only have 30 minutes left in  
21 your case. So be mindful of that. All right.

22           MR. JAMES: And the board is keeping  
23 track of the time?

24           CHAIRPERSON ANDERSON: Yes.

25           MR. JAMES: Very good.

1 CHAIRPERSON ANDERSON: Ms. Crockett  
2 over there. I don't have a book.

3 MS. WILSON: Will you give us regular  
4 updates?

5 CHAIRPERSON ANDERSON: Well, I think  
6 Ms. Crockett will let you know if -- she'll keep  
7 a track -- I'll have them get one. So Ms.  
8 Crockett will look at it and let you know, keep  
9 you abreast of -- all right.

10 MEMBER SHORT: That's why ask them, you  
11 could just to do it to me now.

12 CHAIRPERSON ANDERSON: All right. All  
13 right. Okay. So are there any preliminary  
14 issues that needs to be addressed before we start  
15 the protest hearing?

16 MR. MCCOY: No. I would like to say  
17 something though.

18 CHAIRPERSON ANDERSON: What?

19 MR. MCCOY: As we will discuss this  
20 throughout the hearing here, every single issue  
21 that is being protested is actually the  
22 jurisdiction of the Department of Transportation.  
23 This is a protest against a DDOT-approved trash  
24 area that exists on a DDOT-approved sidewalk  
25 café. It's approved by the city.



1                   It falls under the jurisdiction of the  
2 Department of Transportation and they have  
3 approved all of this. They've approved the trash  
4 area. They have approved the side walk café.  
5 And as well as the movement of the walk-in cooler  
6 which will be discussed, has been done with the  
7 approval and with the guarantee of the Department  
8 of Transportation who have given us their  
9 blessing to do these things with the timeline  
10 that we have done.

11                   And we have accomplished all these  
12 goals. We dug out the basement. The new walk-  
13 in is being delivered. And once that's being  
14 delivered we're building a new fence. And those  
15 are all the things that I promised. And so we  
16 already have a signed settlement agreement.

17                   And we have zero ABRA violations. We  
18 have zero ABRA violations as they pertain to  
19 trash. And Inspector Ruiz's report clearly  
20 states that we are not violating our settlement  
21 agreement, and we are not violating any ABRA laws  
22 whatsoever.

23                   And so I would like to say that in the  
24 beginning. We have a long day of talking about  
25 this stuff, and I think it's important to

1 understand that, you know, we can talk about this  
2 for an hour and a half each, but the decision  
3 about the existence of this trash area is  
4 actually DDOT's responsibility. So I just wanted  
5 to mention that on the onset.

6 CHAIRPERSON ANDERSON: All right. The  
7 protest issue is its adverse impact on peace,  
8 order and quiet. Now I don't know what the  
9 issues are, and that's all this -- basically this  
10 is an application to renew your license.

11 MR. MCCOY: Correct.

12 CHAIRPERSON ANDERSON: And it's being  
13 protested by three sides. So we'll start off by  
14 -- so we'll basically start off by having an  
15 opening statement by the applicant and then the  
16 protestant, and then we'll call our witnesses.  
17 And what I'm going to say, I don't know -- how  
18 many witnesses do you have?

19 MR. MCCOY: I have no witnesses. I  
20 just have my facts and the approval of the city.

21 CHAIRPERSON ANDERSON: And so you're  
22 basically -- you're going to testify?

23 MR. MCCOY: Correct. Yes, I'll cross  
24 examine the witnesses, but I'm not --

25 CHAIRPERSON ANDERSON: But you're

1 going to -- in presenting your case you're going  
2 to testify?

3 MR. MCCOY: Correct.

4 CHAIRPERSON ANDERSON: All right.

5 MR. MCCOY: Correct.

6 CHAIRPERSON ANDERSON: So, all right.

7 MR. MCCOY: Yes, yes.

8 CHAIRPERSON ANDERSON: How many  
9 witnesses do we have? How many witnesses does  
10 the protestant have?

11 MS. WILSON: We have one, two, three,  
12 four, five.

13 CHAIRPERSON ANDERSON: Five witnesses.

14 MS. WILSON: Six actually.

15 CHAIRPERSON ANDERSON: Six.

16 MS. WILSON: Sorry, six witnesses.

17 CHAIRPERSON ANDERSON: Six witnesses.

18 And --

19 MR. JAMES: Some of them are going to  
20 be very brief.

21 CHAIRPERSON ANDERSON: All right,  
22 that's even better. The only thing I'll just say  
23 I'm not going to have redundant testimony, so if  
24 folks are -- I don't need ten people to testify  
25 on the same issue. So if it's not the same

1 issues, the same fact, then it's like heard it, I  
2 don't need to hear ten times.

3 MS. WILSON: Sure.

4 CHAIRPERSON ANDERSON: Use your time  
5 presenting testimony on something that's new.

6 MS. WILSON: Yes.

7 CHAIRPERSON ANDERSON: That will make  
8 an impression on the Board. Okay? All right.  
9 So does the applicant wish to make an opening  
10 statement?

11 MR. MCCOY: Absolutely.

12 CHAIRPERSON ANDERSON: You have five  
13 minutes.

14 MR. MCCOY: Yes, yes. So I want to  
15 start off with --

16 MR. IRANI: Sir, we have a preliminary  
17 matter.

18 CHAIRPERSON ANDERSON: I'm sorry,  
19 what's that?

20 MR. IRANI: Yes. Under 23 DCMR 23-  
21 313.8, protestants request the exclusion of  
22 applicant's exhibits and protest information form  
23 as they were not filed timely. These documents  
24 were required by 11:59 p.m. November 27th, 2019.  
25 The PIF and some photo exhibits were sent by the

1 applicant by e-mail at 10:09 p.m. last night,  
2 December 3rd. I haven't even seen them.

3 CHAIRPERSON ANDERSON: All right. So  
4 I know at the protest hearing status I informed  
5 parties that the PIF is due seven days before.  
6 So they're saying they did not receive your PIF.  
7 So what --

8 MR. MCCOY: So, no, they actually --  
9 well, so I sent over an e-mail to -- let me get  
10 this, and I'll pull up the timestamp because  
11 that's actually not correct. I sent over an e-  
12 mail to I believe it was -- is it April? And  
13 because the PIF form that was sent to me was a  
14 little confusing because it's formatted as if  
15 it's a protestor, you know, basically saying this  
16 is what we're protesting, et cetera, I sent the  
17 question and said do I have to fill this form out  
18 or is this form directly for the protestors, and  
19 do I have a separate form? Before 11:59, I sent  
20 all of my photos, everything to ABRA Legal before  
21 the 11:59. I actually have a timestamp right  
22 here.

23 CHAIRPERSON ANDERSON: But was it sent  
24 to the other side?

25 MR. MCCOY: What's that?

1                   CHAIRPERSON ANDERSON: Was it sent to  
2 the other side?

3                   MR. MCCOY: It was the night before  
4 Thanksgiving and I didn't have any questions  
5 answered. On --

6                   CHAIRPERSON ANDERSON: No, I'm saying  
7 did you send it?

8                   MR. MCCOY: I did not because I wasn't  
9 sure of the process. When I was --

10                  MR. IRANI: We all sent e-mails and he  
11 could have just hit reply all.

12                  MR. MCCOY: When I was --

13                  MR. IRANI: Everybody hit reply.

14                  MR. MCCOY: -- responded by ABRA  
15 Legal, and she said, okay, this is fine, but just  
16 make sure you send it over. So I sent it over  
17 when she told me to send it over.

18                  CHAIRPERSON ANDERSON: But --

19                  MR. MCCOY: I was just confused by the  
20 process because, you know, they --

21                  CHAIRPERSON ANDERSON: But when I was  
22 here at a protest hearing status, I told each  
23 side that you were supposed to disclose the  
24 documents seven days previously, prior to. So  
25 you never disclosed the documents.

1 MR. MCCOY: I sent it to ABRA Legal,  
2 and because I had a lot of questions about how to  
3 send that.

4 CHAIRPERSON ANDERSON: But why did you  
5 wait till -- why did you wait to the day it was  
6 due to --

7 MR. MCCOY: I was traveling for  
8 Thanksgiving and all of that. It's kind of  
9 unfortunate, this landed like day before, you  
10 know, through the Thanksgiving weekend with a lot  
11 of people out of town. The form that was sent to  
12 me that week --

13 CHAIRPERSON ANDERSON: But I'm not  
14 talking about -- but I'm not talking about -- I'm  
15 not trying to be harsh, but that's just sounding  
16 like an excuse. We had the protest hearing  
17 status -- we had the protest hearing status  
18 September 18th, and on September 18th I told both  
19 parties when the documents were due.

20 So I mean, yes, you chose to send it  
21 on the seventh day. You had a problem on the  
22 seventh day. You got an e-mail from them. You  
23 got their documents, so why didn't you just send  
24 -- even if you didn't know what you were doing  
25 since you got -- and did you receive the

1 documents from them?

2 MR. MCCOY: They sent their just  
3 shortly before 11:59.

4 CHAIRPERSON ANDERSON: And when did  
5 you send yours? So why didn't you respond at the  
6 same time as --

7 MR. MCCOY: I sent mine -- because I  
8 didn't see all the documents. I didn't see any  
9 of the photos and I didn't see any of the videos.

10 CHAIRPERSON ANDERSON: So when did you  
11 send them documents?

12 MR. MCCOY: So I sent over after I had  
13 been -- after my e-mail was responded to.

14 CHAIRPERSON ANDERSON: When was that,  
15 sir?

16 MR. MCCOY: That was yesterday. That  
17 was yesterday. So I sent over a couple of them,  
18 and then after I got the response from April --

19 CHAIRPERSON ANDERSON: But this is not  
20 April -- but I told you what I need -- -- you  
21 were here at the show-cause hearing status.

22 MR. MCCOY: Yes.

23 CHAIRPERSON ANDERSON: And I  
24 specifically told you what you needed to do. Is  
25 that correct?



1 MR. MCCOY: Yes. I mean I have no  
2 defense for that. I'm just saying that that was  
3 based off the information I got from April.

4 CHAIRPERSON ANDERSON: But it's --

5 MR. MCCOY: And I apologize.

6 CHAIRPERSON ANDERSON: But they send  
7 you documents. Why would you not send documents  
8 back to them?

9 MR. MCCOY: No. It didn't seem like  
10 it was the full set of documents.

11 CHAIRPERSON ANDERSON: But it doesn't  
12 matter. They send you documents. They sent you  
13 documents.

14 MR. IRANI: Chair Anderson, also I'd  
15 like to call --

16 CHAIRPERSON ANDERSON: Hold on, hold  
17 on, sir. Hold on, hold on, sir.

18 MR. MCCOY: Well, I --

19 CHAIRPERSON ANDERSON: They sent you  
20 documents, why didn't you just -- why didn't you  
21 not respond back?

22 MR. MCCOY: I wasn't sure about the  
23 process and I apologize. And it wasn't meant to  
24 be deliberate. It was just with the Thanksgiving  
25 weekend and I asked questions, I didn't receive a

1 response till the beginning of the week. And  
2 once I received the response and I had a few  
3 questions back and forth with April and a phone  
4 call with --

5 CHAIRPERSON ANDERSON: Well, that's  
6 not --

7 MR. MCCOY: -- ABRA Legal.

8 CHAIRPERSON ANDERSON: I mean I'm not  
9 going to allow you to -- you can testify because  
10 you are the applicant, and this will be for both  
11 sides. But I don't know what the documents are,  
12 but because you did not provide the documents to  
13 the protestants seven days in advance, and I mean  
14 I don't think it's reasonable.

15 The reason that you're giving us why  
16 you did not provide the documents in my view,  
17 it's not reasonable. So I'm not going to allow  
18 you to -- I'm not going to allow to introduce the  
19 documents in record. But you can testify -- you  
20 will be able to testify, you'll be able to cross-  
21 examine, and we'll make a decision based on the  
22 testimony that you make.

23 MR. MCCOY: That's fine.

24 CHAIRPERSON ANDERSON: All right. All  
25 right. So what's the -- yes, based on your

1 presentation, I don't believe that you're going  
2 to be harmed much by the documents not being on  
3 the record --

4 MR. MCCOY: Okay.

5 CHAIRPERSON ANDERSON: -- because  
6 based on the representation that you're making so  
7 far. So what is your opening -- what is your  
8 opening statement?

9 MR. MCCOY: So I want to start off  
10 with an e-mail from George Bowman who's a  
11 neighbor.

12 CHAIRPERSON ANDERSON: I'm sorry.  
13 Hold on. I'm sorry. I'm sorry, did you have  
14 something you wanted to say, sir?

15 MR. IRANI: I did. But would you like  
16 me to send this preliminary request to you guys  
17 by e-mail?

18 CHAIRPERSON ANDERSON: What  
19 preliminary -- I don't have any access. What  
20 preliminary request was that?

21 MR. IRANI: It's just exactly what I  
22 just said, the preliminary matter of --

23 MR. JAMES: There's a little bit more  
24 detail about when the different --

25 MR. IRANI: Because --

1 MR. JAMES: Send.

2 MR. IRANI: So --

3 CHAIRPERSON ANDERSON: It's irrelevant  
4 at this juncture. I already ruled that I'm not  
5 going to allow because the documents were not  
6 timely and the documents were not submitted  
7 timely. And I don't have reasonable -- I don't  
8 have just cause why the documents were not. I  
9 mean it was perfectly -- it was clear. We had a  
10 prehearing conference. We had the protest  
11 hearing status on September 18th. I gave  
12 specific instructions to both sides to say what  
13 needed to be done and when it needed to be done.  
14 And I'm told that it was not done at that date.

15 And if you had said to me that you had  
16 submitted, although you didn't know. When you  
17 got their documents, you said you immediately  
18 send them document at 12:01, okay, fine. But  
19 you're telling me that you didn't even provide  
20 the documents until yesterday.

21 MR. MCCOY: Well, I apologize. It was  
22 based off of my communication with ABRA Legal,  
23 and it's my fault not --

24 CHAIRPERSON ANDERSON: And I'm not  
25 going to allow you, sir, to say based on your

1 communication with ABRA Legal because what I said  
2 before -- one thing that I've always said to  
3 parties, if you do not understand this process  
4 please contact assistant general counsel.

5 MR. MCCOY: Absolutely. I apologize.

6 CHAIRPERSON ANDERSON: April Randall,  
7 she'll provide you, she'll walk you through the  
8 process. So, therefore, I don't expect -- it's  
9 the Thanksgiving holiday, I don't expect you to  
10 contact her -- and then District government was  
11 closed Thanksgiving Day and the day after  
12 Thanksgiving so I don't know when she responded.  
13 Yes, she probably did not respond back to you  
14 until Monday because the government was closed on  
15 Thursday and Friday.

16 And so that's not ABRA Legal not  
17 responding back to you timely. It's the  
18 government was closed. And if you did not  
19 understand the process, you have known since  
20 September 18th that you didn't understand the  
21 process, and so as of September 18th, you should  
22 have contacted Legal for them to provide you  
23 instructions on how to do it. And as I stated  
24 before, if you had informed me that you had  
25 submitted the documents the next day, although

1 you still didn't understand, once you received  
2 their documents -- because my problems with this  
3 is that, yes, you received their documents, and  
4 even if you did not know what to do, they did  
5 something so that should be some indication to  
6 you that whatever they did, I need to do the same  
7 thing, too.

8           And so if you told me I didn't  
9 understand the process, I had some issues but I  
10 sent you -- they sent theirs at 11:59. I sent it  
11 to them 12:15 or 1:15 because I didn't understand  
12 but I sent it anyway, of course I'm going to -- I  
13 would have allowed them in. But not yesterday.

14           MR. MCCOY: Well, I apologize and I'll  
15 do my best to articulate my position regardless.

16           CHAIRPERSON ANDERSON: All right. So  
17 --

18           MR. MCCOY: Thank you.

19           CHAIRPERSON ANDERSON: You can do your  
20 opening.

21           MR. MCCOY: So I want to start off  
22 just thank you for giving me the opportunity to  
23 talk, and I'd like to start off with an e-mail  
24 from George Bowman who's a neighbor who lives on  
25 the street and has lived on the street for 30

1 years. And he says I think a protest is  
2 premature. This is the first a lot of people  
3 have heard about this including the owners of the  
4 buildings, and I don't think it's right to blame  
5 one restaurant for the neighborhood's problems.

6 In fact, when I heard about the  
7 protest, I thought it was just to get the city's  
8 attention to deal with the rat problem in our  
9 neighborhood which certainly isn't limited to the  
10 area just around the restaurants. I also see a  
11 lot more rats this year on Florida Avenue. I  
12 have lived on this corner for almost 30 years and  
13 the rats come in waves after milder winters. So  
14 all this has happened before, and a coordinated  
15 approach with the city is the only way the  
16 problem will go away.

17 The owners of both the Duplex and the  
18 Lucky Buns buildings have handled this many times  
19 in the past, so I believe they know how to work  
20 with the city to solve the problem, let them do  
21 it again.

22 MR. JAMES: Mr. Chair, I'd like to  
23 understand a little bit better about how this is  
24 going to work because he's -- actually that's a  
25 document and it's probably not allowed. We've

1 never seen it.

2 CHAIRPERSON ANDERSON: I don't know  
3 what the documents are. He's giving his opening  
4 statement. I'm not going to allow him --

5 MR. JAMES: It looked like he was  
6 reading from a letter.

7 CHAIRPERSON ANDERSON: Well, he can do  
8 whatever he wants to do, but there's a difference  
9 with -- he can read whatever document he wants to  
10 read from. He can have all the documents that  
11 was supposed to be disclosed, he can have them in  
12 front of him. He can do whatever he wants to do  
13 with them. I'm just not going to move them into  
14 evidence.

15 MR. JAMES: Thank you.

16 CHAIRPERSON ANDERSON: So --

17 MR. JAMES: I won't keep on  
18 interrupting.

19 CHAIRPERSON ANDERSON: Right. So --

20 MR. JAMES: But--

21 CHAIRPERSON ANDERSON: But, yes, he  
22 can have all the documents in front of him. He  
23 can do whatever he wants to do in front of the  
24 documents. But I'm just not going to allow them  
25 -- I'm not going to allow him to physically move



1 the documents into evidence because they were not  
2 disclosed seven days previously.

3 But I can't tell him how to -- if he  
4 was a witness sitting over there, and if he was  
5 reading from a document, then you could object  
6 and I could tell him that he can't read on the --  
7 he can't have a document to read from because  
8 it's not in the record.

9 However, because he's the attorney I  
10 can't tell the attorney what he can or can't have  
11 in front of him in presenting his case. The same  
12 way I cannot tell you -- you guys, are going to  
13 have a whole bunch of documents in front of you  
14 and your PIF will not move into evidence until  
15 you make a motion to move it into evidence.

16 So you can rely -- you can ask your  
17 witnesses of all the documents you have in front  
18 of you, but I'm not going to move it into  
19 evidence until you make a motion to say I want to  
20 move this into evidence. I will ask him if he  
21 object. He'll tell me yes or no. And I'll  
22 decide to whether or not we're going to move the  
23 documents into evidence. As he can later on, he  
24 can try to move his documents into evidence. I  
25 already said that I'm not going to move them into

1 evidence, but he can try.

2 MR. JAMES: Okay.

3 CHAIRPERSON ANDERSON: And you're  
4 going to object anyway. So --

5 MR. JAMES: So--

6 MR. MCCOY: So --

7 CHAIRPERSON ANDERSON: But, yes, so --  
8 and when we do -- any other time you can  
9 interrupt. But when we do opening and closing no  
10 matter what a person says, those are the times we  
11 do not object. Any time when someone is spouting  
12 off you can object, but we don't object during  
13 the opening and the closing because it's their  
14 opportunity to say whatever they want to say  
15 because it's not necessarily supported by  
16 anything that's in evidence. It's just a  
17 statement, okay? Yes, sir.

18 MR. JAMES: Thank you.

19 MR. MCCOY: You know, the reality is  
20 is that there is a rat problem at Adams Morgan.  
21 There's always been a rat problem at Adams  
22 Morgan. And that's existed for a very, very,  
23 very long time. And that's not limited to Vernon  
24 Street and Florida Avenue.

25 I've lived in D.C. my entire life and

1 I remember going down to Adams Morgan when I was  
2 a kid and there was a rat problem then, and  
3 there's a rat problem now. And the reason for  
4 that is that homes and licensed establishments up  
5 and down the street have a very difficult task  
6 and that is curbing rats. And unless they work  
7 together it's very difficult to remove rats. And  
8 you're probably never going to be able to remove  
9 rats from the neighborhood.

10 The reality is is that this protest is  
11 not about rats. This protest is about the  
12 existence of a DDOT-approved trash area that  
13 exists next to the protestants building which  
14 they obviously don't like. That is approved by  
15 DDOT. We've gone to DDOT and met with DDOT and  
16 talked to them about it. It exists on our  
17 certificate of use. It's been there for 25  
18 years.

19 DDOT alone has the jurisdiction over  
20 this trash area and they have given us full use  
21 of this trash area as well as worked out a road  
22 map to try to work out some of the problems with  
23 the trash.

24 I've mentioned this to protestants and  
25 because their goal is to remove the trash area,

1 they are literally trying anything they can to  
2 try to leverage us into making a deal including  
3 protesting our liquor license. We have a  
4 flawless ABRA record. We have zero violations.  
5 We have zero ABRA trash violations. We have a  
6 flawless health inspection record. We have no  
7 liquor-related violations whatsoever.

8 We're a very quiet, small, little  
9 restaurant. We don't cause a problem. We don't  
10 make noise. You know, all we're asking is, you  
11 know, to allow the Board to recognize the  
12 jurisdiction of DDOT to deal with this issue, and  
13 also, you know, recognize that we are doing the  
14 best we can to help curb this rat problem. But  
15 if the neighbors don't also help other than try  
16 to just protest our license and call the city,  
17 then the rat issue on the street is not going to  
18 be abated.

19 And I have multiple photos and I have  
20 a ton of testimony here, which even though you  
21 won't accept it, I want to show it to you guys,  
22 which proved that the rat problem is not limited  
23 to just the corner in our street. It is all the  
24 way up and down the street. The rats live in the  
25 neighbors' yards. They eat in the backyards.

1 And until the neighbors also have put up together  
2 a concerted effort to help abate these rats,  
3 well, they're never going to end. And trying to  
4 come at us and say that we're the sole reason why  
5 there's rats in Adams Morgan I think is very  
6 unfair and it just is not truthful. And so  
7 that's where I'm going to leave it.

8 CHAIRPERSON ANDERSON: All right.  
9 Who's doing the opening? Yes, ma'am.

10 MS. WILSON: Hi, good evening. ANC  
11 1C, KCA, and the group of nine neighbors are  
12 requesting that ABRA suspend the liquor license  
13 of the applicant Lucky Buns until the applicant  
14 eliminates their outdoor refrigerator, their  
15 trash, recycling and grease which is next to  
16 their sidewalk café. We are requesting this  
17 based on the fact that the applicant has  
18 disturbed the peace, order and quiet of our  
19 neighborhood, including litter provisions set  
20 forth in ABRA regulations.

21 The applicant does not maintain his  
22 trash area in a clean manner even though it is  
23 located right next to a sidewalk café and  
24 residents. The trash cans and refrigerator are a  
25 food source attracting rats and other vermin, and

1 it has caused financial and personal burden for  
2 the residents of the neighborhood. During this  
3 hearing we will demonstrate that the applicant is  
4 in direct violation of ABRA code, his current  
5 settlement agreement, and how he has harmed the  
6 neighborhood.

7 We know that there are issues with  
8 rats in D.C., that is obvious. The residents and  
9 the applicants agree on this. However,  
10 businesses in the area must do everything  
11 possible to control the rats just as we, as  
12 residents, are doing. Our residents have had  
13 exterminators come out multiple times. We have  
14 set traps. We have conducted rat abatement. And  
15 we have actually changed front yard landscaping  
16 to prevent the burrowing of rats.

17 We would love to have a burger joint  
18 in our neighborhood, but Lucky Buns has not  
19 worked with us on finding ways to reduce and  
20 solve the actual problem. Lucky Buns is  
21 obligated to follow ABRA and other district  
22 agency regulations. As indicated by the trash,  
23 the litter, and the rat infestation on Vernon  
24 Street, Lucky Buns has clearly not been in  
25 compliance with District regulations. Therefore,

1 we believe their liquor license should be  
2 suspended until the trash area and the  
3 refrigerator are removed. Thank you.

4 CHAIRPERSON ANDERSON: All right. All  
5 right, thank you. The Board will call its first  
6 witness, Mr. Ruiz. Can you raise your right hand  
7 please, Mr. Ruiz? Do you swear or affirm to tell  
8 the truth and nothing but the truth?

9 MR. RUIZ: I do.

10 WHEREUPON,

11 MARK RUIZ

12 was called as a witness by the Board and, having  
13 been first duly sworn, assumed the witness  
14 stand, was examined and testified as follows:

15 CHAIRPERSON ANDERSON: All right.  
16 Thank you. Have a seat, sir. And pull the  
17 microphone close to you.

18 DIRECT EXAMINATION

19 BY CHAIRPERSON ANDERSON:

20 Q Can you state your name for the  
21 record?

22 A Mark Ruiz.

23 Q And where are you currently employed?

24 A Alcoholic Beverage Regulation  
25 Administration.

1 Q And how long have you been employed  
2 with the Agency?

3 A Approximately 10 months.

4 Q And have you ever testified at a  
5 protest hearing before?

6 A No.

7 Q And are you familiar with this protest  
8 hearing?

9 A Yes.

10 Q And how are you familiar with this  
11 protest hearing?

12 A I was assigned to investigate the  
13 protest issues.

14 Q Did they come a time when you wrote a  
15 report?

16 A Yes.

17 Q Can you share with us what were you  
18 able to find regarding the protest, who you spoke  
19 to and why you spoke to --

20 A Yes.

21 Q Why or why not you spoke to certain  
22 individuals?

23 A Yes. I was assigned to conduct a  
24 protest investigation of Upshur Burger Concepts,  
25 LLC, with a trade name as Lucky Buns which is



1 located at 2000 18th Street Northwest. The  
2 establishment at 2000 18th Street Northwest is  
3 located at the corner of 18th Street and Vernon  
4 Street Northwest. The renewal application for  
5 2000 18th Street Northwest was protested by three  
6 entities, the Advisory Neighborhood Commission  
7 for 1C, and a group of nine led by Ashley Wilson  
8 and Mimi Papas, and the Kalorama Citizens  
9 Association.

10 The protest issues for all protestants  
11 involved are the following: Adverse impact on  
12 the peace, order and quiet, including noise and  
13 litter provisions. Rat infestation with the  
14 trash enclosure being built on the sidewalk café  
15 with a walk-in refrigerator.

16 On October 2nd, 2019 I requested  
17 interviews with the protestants via e-mail in  
18 relation to the protested issues. Mr. Irani with  
19 ANC 1C responded back via telephone and stated  
20 that the parties would most likely enter into  
21 settlement agreement with the establishment, and  
22 that Mr. Irani further stated that he would send  
23 a detailed e-mail containing all of the protest  
24 issue details. No further e-mail communication  
25 occurred with Mr. Irani as of the publishing of

1 the report. And no other protestants responded  
2 to my e-mail inquiry to provide further details  
3 regarding the issues.

4 On Sunday, October 6th, 2019 I had the  
5 ability to meet with Mr. Alex McCoy, owner of  
6 Lucky Buns. Mr. McCoy stated that he understands  
7 the main issue of the community for protesting  
8 his establishment was due to a rat infestation.

9 I completed a walkthrough of the  
10 property with Mr. McCoy who showed myself the  
11 trash area, which at the time was clean and tidy  
12 at the time of my visit. Mr. McCoy also showed  
13 myself a basement area of the establishment where  
14 he stores additional trash during overflow  
15 periods. Mr. McCoy also stated that he had  
16 invested over \$20,000 working with the community  
17 on the issues at hand, and that the trash area  
18 was also shared with his neighbor business 18th  
19 and U Duplex Dinner.

20 Mr. McCoy stated that he would be  
21 removing the walk-in refrigerator and building a  
22 new fence within the trash area, pushing back the  
23 trash area closer to the building, and has  
24 provided and showed invoices that he is having  
25 that work completed. Excuse me.

1                   There are 31 ABC establishments that  
2                   are within 1200 feet of 2000 18th Northwest. The  
3                   establishment at 2000 18th Street Northwest was  
4                   monitored by myself a total of seven times from  
5                   October 6th, 2019 to November 22nd, 2019 where I  
6                   found no ABRA violations. The occasions I  
7                   monitored 2000 18th Street Northwest I did not  
8                   observe issues with peace, order and quiet, and  
9                   as well appeared to be minimal pedestrian traffic  
10                  in the area. There were no noise complaints  
11                  reported to ABRA that was associated with 2000  
12                  18th Street Northwest between September of 2018  
13                  and September of 2019.

14                  As of the publishing of this report,  
15                  I was unable to receive the calls for service for  
16                  the address requested on October 2nd, 2019 in  
17                  regards to any calls related to the property.  
18                  That's all.

19                  Q           That's it?

20                  A           Yes.

21                  Q           Are there any exhibits attached to  
22                  your report?

23                  A           Yes.

24                  Q           What are the exhibits?

25                  A           Exhibit 1 is the protestant's letter

1 to ABRA from the Advisory Neighborhood  
2 Commission, ANC 1C. Exhibit 2 is protestant's  
3 letter to ABRA from the Kalorama Citizens  
4 Association. Exhibit 3 is the protestant's  
5 letter to ABRA from the group of nine. Exhibit 4  
6 is the ABRA GIS System map of ABC licensees  
7 located within 1200 feet of Lucky Buns.

8 Exhibit 5 is the ABRA GIS system map  
9 of schools, recreation centers or libraries  
10 located with 400 feet of Lucky Buns. Exhibit 6  
11 is the photograph of 18th and U Duplex Dinner  
12 located next door to Lucky Buns. Exhibit 7 is  
13 the photograph of a Blaguard located across the  
14 street from Lucky Buns. Exhibit 8 is a  
15 photograph of the Imperial also located across  
16 the street from Lucky Buns. Exhibit 9 is a photo  
17 of Lucky Buns exterior of establishment.

18 Exhibit 10 is the photo of Lucky Buns  
19 exterior of establishment. Exhibit 11 is a photo  
20 of Lucky Buns' trash area exterior. Exhibit 12  
21 is a photo Lucky Buns' trash area exterior.  
22 Exhibit 13 is a photo of the interior of Lucky  
23 Buns. Exhibit 14 is another photo of the  
24 interior of Lucky Buns. Exhibit 15 is another  
25 photo of the interior of Lucky Buns. Exhibit 16

1 is a photo of Lucky Buns' bathroom area as well  
2 as Exhibit 17, 18 and 19.

3 Q I want to ask you, you mentioned in  
4 your report that you said that you tried to reach  
5 out to protestants on October 2nd, and Mr. Irani  
6 responded back via telephone and told you about a  
7 settlement agreement, and that he would send a  
8 detailed e-mail, and that you have not received  
9 any communication from the protestants. Can you  
10 explain what -- can you explain that?

11 A So based off the roll call form that  
12 was provided that had the contact information, it  
13 was the e-mail addresses to all the parties, and  
14 I believe Mr. Irani also had a phone number. I  
15 went ahead and drafted an e-mail to all the  
16 parties at once that I was conducting the  
17 investigation. If they have any further detail  
18 regarding the issues further from what is in the  
19 letter, pretty much I would like to interview  
20 each of them.

21 Mr. Irani I believe had actually  
22 contacted me a couple hours later that day if I'm  
23 not mistaken, I don't recall exactly, but it was  
24 a relatively short amount of time. And we spoke  
25 briefly over the phone. And then after that

1 there was no other communication from any  
2 protestants during the investigation up until my  
3 deadline and had to submit a report.

4 Q So did you reach back out to any of  
5 them?

6 A I did not. No.

7 Q So it was just that initial contact?

8 A Yes.

9 Q Was there any reason why you didn't  
10 reach back out to them because you hadn't heard  
11 back from them?

12 A No. I probably just -- activities, I  
13 didn't get a chance to reach back out, follow up.  
14 Other investigations, I just --

15 Q Did you --

16 A It was a couple weeks. Yes.

17 Q Did you receive the detailed e-mail  
18 from Mr. Irani as that was --

19 A I did not.

20 Q You did not? All right. How many  
21 times did ABRA monitor this establishment?

22 A So I was able to -- there were a total  
23 of seven.

24 Q Seven? And many times?

25 A Seven visits to the premise which were

1 all conducted by myself.

2 Q Oh, so you did all seven?

3 A Yes.

4 Q So from what mister -- actually Mr.  
5 McCoy told you that -- at least from his  
6 perspective that the protestants were protesting  
7 him because of trash or the rats? Is that what  
8 your understanding based on --

9 A Yes.

10 Q -- your conversation with him? So can  
11 you describe to us -- tell us about his trash  
12 disposal system. What is it that you -- in at  
13 least the time that you went to investigate, what  
14 --

15 A So --

16 Q -- did you see as far as that was  
17 concerned?

18 A I believe one of -- so I believe on  
19 the exhibits is a photo of the trash area?

20 Q Which one is that?

21 A So Exhibit 12 showed a photograph of  
22 the interior from the gate with three trash cans,  
23 a recycle -- well, four trash cans and a recycle  
24 bin that's visible. So from that point, from  
25 that visit on and throughout each visit, I

1 checked the trash area as well as observed the  
2 exterior of it for any kind of rodent movement,  
3 and during those times I did not see a rat in the  
4 trash area. The trash area was kept tidy. Trash  
5 contained to the trash cans. I did not find any  
6 exterior trash bags outside of the cans.

7 The area throughout my visits was  
8 pretty much kept pretty much to this picture  
9 minus maybe the ladder and the mop bucket. But  
10 trashcans were never overflowing. Yes, so the  
11 condition pretty much remained the same  
12 throughout my checks.

13 Q Through the seven times you visited?

14 A Yes.

15 Q So where is the trash area located?

16 A So the trash area is located on the  
17 side of Lucky Buns on Vernon Street side to the  
18 rear, the sidewalk café facing up Vernon Street  
19 would be on your right hand side surrounded by a  
20 black fence.

21 Q What's the closest ABC establishment  
22 to this establishment?

23 A The closest would be their neighbor  
24 18th and U Dinner.

25 Q And so that's right next to them?



1           A       Yes, and they are the ones that share  
2 that trash area as well because there is no alley  
3 behind their building, establishments.

4           Q       So do they share the same trash or the  
5 same trash cans, or do they have -- do you know  
6 if they have separate trash areas, separate trash  
7 cans?

8           A       They utilize the same cans.

9           Q       Okay. So you don't know what trash --  
10 you're unable to determine --

11          A       I'm unable to determine whose trash --

12          Q       What trash, but in your visit each  
13 time the area has been -- you did not see any  
14 ABRA violation as far as trash is concerned,  
15 correct?

16          A       Yes, correct.

17          Q       Now do you believe if you had received  
18 more cooperation from the protestant, do you  
19 think that would have made your report more  
20 complete or more -- a better understanding? Or  
21 what's your opinion on that?

22          A       Depending upon what the details and  
23 specific issues are pertaining to, and I may have  
24 been able to include more, but I mean as far as  
25 the letter from -- I believe the most specific

1 letter was from the Kalorama Association that  
2 actually included the rat infestation issue  
3 within its issues, yes, I guess, depending on  
4 what they would have provided. I don't know --  
5 I'm not really sure what it would have been.

6 Q Okay. All right. All right. Any  
7 other questions by any board members to Mr. Ruiz?  
8 All right, hearing none, Mr. McCoy.

9 MR. MCCOY: Yes.

10 CROSS-EXAMINATION

11 BY MR. MCCOY:

12 Q I just have one question. When we  
13 first met, Mr. Ruiz, did I show you some of the  
14 rat holes up and down the street on the  
15 neighbors' property?

16 A Yes.

17 Q Okay. Did I also show you pictures  
18 showing holes in cans in the neighbor's  
19 properties and numerous rat holes as well as dead  
20 rats on the neighbors' properties?

21 A Yes.

22 Q Okay.

23 MR. MCCOY: That's all I have.

24 CHAIRPERSON ANDERSON: All right, Mr.  
25 Irani, you're the one asking the questions.

1 Okay. Go ahead.

2 MR. IRANI: Yes.

3 CROSS EXAMINATION

4 BY MR. IRANI:

5 Q Investigator, thank you. Do you  
6 consider holes in the side or lids of trash cans  
7 as signs of vermin?

8 A Yes.

9 Q Are you aware that DPW wrote a  
10 violation on 10/17 four days after you inspected  
11 on 10/13 for --

12 MEMBER SHORT: Can you move the  
13 microphone a little closer to -- the microphone  
14 is behind --

15 CHAIRPERSON ANDERSON: Oh, it's not a  
16 microphone. He just needs to speak up.

17 Q Are you aware that DPW wrote a  
18 violation on 10/17 four days after your noted  
19 inspection on 10/13 for holes in their trash cans  
20 which indicate signs of vermin?

21 A I understood there was a DPW  
22 inspection, but I did not take note of the date  
23 of it.

24 Q I'd also like to -- you had mentioned  
25 the location of the restaurant and its neighbor.

1           A       Yes.

2           Q       The neighbor being on 18th Street.

3       Where is the location of the trash area?

4           A       On the Vernon Street side, it's on the  
5       corner.

6           Q       Are there any other ABRA  
7       establishments on Vernon Street?

8           A       No.

9           Q       And the sidewalk café, is that on  
10      Vernon Street?

11          A       Yes.

12          Q       Okay. Also one other thing, the  
13      residential trash cans, are those located in the  
14      front on Vernon Street or in the rear?

15          A       I didn't notice any on the front. I  
16      supposed they're in the rear alley.

17          Q       Yes. That is all. Thank you.

18          A       You're welcome.

19                   CHAIRPERSON ANDERSON: I'm confused.  
20      The question asked about are there any other ABC  
21      establishments on Vernon Street, or are we just  
22      talking about trash? Which one was it?

23                   MR. IRANI: There were two different  
24      questions. One was are there ABC establishments  
25      on Vernon Street, are there other ones. And then

1 are there trash areas from the residents that are  
2 in the front on Vernon Street?

3 CHAIRPERSON ANDERSON: But where is --  
4 Mr. Ruiz, is there an ABC -- any other ABC  
5 establishment that is close to this other Lucky  
6 Buns?

7 MR. RUIZ: Its neighbors and across  
8 the street, which is 18th and Florida.

9 CHAIRPERSON ANDERSON: All right. No,  
10 but is there -- would you consider is there  
11 another ABC establishment that abuts Lucky Buns?

12 MR. RUIZ: Yes, 18th and U Dinner.

13 CHAIRPERSON ANDERSON: 18th and U  
14 Dinner. So that's right next to --

15 MR. RUIZ: It's facing 18th Street.

16 CHAIRPERSON ANDERSON: And that's  
17 right next to Lucky Buns?

18 MR. RUIZ: Yes.

19 CHAIRPERSON ANDERSON: And you're also  
20 saying that the trash area is on a different  
21 street?

22 MR. RUIZ: Yes. So the Lucky Buns  
23 sits on the corner --

24 CHAIRPERSON ANDERSON: Yes.

25 MR. RUIZ: -- of 18th and U.

1 CHAIRPERSON ANDERSON: Yes.

2 MR. RUIZ: 18th and U Dinner, if  
3 you're facing the establishments are to your  
4 right. And the trash is around the corner on the  
5 side of Lucky Buns on Vernon Street in the rear.

6 CHAIRPERSON ANDERSON: And so the  
7 trash area is shared by both 18th and U Dinner  
8 and Lucky Buns, is that correct?

9 MR. RUIZ: Yes.

10 CHAIRPERSON ANDERSON: So they utilize  
11 the same trash area?

12 MR. RUIZ: Yes.

13 CHAIRPERSON ANDERSON: All right. And  
14 you also stated that they utilize the same trash  
15 cans?

16 MR. RUIZ: Yes.

17 CHAIRPERSON ANDERSON: All right.

18 MEMBER SHORT: Say more on trash.

19 CHAIRPERSON ANDERSON: Huh?

20 MEMBER SHORT: Say more on trash?

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

23 MEMBER SHORT: Good afternoon or good  
24 evening --

25 MR. RUIZ: Good afternoon, good

1 evening.

2 MEMBER SHORT: -- investigator. Did  
3 you ever question or did you ever find out how  
4 often the trash is picked up from Lucky Buns?

5 MR. RUIZ: Yes. Their service by  
6 Tenleytown is seven days a week.

7 MEMBER SHORT: They come every day?

8 MR. RUIZ: Yes.

9 MEMBER SHORT: What time?

10 MR. RUIZ: I did not ascertain that.

11 MEMBER SHORT: Good point.

12 MR. RUIZ: Yes.

13 MEMBER SHORT: Thank you. That's all  
14 I had Mr. Chair.

15 MR. RUIZ: Thank you.

16 CHAIRPERSON ANDERSON: All right. All  
17 right, Mr. Ruiz, thank you for your testimony.  
18 You can step down.

19 MR. JAMES: We have another -- we  
20 might.

21 MR. IRANI: We got one more question.

22 CHAIRPERSON ANDERSON: Well -- all  
23 right.

24 MR. IRANI: How close --

25 CHAIRPERSON ANDERSON: Hold on, sir.

1 These are my witness. The Board has the last  
2 word because this is our witness. And so if  
3 you're going to ask him questions, then he has to  
4 ask questions again. So therefore, he's our  
5 witness, we have the last work so, therefore, you  
6 have had your opportunity to ask questions. So  
7 there are no more questions to be asked of the  
8 witness. You have to find some other way to  
9 bring the testimony in.

10 MR. IRANI: Thank you.

11 CHAIRPERSON ANDERSON: Thank you, sir,  
12 for your testimony.

13 MR. RUIZ: Thank you.

14 CHAIRPERSON ANDERSON: You can step  
15 down. All right Mr. McCoy, can you raise your  
16 right hand please?

17 MR. MCCOY: Yes.

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

21 MR. MCCOY: I do.

22 WHEREUPON,

23 ALEX MCCOY

24 was called as a witness for the applicant and,  
25 having first been duly sworn, assumed the



1 witness stand, was examined and testified as  
2 follows:

3 CHAIRPERSON ANDERSON: Present your  
4 case, sir.

5 MR. MCCOY: Okay. So we took over  
6 2000 18th Street in November of 2017. Part of  
7 taking over that space, it included an existing  
8 trash area. That area has been used for 20 plus  
9 years as a dual-use trash area between the  
10 neighbors, Duplex Dinner, 18th and U Dinner and  
11 us. So they have used that trash area without a  
12 problem for 20 plus years.

13 I have included in my -- and again,  
14 you don't have to add this in, but I have the  
15 site plan from DDOT and I also have our  
16 certificate of use that is -- that would be JJ  
17 and II in our examples. This is an approved use  
18 area, so the site plan itself shows that this is  
19 a DDOT-approved site plan. Existing fenced in  
20 trash area shared by L'Enfant Café and Duplex  
21 Dinner, L'Enfant being the previous restaurant  
22 that was there.

23 The settlement agreement and the  
24 licenses transferred over. So we did a license  
25 transfer. It wasn't a new establishment. We

1 bought the business and transferred the licenses  
2 over including the settlement agreement with the  
3 ANC.

4 This site plan, even though this will  
5 be disputed by the ANC, was actually approved by  
6 the ANC Board. In a meeting with the Blaguard,  
7 with our neighbors and with L'Enfant Café. When  
8 we took over the space, you know, we were well  
9 aware of the rat problems at Adams Morgan. Like  
10 I said before, I grew up here. I know that Adams  
11 Morgan has a massive rat problem. I'm very  
12 familiar with the rat problem on the street as  
13 well, and to illustrate that, I have an e-mail  
14 which I will read which is DD in the examples,  
15 which said from 27 Leah Carter who is a neighbor,  
16 it said, "Hi, I'm a long term neighbor at 1812  
17 just across from Lucky Buns. Well, we at 1812  
18 have noticed an uptick in the rats and over the  
19 years there have been surges on occasions for  
20 different reasons, I am not in favor of filing a  
21 protest at this time."

22 As mentioned in the first e-mail, you  
23 know, rats and rodents their population increases  
24 for various reasons. You know, we knew this and  
25 we wanted to really take charge and prevent the

1 rats from being an issue. When we moved in, we  
2 noticed there was rats all up in the neighbors'  
3 yards and they were in the flower boxes that were  
4 adjacent and across from the protestants'  
5 building.

6 Very early on we had a lot of  
7 conversations about what we were going to do  
8 about these rats because the last thing we wanted  
9 were rats that were living in the neighbors'  
10 yards and then coming down and making it seem  
11 like, as unfortunately it has seemed, the rats  
12 are on our property. I have listed in our  
13 exhibits partner e-mails K through O, and --

14 MR. JAMES: Objection.

15 MR. MCCOY: I'm going to read them.

16 CHAIRPERSON ANDERSON: So --

17 MR. JAMES: I just wanted to ask a  
18 question, and possibly object to --

19 CHAIRPERSON ANDERSON: What's the  
20 objection? Yes.

21 MR. JAMES: You know, you said I can't  
22 object during the opening statement, but to  
23 object when he's presenting documents which --

24 CHAIRPERSON ANDERSON: You cannot --  
25 he's not moving them -- he's not moving them into

1 evidence so what are you objecting to?

2 MR. JAMES: Very good. I understand  
3 you better now.

4 CHAIRPERSON ANDERSON: Okay.

5 MR. JAMES: Thank you very much for  
6 that.

7 MR. MCCOY: So my first e-mail, and  
8 I'm going to read this out because I have -- and  
9 I'm not going to really stretch this out, but is  
10 an e-mail from my business partner. And where he  
11 says, "Just at FYI guys, I did some more work on  
12 some holes and had some more stuff to apply.  
13 Also reinforced the ice bin behind the bar. I  
14 called Pests Now to have them come out tomorrow  
15 and give us a good spray so I can show the guy  
16 what we expect every time. Finally, I crushed a  
17 bunch of glass and buried in the holes in our  
18 planter box next to the trash and will continue  
19 to do so.

20 Just sharing so we can all keep our  
21 eyes open for these things, but we know the  
22 biggest thing is cleaning. Power washing will  
23 come weekly, and I will need to find a solution  
24 for the kitchen matts cleaning and storage at  
25 night." There's actually a picture they have

1 included of the kitchen mats that we put outside  
2 and we wash and clean if that adds a little bit  
3 of clarity to that.

4 In addition, my response was agree  
5 that clean schedule need to be enforced and most  
6 importantly, the work checked and down properly.  
7 These are e-mails that I'm having with my  
8 partners. Furthermore, Hunter responds with that  
9 he spoke with a neighbor who lives at the top of  
10 Vernon Street. Long story short, "There's a rat  
11 issue in the neighborhood and our street and  
12 neighbors believe the main cause is the planter  
13 tree box on the sidewalk right close to our trash  
14 area in front of the neighbor's building.

15 They have called the city. The city  
16 said they won't plug holes or anything, and that  
17 it's the responsibility of the property owner.  
18 That said, we should do our part to be a good  
19 neighbor and we don't need a hotbed of rats  
20 outside our door either." So he said he  
21 researched, you should have broken glass put down  
22 and bury it and collect as many bottles as we can  
23 to do that in.

24 Here's another e-mail. From Hunter,  
25 "Just reminding, HVAC cleaning in the kitchen,

1 power washing the back area, trash area, stairs."  
2 Talking about the cleaning that we do. Okay?  
3 And then finally -- and, oh, I actually have a  
4 copy of our trash cleaning schedule. We deep  
5 clean our trash area twice a week with power  
6 washers. We pull out the trash cans. We deep  
7 clean. We power wash twice a week. That  
8 includes cans, inside cans and the actual cement.

9 I have a picture of that and I will  
10 show you here. And I apologize because I can't  
11 include this into -- so I got so many pictures of  
12 all the holes in the neighbor's yard it's really  
13 difficult for me to find this picture. In any  
14 case, I'll find the picture. So I mean basically  
15 -- I'll find that picture.

16 So basically, you know, we went  
17 through just doing the best we could to keep the  
18 area clean non-stop. You know, there was always  
19 issues with the rats up and down the street.  
20 Really what this boils down to is that, you know,  
21 as I said before, the neighbors, they have called  
22 the city, but other than that they haven't done  
23 anything.

24 You know, I doubt that many of the  
25 neighbors have actually hired -- I know that some

1 of the apartment buildings have. I doubt that  
2 many of the neighbors actually hired rat  
3 abatement, hired companies to come out and  
4 regularly bait those traps. It actually got to  
5 the point where we are at our expense treating  
6 the tree boxes up and down the street because the  
7 neighbors weren't doing this.

8 And it really boils down to money.  
9 It's like they don't want to pay to have their  
10 rat holes abated. They'd rather just call the  
11 city and say fix it, or what's the next best  
12 thing? Let's just protest the trash area that's  
13 right down the street because that's got to be  
14 the reason why the rats are here. Those rats  
15 existed long before we there, and it was a  
16 problem long before we were there.

17 We continued basically doing this  
18 whole thing for months and months and months and  
19 months and months. Not a single neighbor had  
20 come up to us at any point and said, hey, listen,  
21 besides the ones that we had reached out to and  
22 talked to and said there's a real problem here.  
23 There's a problem with our trash area. We don't  
24 like your trash area. And it wasn't until May of  
25 this past year that randomly in the mail we get a

1 letter from Dennis saying that they are going to  
2 protest our license.

3 Before that point, we had received no  
4 communication from the KCA, no communication from  
5 ABRA -- or from the ANC. No communication from  
6 the neighbors where they said, listen, we got to  
7 solve this problem as a group. The first  
8 communication we had with the neighbors was this  
9 is your fault, this is your problem, now we're  
10 going to protest your license.

11 I immediately scheduled a meeting with  
12 Dennis and with Amir. It was made very, very  
13 clear that the goal was simply to remove the  
14 trash area. There really was no talking about  
15 this, about what can we do together, how can we  
16 fix this problem as a community. It was just you  
17 need to remove your trash area. Your trash  
18 area's illegal. We don't believe you should have  
19 it, and that's it.

20 I immediately sought to try to work  
21 out alternative plans to make the neighborhood  
22 happy. There was -- and actually one of the  
23 false comments made about a grease trap. There  
24 is no grease trap on our patio, and the reason  
25 for that is the day after we had this meeting I



1 moved the grease trap across the street because I  
2 wanted the neighbors to know that we wanted to  
3 work on fixing that, and that was something that  
4 they had an issue with, and so I immediately  
5 fixed it.

6 The trash area on the other hand is  
7 very difficult. We have reliable access to trash  
8 as any business should have reliable access to  
9 trash. This has been approved by DDOT. Our  
10 neighbors need reliable access to trash. We  
11 don't have a back patio.

12 The protestants' idea was just take  
13 your trash and put it on someone else's property.  
14 That's not an adequate result. There's no way --  
15 there's too many questions. That's not  
16 enforceable. So we're going to move our trash a  
17 mile away and just cart it out there? That's  
18 just not an acceptable answer.

19 Once I made it very clear that I was  
20 not going to relinquish use of the trash area,  
21 but was very happy to talk about beatification of  
22 the trash area, covering of the trash area, any  
23 number of things to make the neighbors happy, no  
24 --

25 MR. JAMES: Objection.

1 MR. MCCOY: -- no communication from  
2 Dennis.

3 CHAIRPERSON ANDERSON: You can't --

4 MR. JAMES: We can because this is  
5 discussion of settlement.

6 CHAIRPERSON ANDERSON: Well, I don't  
7 -- well, I don't take it as that, but you'll have  
8 an opportunity to cross-examine him. So  
9 everything that he said you can take notes and  
10 you can cross-examine him because he's put  
11 himself on the record. So you can cross-examine  
12 him for everything that he just said.

13 MR. JAMES: Well, we understand that  
14 you're not supposed to discuss settlement in  
15 front of the Board.

16 CHAIRPERSON ANDERSON: Well, I wasn't  
17 aware. If that's settlement, then that's true.  
18 I don't --

19 MR. JAMES: The meetings that he's  
20 discussing took place.

21 CHAIRPERSON ANDERSON: Well, I mean I  
22 guess the only settlement -- well, I mean if --  
23 like mediation.

24 MR. MCCOY: I'm not talking about  
25 mediation. I'm talking the meetings that we had

1 as a group between the three of us.

2 CHAIRPERSON ANDERSON: Right. So you  
3 can talk about that. But if you're talking about  
4 mediation --

5 MR. MCCOY: Yes.

6 CHAIRPERSON ANDERSON: That when you  
7 went to mediation what was discussed there, then  
8 that's not brought up here. But if he said that  
9 he has met with you before --

10 MR. JAMES: The purpose of the  
11 meetings -- I'm not going to belabor, but the  
12 purpose of the meetings was to try to achieve a  
13 new settlement agreement, different terms were  
14 discussed like you say, but I believe it goes to  
15 settlement.

16 MR. MCCOY: I'd like to add that  
17 Dennis also was very glad to try to include  
18 limitations on our entertainment license as well  
19 while also submitting changes, trying to submit  
20 changes to our settlement agreement for the  
21 trash. I just think that's an important little  
22 note as well.

23 Once we had discussed with -- once we  
24 had discussed with the ANC the fact that we  
25 weren't going to relinquish use of our approved

1 trash area, I actually had a walk-through with  
2 the department of health of the neighbors' homes,  
3 and I took a number of photos. And just to kind  
4 of illustrate that, you know, they are protesting  
5 our trash area claiming that our trash area is  
6 just completely out of control. And I'm going to  
7 show you this and I have a set of -- put all  
8 these up.

9           These are trash cans in the back of  
10 the trash area of the neighbors. This is food on  
11 the ground as well as trash that's just strewn  
12 out. Here is more food on the ground, trash  
13 strewn about. Here are rat traps that are just  
14 open because no one has actually been keeping  
15 these up because they are not utilizing pest  
16 control.

17           And then you have the holes. So  
18 here's a hole in a neighbor's yard. Here's a  
19 hole in a neighbor's yard. Here is a hole in the  
20 neighbor's yard. Here is a bunch of construction  
21 going on up the street which was running off down  
22 to my building which they were then accusing me  
23 of creating run off, okay? And here's some of  
24 the run off from that, okay?

25           This is what the neighbors done have

1 to fill the rat holes. They've just gone to Home  
2 Depot and bought spray, you know, the filler and  
3 just sprayed it in the holes. They haven't done  
4 anything to fill it up. Here is more rat holes.  
5 Here is dead rats in front of the neighbor's  
6 yards. More rat holes. Here is a dead rat  
7 behind the neighbor's property. Rat holes behind  
8 the neighbor's property. Holes in trash cans.  
9 Holes in trash cans with trash cans with no top  
10 on them. Holes in trash cans again. Holes in  
11 trash cans again.

12 I think it's important to note that if  
13 the ANC was really serious about rats -- I sent  
14 these pictures to Amir. He has not contacted the  
15 neighbors at all, and nothing. The only thing  
16 that he's done is they passed a resolution to try  
17 to get DPW to conduct night time inspections of  
18 businesses. He has not put any pressure on the  
19 neighbors to abate their rat problem at all and  
20 has gone strictly for us, and I think that is  
21 highly inappropriate.

22 After meeting with them and as they  
23 were debating the legality of the trash area, I  
24 had a number of meetings with the Department of  
25 Transportation. And they're going to talk about

1 the walk-in cooler.

2           When we first opened, there was some  
3 I guess bad information about whether or not that  
4 fenced-in trash area was private or public. We  
5 were under the impression that it was private so  
6 we built a walk-in cooler in there. When we were  
7 made aware that it was public space and that  
8 cooler wasn't supposed to be there, we  
9 immediately scheduled a meeting with the Public  
10 Space Committee, and we had a conversation with  
11 them about how we were going to move this trash  
12 area, or move the walk-in cooler. And this was a  
13 conversation that we had had a number of times.

14           When the legality of the trash area  
15 came into question, I went back and talked with  
16 the head inspector, also talked with Mr. Garrett  
17 who's the head of permitting and Mr. Marcu where  
18 I laid out exactly what we were going to do about  
19 digging out the basement, getting the permit for,  
20 buying and installing a new walk-in cooler in the  
21 basement which cost me \$25,000 which I was happy  
22 to do.

23           Upon movement of the walk-in cooler we  
24 were going to build a new fence because that was  
25 one of the issues that the neighbors were

1 concerned about. And I am happy to do anything  
2 to make that area nice and clean for the  
3 neighbors. I'm just not going to remove that  
4 trash area because I need to have reliable access  
5 to trash.

6 Over the summer and in the winter, we  
7 finished our build out. We got all of the  
8 permits. It was inspected and approved. I have  
9 a picture of the area. This is what it looks  
10 like right now. This is the hole. The walk-in  
11 cooler which we have purchased, and here is the  
12 invoice for the walk-in cooler that has been  
13 purchased is being delivered on the 17th of  
14 December. I have an e-mail I'm more than happy  
15 to send to everybody. Here is an invoice for the  
16 build-out which cost me \$10,000.

17 Furthermore, talking about the fence,  
18 here is an e-mail with Elliot Garrett because one  
19 of the arguments they're going to make is that  
20 the fence is not the right height. Well, I asked  
21 that question. I said should I replace the fence  
22 to the current height or the height that DDOT  
23 prefers for their fences? And Mr. Garrett's  
24 response was, "I would suggest that it be  
25 replaced to its current height. Please

1 application for repair and replace fence permit  
2 in tops. It will be great if we can move the  
3 fence a few feet back towards the build, but I  
4 understand that would make the sidewalk café a  
5 projection on the sidewalk."

6 This has also passed approval of that  
7 being an approved trash area. They are well  
8 aware of the trash area. They are well aware of  
9 what we're doing moving the walk-in cooler, and  
10 we are in full compliance with DDOT.

11 Furthermore, I know that they're going  
12 to bring up a couple things because one of the  
13 issues that they're going to try to promote is  
14 that we're just this disgusting restaurant.  
15 Terrible, disgusting, you know, we don't keep --  
16 you know, our health inspection's horrible. It's  
17 garbage. That's actually not true.

18 So we have zero Department of Health  
19 violations pertains to rats, rodents, vermin, you  
20 name it. Okay? We actually have in the past  
21 three, and they sent over some information about  
22 our health inspection. Our past three health  
23 inspections I had zero violations, three, and  
24 then five.

25 Anyone who's familiar with how the



1 Department of Health conducts health inspections  
2 knows that most restaurants do not get zero  
3 violations. Most restaurants gets between three  
4 and 10 violations. Some of them are minimal,  
5 some of them can be a door is open or a bracelet  
6 on a prep chef's hand. Okay?

7 I actually made a list of all the  
8 establishments in that area and all the  
9 violations they have from the last two. Like I  
10 said before, our last health inspection, which I  
11 have the actual reports right here, we have zero  
12 violations. Before that we had three violations,  
13 and I'd like to read off the violations because  
14 we take health very seriously, we take  
15 cleanliness very seriously.

16 We were hit because there wasn't  
17 thermometer in a reach-in cooler. We were hit  
18 because there was food being transported that  
19 wasn't covered. There was just not a cover on  
20 it, one person. And that wiping clothes were not  
21 stored in sanitizer buckets. That is all that  
22 we've got hit on. And like I said, the one after  
23 that had zero violations.

24 You know, we have -- I have a very  
25 close relationship with the Department of Health.

1 Six of my employees are DOH certified food  
2 handlers including myself. And I'm also training  
3 another six to go through to that food handlers.  
4 All of my kitchen staff will have DOH food  
5 handlers' licenses. Okay?

6 Another thing that the protestors will  
7 submit to you are two Yelp reviews. One Yelp  
8 review that shows someone heard a rat on our  
9 trash area, and another Yelp review that showed  
10 the picture of a roach that they saw.

11 CHAIRPERSON ANDERSON: Of a what?

12 MR. MCCOY: Of a roach that they saw.  
13 Currently, we are the number one Cheap Eats  
14 restaurant in Washington, D.C. by Washingtonian.  
15 We were voted one of the best top 50 burgers in  
16 America. Top 100 restaurants. We take what we  
17 do very seriously.

18 I have over 1,200 reviews between Yelp  
19 and Google and all of these other different  
20 formats. Only two reviews of 1,200 have  
21 mentioned anything. One mentions that they heard  
22 a rat in the trash area, another one mentions  
23 that they saw a roach.

24 Now the reality is is that in all  
25 restaurants roaches tend to pop up here and

1 there. That doesn't mean there's a roach  
2 problem. It happens in people's homes. Like I  
3 said, I have a very aggressive pest control plan.  
4 I have Pests Now which is our pest company comes  
5 out twice a month and does a very deep serious  
6 sprays. I can't stand pests. I hate them.

7 Okay?

8 We work really, really hard to  
9 maintain our caliber of restaurant and maintain  
10 the health of, you know, the health and  
11 sanitation of the restaurant and make sure that  
12 we're creating good food. And the reason why we  
13 have so many great reviews, and our reviews  
14 average between 4.5 and 4, all of them were like  
15 4.5 is a testament to that.

16 Furthermore, you're going to see a lot  
17 of pictures - oh, and this is the picture of us  
18 cleaning the trash area by the way. Furthermore,  
19 you're going to see a lot of pictures from the  
20 protestants and they show our trash area just out  
21 of control, out of control.

22 And, you know, I'm not saying that  
23 every day we've been absolutely perfect. I think  
24 I would be a liar if I said that. There have  
25 been days where there have been -- you know, the

1 trash company didn't come pick up, or there was  
2 problem with something. I get it. That happens  
3 at every establishment. Those situations I take  
4 full accountability for what's wrong. But our  
5 trash area is not this wild out of control,  
6 disgusting, you know, cesspool.

7 You'll notice in a lot of pictures  
8 that they have submitted you'll actually see all  
9 the trashcans closed. But what you'll see is a  
10 lot of boxes. You'll see either the recycling  
11 bin open, you'll see a bunch of boxes sitting on  
12 top of the trash cans. And the reason for that  
13 is the neighbors love coming by when I get my  
14 orders and I'm taking all the boxes out to crush  
15 them and taking pictures and making it seem like  
16 things are just out of control.

17 We get our order in on Monday and  
18 Friday, massive order. We take all the boxes  
19 outside and then we break them down. But they're  
20 going to show you pictures that show these  
21 massive piles of boxes and make it seem like  
22 that's how we keep our trash area constantly.

23 That's not the case. That just my  
24 guys either cleaning the patio, pulling trash  
25 cans out and putting them on the area while

1 they're cleaning and power, you know, power  
2 cleaning the area. Or we're just waiting to  
3 break down all those boxes and put them in the  
4 recycling bin.

5 There is pictures of what looks to be  
6 runoff coming off of our patio. It's water.  
7 That's water. It's water from us watering our  
8 plants and cleaning our trash area. This isn't  
9 grease that's just coming out of my restaurant.  
10 There's not grease bin out there. Okay? There's  
11 pictures of our mats outside which we put outside  
12 to clean, to make sure that these mats are clean.

13 These pictures are so situational and  
14 they do not show exactly what's going on.  
15 Inspector Ruiz shows that we keep that area clean  
16 and organized. It's easy to come by when we're  
17 breaking down boxes and snap a couple pictures  
18 and make it seem like things are out of control,  
19 but that's just not the way it is.

20 What else was there? I had -- oh,  
21 yeah, the other thing was, and this is what  
22 bothered me the most. When it was made very  
23 clear that DDOT was going to side with us, uphold  
24 the use of the trash area, Commissioner Ronnie  
25 really did some I think borderline, just really

1 not appropriate behavior when talking about our  
2 business to the public.

3 He is an elected official. His job is  
4 to be fair and impartial. I am one of his  
5 constituents. He also should be fighting for us  
6 and for fairness to us as well. Not just the  
7 neighbors. Mr. Ronnie posted a tweet -- I  
8 apologize. I apologize here. If I can find it.  
9 Oh, here we go. Oh, here we go.

10 Here is a tweet that Mr. Ronnie posted  
11 saying that the grease that streams from Lucky  
12 Buns stains our streets and attracts rats, please  
13 be a good neighbor. This is public. And you'll  
14 notice that the angle of the photo makes it seem  
15 like there is just a bunch of grease coming off  
16 of our, you know, patio.

17 The reality is that this is the real  
18 photo. You can see that the grease clearly  
19 starts in the middle of the street from a truck  
20 that's passed by, from someone dumping some  
21 coffee in the street. It's not from our patio.  
22 It's clear. It's a picture. It's right here.

23 This was not limited to just tweets.  
24 This was what I noticed right after the protest  
25 was submitted. Someone had come to our back

1 fence and ripped off one of the panels from the  
2 back of the fence in the corner, and this is  
3 nearest to the neighbors. You can very clearly  
4 see that it was pulled from the outside. You see  
5 that?

6 I would find regularly, I would walk  
7 outside and the trash can that is closest to  
8 this, the top would be flipped up because someone  
9 has stuck their hand under there and flipped it  
10 up undoubtedly for the hopes that an inspector  
11 would come by and try to cite us for having an  
12 open can. And I think that -- unfortunately, I  
13 have no way to prove that this was a neighbor,  
14 but it just seems quite interesting that this  
15 would happen right after this protest would be  
16 filed.

17 Furthermore, we were having  
18 complaints, the neighbors were calling in  
19 complaints to the DOH and DPW constantly to the  
20 point where the health inspectors were like,  
21 "Yeah, we're back again." They knew we were  
22 doing nothing wrong. DPW came multiple times.  
23 And we've actually been cited, and I'll say this  
24 because they'll talk about this. We've been  
25 cited four times by DPW. Twice in one day. And

1 three of those are not our fault.

2 First was a grease spill from a trash  
3 company, a grease company that came to pick up  
4 the grease from our container. They spilled it  
5 early in the morning and when we got in, we  
6 cleaned it immediately. DPW was there before and  
7 they took pictures. It is what it is. We got  
8 rid of that grease removal company and we moved  
9 the grease across the street.

10 After we removed the grease across the  
11 street, we have to fill up buckets of grease and  
12 with a wheelbarrow take them across the street.  
13 We got cited because one of those buckets was  
14 just cracked a little bit because the grease was  
15 a little hot and we didn't want to spill hot  
16 grease in the street. That was what we were  
17 cited for. It's like a \$100 fine.

18 The last two DPW fines were a  
19 recycling fine, and they're going to show you a  
20 picture of that recycling bin because they're  
21 actually showing a bunch of pictures of our trash  
22 cans open. Those were opened by DPW. That was  
23 not our trash. We don't carry Bud Light. We  
24 don't carry that wine, we don't carry plastic  
25 straws. That was the neighbor's trash. I had a



1 very serious meeting with the neighbor and  
2 threatened to remove him from the trash area if  
3 they do not recycle and follow DPW and DDOT  
4 regulations when it comes to trash.

5 Now there was one thing that I will  
6 take credit -- well, not take credit for, but I  
7 will take on my shoulders. I requested to have  
8 new cans. We've had new cans put out there four  
9 or five times. We've had new cans brought out.  
10 They have taken old cans. I submitted with our  
11 trash guy to bring out new cans because we  
12 noticed that there was some holes in the cans.  
13 Every time there have been holes in the cans we  
14 have called our company to bring out new cans.

15 The reason why Inspector Ruiz didn't  
16 see any holes in the cans is because, and you'll  
17 see in the picture, there's a hole in the back of  
18 the can. When they brought those new cans, we  
19 did not see that hole because it was in the back  
20 of the can. Subsequently, we canceled our trash  
21 contract with that company and we started a  
22 contract with Tenleytown. All brand new cans.  
23 And they're out there. I don't have a picture of  
24 them unfortunately, but brand new cans, brand new  
25 company.

1 I do not tolerate dirt and disgusting  
2 mess in that trash area, and I have shown that  
3 I'm willing to spend the money, that I'm willing  
4 to make the moves. I'm not complacent on this,  
5 and neither are my business partners.

6 And as I said before, we have a  
7 flawless Department of Health record, we have  
8 zero ABRA violations, and we only have four DPW  
9 violations in a period of two years, two of which  
10 happened on one day. And those are easily  
11 explainable. This does not show a track record  
12 of just a disgusting mess that is contributing to  
13 the rat problem.

14 Now I would urge the Board to take  
15 that into account, and also take into account  
16 that this is, like I said before, this is DDOT's  
17 jurisdiction. If we don't keep this trash area  
18 clean, that's on us. And the reality is is that  
19 this problem has already been solved, but the  
20 protestors refuse to concede.

21 Once this walk-in cooler is removed  
22 and put downstairs, there is a huge trash area  
23 which we can put more trash cans, we can put  
24 dumpsters. There is more than enough space to  
25 fill that entire place cleanly, keep it

1 organized. And you know what? If my team does  
2 not keep it organized, well, we can be fined by  
3 DPW. We can fined by ABRA. We leave ourselves  
4 open to that, but we are moving -- we are making  
5 the moves and doing the things that we need to do  
6 in order to make this right. We've shown that we  
7 were going to do that.

8 I showed that to Inspector Ruiz. I've  
9 shown you invoices here that I have to show that  
10 we've done that. We spent a lot of money. We  
11 spent \$25,000 to make the neighbors happy. We've  
12 worked with the Department of Transportation.  
13 We've worked with the Department of Health to  
14 make sure this is done properly. We are not a  
15 bunch of complacent owners that are sitting back  
16 and just putting our hands up and saying this  
17 isn't a problem.

18 But I would ask that the ANC and the  
19 neighbors don't just say you're the problem  
20 because this rodent problem is not going to go  
21 away unless the neighbors, the city, ANC, and us,  
22 and the businesses in the neighborhood all work  
23 together to solve this problem. And removing one  
24 trash area and just moving trash to another  
25 location is not going to solve any problem that

1 doesn't solve any rat problem whatsoever. But  
2 what it does is it strips my business of reliable  
3 access to trash and it strips my neighbor's  
4 business of reliable access to trash.

5 And like I said before, I don't think  
6 that we've been 100 percent perfect. Nobody has.  
7 But we have done a lot of to try to make this  
8 better as best as we can do. And that's all I  
9 have to say.

10 CHAIRPERSON ANDERSON: Thank you. Who  
11 is going to do the cross-examination?

12 MR. IRANI: I'd like to.

13 CHAIRPERSON ANDERSON: Yeah. Go  
14 ahead.

15 CROSS-EXAMINATION

16 BY MR. IRANI:

17 Q So I just have a few things. I'll  
18 just try to keep it brief since we're on the  
19 clock. You mentioned a flawless DOH record --

20 A Yep, I do.

21 Q -- including zero health violations  
22 pertaining to rats, animals.

23 A Mm-hmm.

24 Q I have submitted to you a week ago a  
25 document where there are 32 DOH violations in the

1 last year, including violations pertaining to  
2 insects, rodents and animals.

3 A I would love to respond to that.

4 Q And actually, can you read it?

5 A Yep.

6 Q Can you read the actual line item?

7 A

8 MR. JAMES: He can't just --

9 CHAIRPERSON ANDERSON: All right.

10 He's asking you a question.

11 THE WITNESS: I apologize.

12 CHAIRPERSON ANDERSON: And you respond  
13 to the question to the best of your ability.

14 THE WITNESS: Yes. I apologize.

15 BY MR. IRANI:

16 Q Did you not receive any of these  
17 violations from the Department of Health, any of  
18 these 32 violations, including the ones  
19 pertaining to insects, rodents and animals?  
20 Because right now, in front of the Board and the  
21 rest of us, you're claiming you have zero  
22 violations.

23 A In the last health inspection, which  
24 I have right here, we had zero violations.

25 Q In the last year, there had been

1 multiple health inspections, 32 violations.

2 CHAIRPERSON ANDERSON: Hold on. All  
3 right.

4 THE WITNESS: Actually, I can answer  
5 that if you don't mind.

6 CHAIRPERSON ANDERSON: You can what?

7 THE WITNESS: I can answer it. The  
8 line item that you're referring to as it pertains  
9 to rats and rodents, if you actually read the  
10 line item, it says insects, rodents and vermin  
11 are not present.

12 Read it. If you read it, that's what  
13 it says. And the reason for that is because  
14 anybody who understands how a Department of  
15 Health inspection is performed is there's about  
16 50 line items. Those line items can be tripped  
17 by a number of different things.

18 Now on the actual health report, which  
19 you don't have access to because you've  
20 downloaded all of your information off of  
21 HDScores.com, which is a subsidiary of Yelp,  
22 which only shows the actual line items. It  
23 doesn't show what triggered them.

24 MR. IRANI: It shows the violation.

25 CHAIRPERSON ANDERSON: Hold on.

1 You've asked him a question. You've answered  
2 your question. And all right. I'm not going to  
3 have --

4 MR. IRANI: I'm satisfied with his  
5 answer.

6 CHAIRPERSON ANDERSON: All right.  
7 Give him another question.

8 THE WITNESS: I would love to finish  
9 what I was saying because --

10 CHAIRPERSON ANDERSON: There's no  
11 pending question, sir. Let's -- we're moving on  
12 to another -- is there another question?

13 THE WITNESS: I think what I was going  
14 to say --

15 CHAIRPERSON ANDERSON: Sir --

16 THE WITNESS: I apologize.

17 CHAIRPERSON ANDERSON: There's no  
18 pending question. Is there another question?

19 THE WITNESS: I'm sorry. I'm a little  
20 fired up right now.

21 MEMBER SHORT: We respect you. I  
22 think you should respect this Board.

23 THE WITNESS: You're absolutely -- and  
24 I apologize.

25 MEMBER SHORT: And I think you've been

1 very disrespectful to our chairman and us.

2 THE WITNESS: I'm very sorry, and I  
3 don't mean --

4 MEMBER SHORT: Think about it. Take  
5 a deep breath.

6 THE WITNESS: I don't mean to be  
7 disrespectful.

8 MEMBER SHORT: Take a deep breath.

9 BY MR. IRANI:

10 Q Thank you. So you had also mentioned  
11 that you take full accountability when presented  
12 with an issue, and you talked about a tweet a  
13 resident made that I replied to with pictures.

14 I've sent you emails with pictures of  
15 broken cans, open cans of grease, grease spillage  
16 on Lucky Buns' property and around it, pictures  
17 of your trash pickups with trash spillage  
18 happening. Why haven't you maintained that full  
19 accountability with the neighbors and with the  
20 ANC?

21 A Well, I have, and as I mentioned  
22 before, I've changed trash companies. We have  
23 instituted biweekly cleanings. We have seven-day  
24 pickups. We replace trash cans.

25 We've moved the walk-in cooler down



1 into the basement. I've spent over \$25 in  
2 improvements, including building new fences that  
3 will be done as soon as the walk-in cooler is  
4 removed. I made these changes.

5 They don't always happen as quickly as  
6 some people would live, but I've made these  
7 changes and I've spent the money, and I've done  
8 the things that I need to do to work with the  
9 neighborhood properly.

10 Q Okay. You also had stated, and I want  
11 to keep this brief, so this will be my last  
12 question, that you doubt neighbors paid for rat  
13 abatement.

14 I just, you know, there's so many  
15 things that you say that I have emailed you  
16 about, sent you evidence of, including last week  
17 with all the exhibits, showing \$3,500 paid by one  
18 resident for rat abatement, letters from pest  
19 control companies for a single resident talking  
20 about how they have seen a significant uptick  
21 during the recent six months and captured two to  
22 five rats.

23 But, so this is all proof of the  
24 neighbors all paying thousands and thousands of  
25 dollars for rat abatement, so why do you

1 constantly come back and say that?

2 A Because you've shown evidence with  
3 that of what two residents that are paying for  
4 rat abatement? How many properties are up and  
5 down Vernon Street? Do you know off the top of  
6 your head?

7 CHAIRPERSON ANDERSON: Well, you  
8 answer --

9 THE WITNESS: I can't ask questions.  
10 Sorry.

11 CHAIRPERSON ANDERSON: You answer  
12 questions. You don't ask the questions.

13 THE WITNESS: I don't know the number  
14 off the top of my head, but --

15 MR. IRANI: I'm satisfied with the  
16 answer. I'd just like to move on to our own  
17 witnesses.

18 CHAIRPERSON ANDERSON: Do you have no  
19 further questions?

20 MR. IRANI: No further questions.

21 CHAIRPERSON ANDERSON: Mr. McCoy, I'm  
22 confused about this trash area. So who shares  
23 this trash area?

24 THE WITNESS: So basically, we are  
25 located at the corner of Vernon Street and 18th,

1 and it's a corner building. So it's like a strip  
2 of buildings, a strip of small shops and then  
3 kind of ours is on the end on the corner.

4 The shops kind of toward the end have  
5 a really tiny little back area that they keep  
6 their trash. And that area is filled with their  
7 trash. The Duplex Diner and ourselves, we don't  
8 have a back alleyway.

9 That alleyway stops like three back,  
10 like three buildings back. So historically, that  
11 trash area was located on the side of the  
12 building and shared by Duplex Diner and by the  
13 businesses that were there before us because it  
14 was the only place to put trash for the  
15 businesses, so they had reliable access to trash.

16 It's not that it was chosen just for  
17 the, you know, for the heck of it. We don't have  
18 a back patio area. So it's just -- it's right,  
19 and basically, there's some big walls that go up  
20 kind of in the corner and then about 6-foot  
21 walls, a fence around it.

22 And I would say it's about a 10' x  
23 10', maybe a little bit more square that the  
24 trash is. And it's been there for 20-something  
25 years.

1 CHAIRPERSON ANDERSON: So the trash  
2 area is utilized by you said two --

3 THE WITNESS: Correct. Yeah.

4 CHAIRPERSON ANDERSON: All right.

5 THE WITNESS: By two businesses.

6 CHAIRPERSON ANDERSON: Now, how often  
7 is your trash removed?

8 THE WITNESS: Seven days a week.

9 CHAIRPERSON ANDERSON: What time? I  
10 mean like --

11 THE WITNESS: It comes between 12:00  
12 and 2:00 generally, but they do come earlier.  
13 Kind of the accepted time is between 12:00 and  
14 2:00, but they do come as early as 6:00 a.m.  
15 They come as early as 5:00 a.m. It really just  
16 depends on the day and the route. But it's  
17 always up by at least 2:00, before we're open.

18 CHAIRPERSON ANDERSON: Any other  
19 questions by any of the other Board members? Go  
20 ahead, Mr. Short.

21 MEMBER SHORT: Have you ever heard of  
22 a Business Improvement District?

23 THE WITNESS: I have not.

24 MEMBER SHORT: Well, it's when several  
25 businesses who have the same problem you have in

1 the same neighborhood band together and when you  
2 have a bid or you take to your neighbor's  
3 business, do a bid, you find yourself a lot  
4 better off. They solve a lot of problems. Have  
5 you ever heard of a trash compacter?

6 THE WITNESS: Yes, I have.

7 MEMBER SHORT: Have you ever tried to  
8 get one for your business?

9 THE WITNESS: Yes, actually. And  
10 that's a very good question. So when we had  
11 started discussing some ideas because, as I  
12 mentioned before, that I was more than happy to  
13 discuss some ideas that would help abate rats in  
14 the neighborhood and --

15 MEMBER SHORT: What did you do about  
16 getting about a trash compacter?

17 THE WITNESS: I called a bunch of  
18 companies about putting a trash compactor in the  
19 trash area to prevent, you know, one that doesn't  
20 leak.

21 MEMBER SHORT: It's a big tax write  
22 off in the District government for doing that.  
23 You know that?

24 THE WITNESS: It is. So the reason  
25 why they wouldn't -- AMG Hauling, we talked to.

1 We talked to Tinley Town about doing that. The  
2 reason why they can't install a trash compactor  
3 on that trash area is that there's no road  
4 access.

5 So the trucks can't come up, pick up  
6 the trash compactor and dump it, because  
7 basically, you have the sidewalk. You have cars  
8 parked. So in order for them to access that,  
9 there would have to be no cars there. The other  
10 idea that we came up with is a --

11 MEMBER SHORT: Let me get this  
12 straight, so maybe you'll know that I know the  
13 neighborhood. Is this the same Vernon Street  
14 that goes up the hill that runs to the back of  
15 the Hilton?

16 THE WITNESS: Correct.

17 MEMBER SHORT: Oh, it's been like that  
18 for many, many years. Hasn't it?

19 THE WITNESS: Yeah. That trash has  
20 been there.

21 MEMBER SHORT: But there haven't been  
22 that many restaurants there before. Correct?

23 THE WITNESS: There was a restaurant  
24 there before.

25 MEMBER SHORT: No, no, as many as they

1 are now.

2 THE WITNESS: I would argue they've  
3 been close to about the same.

4 MEMBER SHORT: No, sir. If you don't  
5 know, just say you don't know, but you don't  
6 know. All right. Now, I also want to ask you  
7 will you please still try to look into a trash  
8 compactor?

9 THE WITNESS: I --

10 MEMBER SHORT: There's different kinds  
11 that they could work it out. The District  
12 government will really help you with that if you  
13 would ask them to.

14 THE WITNESS: I would 100 percent put  
15 a trash compactor on our trash area.

16 MEMBER SHORT: Okay. Ever heard of  
17 the cardboard box regulations, DCRA?

18 THE WITNESS: Yes.

19 MEMBER SHORT: So tell me exactly how  
20 you understand the cardboard box because I've  
21 seen some pictures that show boxes in your --

22 THE WITNESS: Absolutely.

23 MEMBER SHORT: -- trash area that you  
24 can't close the bins unless you press them down  
25 over. Tell me what the regulation does.

1                   THE WITNESS: So you're supposed to  
2 break down all your boxes, and they need to be  
3 separate.

4                   MEMBER SHORT: Break them down inside  
5 or outside?

6                   THE WITNESS: Well, you need to break  
7 them down inside and then take them outside.

8                   MEMBER SHORT: Because if you take  
9 them outside, you'll sit them down, you'll come  
10 back and crush them later.

11                   THE WITNESS: Correct.

12                   MEMBER SHORT: And that causes big  
13 problems. Doesn't it?

14                   THE WITNESS: Correct. And we've  
15 solved that problem because I no longer have  
16 them -- because of the pictures, I no longer have  
17 them breakdown boxes outside. They break them  
18 down in the basement. They keep them in the  
19 basement, and then they bring them up.

20                   MEMBER SHORT: Well, let me ask you  
21 this. You're part of this community. You say  
22 you live in the District.

23                   THE WITNESS: Yes, sir.

24                   MEMBER SHORT: Do you live in this  
25 neighborhood?



1 THE WITNESS: I don't. I used to live  
2 nearby, but I live in Petworth.

3 MEMBER SHORT: Where?

4 THE WITNESS: Petworth?

5 MEMBER SHORT: Petworth. Okay, not  
6 far away.

7 THE WITNESS: Yeah.

8 MEMBER SHORT: There's a lot of  
9 restaurants there, too, right?

10 THE WITNESS: Well, there's a lot more  
11 than there used to be.

12 MEMBER SHORT: Oh, that's what I'm  
13 saying about your area. Okay. So I really know  
14 the city a long time, too, like you. All right.  
15 Now also, you mentioned that you haven't had any  
16 citations from which agencies? Have you had any  
17 citations from DCRA?

18 THE WITNESS: No citations from DCRA.

19 MEMBER SHORT: DPW?

20 THE WITNESS: We've had four citations  
21 from DPW.

22 MEMBER SHORT: Four, that's all?

23 THE WITNESS: That's it.

24 MEMBER SHORT: In how many years have  
25 you been there?

1 THE WITNESS: Two years.

2 MEMBER SHORT: Okay. How about  
3 Department of Health?

4 THE WITNESS: Zero.

5 MEMBER SHORT: No.

6 THE WITNESS: Well, as it pertains to  
7 --

8 MEMBER SHORT: In the two years you've  
9 been there, have you ever had any -- just yes or  
10 no. Have you ever had any violations?

11 THE WITNESS: No for the trash area,  
12 but yes --

13 MEMBER SHORT: Please listen at the  
14 question. You can't over talk me.

15 THE WITNESS: Sorry.

16 MEMBER SHORT: Thank you. Yes or no,  
17 have you ever got citations from the Department  
18 of Health?

19 THE WITNESS: Yes, for routine health  
20 inspections.

21 MEMBER SHORT: When?

22 THE WITNESS: I mean every health  
23 inspection has had a few citations, which is --

24 MEMBER SHORT: So you're saying every  
25 time the Department of Health comes they find

1 violations?

2 THE WITNESS: Yeah, but that could be  
3 someone wearing a bracelet or a door open.  
4 That's what I was going to respond to about the  
5 insect and rodent line item on the health report  
6 because --

7 MEMBER SHORT: I've been on this Board  
8 going on seven years, and you're the first  
9 business owner who said to me he gets a violation  
10 every time the Department of Health comes out,  
11 and that's regular.

12 THE WITNESS: Well, like a minimal  
13 violation.

14 MEMBER SHORT: Well, violations  
15 period.

16 THE WITNESS: Well, they're small  
17 violations, and as I said before, I have a list  
18 of all the businesses in the neighborhood. And  
19 every single one of them has --

20 MEMBER SHORT: My last question to you  
21 is --

22 THE WITNESS: -- between three and  
23 five violations.

24 MEMBER SHORT: My last question to you  
25 is, you were here the last time and this Chairman

1 read to you and read to the -- your neighbors  
2 what was required by this Board, when it's  
3 required and how to get it to us. You sat here  
4 and heard that. Correct?

5 THE WITNESS: I did.

6 MEMBER SHORT: But then you said you  
7 didn't get it in on time. So if every business  
8 that we deal with has ABC license, comes in and  
9 says -- we might as well throw that regulation  
10 out of the window.

11 THE WITNESS: That wasn't my  
12 intention.

13 MEMBER SHORT: I know it wasn't your  
14 intention, but the law is the law. So I really  
15 wish that you would just tone it down a little  
16 bit and listen a little more than you.

17 THE WITNESS: No, I understand.

18 MEMBER SHORT: Because we're here to  
19 help you not hurt you.

20 THE WITNESS: No, I know. I'm just  
21 very frustrated.

22 MEMBER SHORT: Well, I understand. We  
23 get frustrated when people come in with all kinds  
24 of complaints because we don't see a lot of  
25 restaurants. It's many of them, but some people

1 we see two and three times a year, sometimes more  
2 than that. And guess what happens to them after  
3 a while? They get enough violations from us they  
4 lose their license.

5 THE WITNESS: Yeah, I understand.

6 MEMBER SHORT: That's all I have, Mr.  
7 Chair.

8 THE WITNESS: And I don't want to be  
9 that person.

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

12 CHAIRPERSON ANDERSON: Any other  
13 questions by any Board members? Any questions  
14 based on the questions that were asked by myself  
15 and Mr. Short?

16 MS. WILSON: No.

17 CHAIRPERSON ANDERSON: All right. And  
18 so you rest, sir?

19 THE WITNESS: I rest, yes.

20 CHAIRPERSON ANDERSON: All right. The  
21 Board is going to take a 10-minute break, and  
22 then you can present your case. We're in recess.

23 (Whereupon, the above-entitled matter  
24 went off the record at 9:07 p.m. and resumed at  
25 9:25 p.m.)

1 CHAIRPERSON ANDERSON: All right.  
2 We're back on the record. So the Protestant is  
3 going to present its case. So who is the  
4 attorney, and who is the first witness.

5 MR. JAMES: It's going to rotate a  
6 bit.

7 MS. WILSON: I'm Ashley Wilson. I  
8 will be the attorney for the first witness. I'd  
9 like to first call to the stand Marcus Mirra.

10 CHAIRPERSON ANDERSON: Marcus Mirra.

11 MS. WILSON: M-I-R-R-A.

12 CHAIRPERSON ANDERSON: Mr. Mirra, can  
13 you raise your right hand, please? Do you swear  
14 or affirm to tell the truth and nothing but the  
15 truth?

16 MR. MIRRA: I do.

17 CHAIRPERSON ANDERSON: Have a seat,  
18 sir, and please pull the microphone and speak  
19 into the microphone please.

20 MR. MIRRA: Good evening Board members  
21 and Chair.

22 WHEREUPON,

23 MARCUS MIRRA

24 was called as a witness by Counsel for the  
25 Complainant and, having been first duly sworn,

1 assumed the witness stand, was examined and  
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MS. WILSON:

5 Q Can you please introduce yourself?

6 A Yes. I'm Marcus Mirra. I live in the  
7 building that's abutting to the restaurant, Lucky  
8 Buns.

9 MEMBER SHORT: Mirra, can you spell  
10 it, please?

11 THE WITNESS: Yes, M-I-R-R-A.

12 MEMBER SHORT: Thank you.

13 THE WITNESS: Yes, I live right next  
14 door to the restaurant, Lucky Buns, and my units  
15 is one of the garden units that --

16 MEMBER SHORT: So you're on Vernon or  
17 you're on --

18 THE WITNESS: On Vernon Street, yes.  
19 That's a residential street, not the main  
20 commercial street, which is 18th, yes.

21 MS. WILSON: And I would like to  
22 introduce a motion for evidence. I believe you  
23 guys have a binder in front of you.

24 CHAIRPERSON ANDERSON: Okay.

25 MS. WILSON: I would like to introduce

1 all of the photos.

2 CHAIRPERSON ANDERSON: Now you have to

3 --

4 MS. WILSON: I'm sorry. There's a  
5 white binder, and I would like to introduce --

6 CHAIRPERSON ANDERSON: All right.  
7 This is how you need to do that. If you have  
8 them, tell me what you're trying to do.

9 MS. WILSON: So as he's speaking,  
10 right, the photos and a video that we will show  
11 as well as a map that I think we want to help  
12 clarify the location of the establishments, I  
13 want to figure out the best way to introduce all  
14 of that.

15 CHAIRPERSON ANDERSON: If you're going  
16 to -- are you going to ask him about the photo?

17 MS. WILSON: Yes.

18 CHAIRPERSON ANDERSON: So why don't  
19 you ask him about the photo and after you're done  
20 asking about all the photos, then you can ask to  
21 move them into evidence.

22 MS. WILSON: Okay.

23 CHAIRPERSON ANDERSON: So show him the  
24 photo and ask him to identify it.

25 MS. WILSON: Okay.



1 CHAIRPERSON ANDERSON: Does he have a  
2 binder?

3 MS. WILSON: Yes.

4 THE WITNESS: But I do recognize it,  
5 if that's enough.

6 MS. WILSON: Yes. So Marcus, to  
7 ensure the clarity, and I'm on the last tab of  
8 the page, there is a map of Vernon Street. Can  
9 you best describe the location of Lucky Buns?

10 MEMBER CROCKETT: I'm sorry.

11 MS. WILSON: Yes.

12 MEMBER CROCKETT: What tab are you on?

13 MS. WILSON: I'm sorry. I'm on the  
14 photos tab.

15 MEMBER CROCKETT: Okay, photos tab.  
16 Thank you.

17 MS. WILSON: Photos tab, and it's the  
18 last page of the photos tab.

19 MEMBER CROCKETT: Got you. Thank you.

20 MS. WILSON: And it should look like  
21 a picture of Vernon Street.

22 MR. JAMES: Sir?

23 CHAIRPERSON ANDERSON: Yes, sir.

24 MR. JAMES: I just want to be sure  
25 we're doing this procedurally correct. We do

1 have an evidence book to share with the other  
2 side, which I understand is the proper thing to  
3 do.

4 CHAIRPERSON ANDERSON: So did you  
5 disclose that?

6 MR. IRANI: We disclosed everything in  
7 the book to him.

8 CHAIRPERSON ANDERSON: But you didn't  
9 have it in the booklet form.

10 MR. McCOY: I can pull up the photos  
11 on my --

12 CHAIRPERSON ANDERSON: As long as it  
13 was disclosed to him seven days, then that's  
14 fine.

15 MR. JAMES: Yes, it was.

16 BY MS. WILSON:

17 Q Okay. Marcus, can you please best  
18 describe the location of Lucky Buns, the location  
19 of the Duplex Diner establishment as well as  
20 where the residents are located relative to Lucky  
21 Buns, please?

22 A Okay. So what we're looking at is we  
23 see 18th Street north and south and then Vernon  
24 Street east and west. And Lucky Buns is on the  
25 very corner. It's got that enlarged sidewalk in

1 a V shape.

2 And then just next to it northward is  
3 the Duplex Diner. We are along Vernon Street  
4 just abutting. It's the abutting building next  
5 to Lucky Buns. And so, our patio is -- it's  
6 abutting to their sidewalk café, which includes  
7 their garbage area.

8 So because Vernon Street is on a  
9 slope, our garden patios are above their garbage  
10 space. So where we have some chairs, it looks  
11 over to their garbage space, and yeah basically,  
12 that's enough.

13 Q No problem. So Marcus, if you turn to  
14 image -- so I would like to introduce that  
15 picture into evidence.

16 CHAIRPERSON ANDERSON: All right. Do  
17 you have any objection, sir?

18 MR. McCOY: No objection.

19 CHAIRPERSON ANDERSON: So moved.

20 (Whereupon, the above-referred to  
21 document was marked as Complainant Exhibit 1 for  
22 identification and received into evidence.)

23 BY MS. WILSON:

24 Q So Marcus, if you turn to Image 34,  
25 can you show, to the point that you were making

1 earlier about the location of your building with  
2 the Lucky Buns' trash area? It's Image 34.

3 A 34, okay. So we see the crosswalk,  
4 and then moving up the sidewalk we see where  
5 their seating area is where they have tables. We  
6 see their side door, and then immediately  
7 continuing up the sidewalk is where they have the  
8 fence.

9 CHAIRPERSON ANDERSON: Hold on. I  
10 think I'm looking at the same one. So I see some  
11 umbrellas. So why don't you identify using the  
12 umbrellas.

13 THE WITNESS: Okay. So the umbrellas,  
14 we've got one yellow one and three blue umbrellas  
15 going inward through the street.

16 CHAIRPERSON ANDERSON: All right.

17 THE WITNESS: Image number 34,  
18 correct?

19 MS. WILSON: Yes.

20 THE WITNESS: Image number 34.

21 MR. McCOY: May I --

22 THE WITNESS: So as you walk up the  
23 sidewalk --

24 CHAIRPERSON ANDERSON: Hold on one  
25 minute. Yes, sir.

1 MR. McCOY: Because the pictures  
2 aren't numbered --

3 CHAIRPERSON ANDERSON: The pictures  
4 are numbered. Are -- they're not --

5 MEMBER SHORT: 34.

6 MS. WILSON: Page 34.

7 MR. McCOY: Which one is 34?

8 CHAIRPERSON ANDERSON: They're not  
9 numbered on the -- give me a book.

10 MR. McCOY: That would be great.  
11 Thank you so much.

12 CHAIRPERSON ANDERSON: All right. Go  
13 ahead.

14 MR. McCOY: I appreciate that.

15 THE WITNESS: Okay. So this is  
16 basically the crosswalk at the corner of Vernon  
17 and then 18th. So as we walk up the sidewalk  
18 along those umbrellas, you'll find Lucky Buns'  
19 side door to their kitchen or that kitchen area.

20 And then the fence that you see is  
21 where they have their garbage bins, and only  
22 since they've had possession of the property do  
23 they have that gigantic fridge out there.

24 CHAIRPERSON ANDERSON: Can I -- and I  
25 just -- so you're saying you have a fence. Is

1 the fridge -- what is the fridge because I can't  
2 --

3 THE WITNESS: It's that silver metal  
4 square that you see, that we have more photos  
5 that are up close.

6 CHAIRPERSON ANDERSON: Okay. All  
7 right.

8 THE WITNESS: But yeah, just since  
9 they've had the ownership has there been that  
10 huge walk-in cooler. Before, there just used to  
11 be garbage bins within that square area of the  
12 fence.

13 The fence is there supposedly to  
14 conceal and keep in their garbage area. The  
15 fence area protrudes out into the sidewalk about  
16 I don't know, maybe a foot and a half. I'm not  
17 sure of the measurement.

18 But that is what abuts to our  
19 building. It's against our patio, and it's  
20 against the wall of our residential building.  
21 And that's the only restaurant on our street.  
22 The rest of the street is all residential.

23 BY MS. WILSON:

24 Q And Marcus, to the point of the patio  
25 that you made, if you can all turn to Image 14, I

1 think that depicts a great picture. And can you  
2 just describe that exterior patio and how that --  
3 where that fence leads to.

4 A Okay. So this is the one patio right  
5 in front of the doorstep of the Unit 101, and  
6 this is the entrance to -- one of the entrances.  
7 We have a double staircase like it comes up to  
8 our main entrance.

9 So that patio is right in front of  
10 someone's front door. It's the front door of a  
11 unit that has that patio. And so, we have the  
12 steel fence there and the wooden fence there to  
13 try to make some type of barrier between the  
14 garbage that these two restaurants pile up and  
15 our living area.

16 MR. McCOY: May I make an objection to  
17 that?

18 CHAIRPERSON ANDERSON: What's the  
19 objection?

20 MR. McCOY: I just want to make a note  
21 that --

22 CHAIRPERSON ANDERSON: No, it's not  
23 make a note. What are you objecting to?

24 MR. McCOY: Oh, just the placement of  
25 the cans. That's not how it's actually placed.

1 CHAIRPERSON ANDERSON: Well, you can  
2 -- you're going to have an opportunity to cross-  
3 examine.

4 MR. McCOY: Okay. Absolutely. Okay.

5 CHAIRPERSON ANDERSON: You can cross-  
6 examine him, so you can cross-examine him about  
7 that, sir.

8 MR. McCOY: Okay. Absolutely.

9 CHAIRPERSON ANDERSON: Go ahead.

10 MS. WILSON: Thank you, Marcus, for  
11 describing. I'd like to introduce those pictures  
12 that I just showed you into evidence as a motion.

13 CHAIRPERSON ANDERSON: Do you have any  
14 objection to the introduction of --

15 MR. McCOY: No, that's fine.

16 CHAIRPERSON ANDERSON: So moved.

17 (Whereupon, the above-referred to  
18 document was marked as Complainant Exhibit 2 for  
19 identification and received into evidence.)

20 BY MS. WILSON:

21 Q Okay. Marcus, can you confirm where  
22 the residents of 1811, the building you live in,  
23 plus the residents on the street, where do they  
24 keep their trash cans?

25 A All of the residents, all of the homes



1 and the residential properties keep their garbage  
2 in the alleyway. It's behind the entire block.  
3 It's on the other side of our buildings, so none  
4 of the houses have their trash pick-up or storage  
5 of their garbage along this sidewalk. The only  
6 garbage that is seen on this sidewalk belongs to  
7 the restaurant.

8 Q Thank you. As mentioned, Mr. McCoy in  
9 his opening statement I believe or his testimony,  
10 he mentioned there was a previous establishment  
11 prior to Lucky Buns, right, which we also  
12 acknowledge? Can you describe the difference  
13 between those two establishments?

14 A Yes, there's a huge difference. The  
15 only reason we have a protest is because there's  
16 a huge difference between the years that we had a  
17 previous restaurant there and the reality that we  
18 live with now.

19 We never had these scenes of garbage  
20 cans lined up along our property for cleaning.  
21 As the Defendant pointed out, they do cleaning,  
22 but they do cleaning like this.

23 There's garbage lined up along our  
24 front wall, and there's piles of garbage. Those  
25 cans are not lifted up open just because

1 someone's leaving them open. It's because  
2 they're overflowing.

3 And being a resident, I don't just  
4 have visits every now then. I'm there every day,  
5 and I walk by this every day. It's either like  
6 this, or those cans are inside the enclosure.  
7 But there are many times they're open because  
8 they're overflowing.

9 And it's unkept. The maintenance has  
10 changed very much since the last ownership to  
11 now. There's much more garbage. The production  
12 of food is much greater than it used to be with  
13 the previous restaurant.

14 The previous restaurant was more like  
15 a café and a place where people would drink.  
16 This new restaurant is wonderfully successful,  
17 and we'd love it to be like that because we enjoy  
18 places like that in our neighborhood.

19 But it accumulates so much more  
20 garbage than the previous establishment did, so  
21 there's a huge difference.

22 Q So when you -- can you -- I know you  
23 spoke about the difference, right? And I'd like  
24 to introduce the video that we have on the  
25 screen, and I'm going to play the video. And

1 then I'm going to ask -- actually, can you please  
2 describe --

3 A What we'll see?

4 Q Yep, what we'll see.

5 A All right. So on many afternoons,  
6 evenings and well into the night, I come in and  
7 out and I see lots of rat traffic. It's not just  
8 the rats that I'm here to talk about though.

9 It's the cleanliness of the area and  
10 garbage that spills out, bottles or plastic  
11 around the garden area that's in front of their  
12 area. But this is a source. It's a food source  
13 for rats.

14 And because of the amount of food,  
15 food that spills over, the food that is inside  
16 these bins that have had holes in them, it  
17 attracts lots of rats.

18 And if you see how our property is  
19 raised from the sidewalk. My front door gives me  
20 perfect -- I have a glass door, and it gives me  
21 perfect view of how many rats move in and out  
22 straight through the whole street to this  
23 specific area.

24 It's like a rat highway going there  
25 and coming back. And many times, I've filmed

1       them. I've taken pictures. And this is one of  
2       our -- one of the videos that I've taken.

3               Q       So if you look right here, you'll see  
4       two rats, one running. This is one right here  
5       that just ran. You'll see one coming out of that  
6       bin.

7                       CHAIRPERSON ANDERSON: All right. Why  
8       don't you ask him to tell us? You're asking  
9       questions.

10                      MS. WILSON: Oh, I'm sorry.

11                      THE WITNESS: Oh, I see. What I saw.  
12       So I'm standing on my property. Okay. This is  
13       part of our building. I'm standing right over  
14       their garbage bins, and this is what I see on a  
15       regular basis.

16                      These are rats running out of their  
17       garbage bins through the holes or because they're  
18       open, and they go up the street and down the  
19       street. They come to eat at this site. They  
20       nourish themselves, and then they go reproduce  
21       wherever they make their burrows.

22                      So opposite of how he was trying to  
23       paint the picture, the rats don't just live at  
24       our place. The rats multiply because they find  
25       their food source nearby, and then they reproduce

1 wherever they can make their home

2 It's the opposite. They're  
3 reproducing because they have such a plentiful  
4 food source, and that wasn't the case before  
5 Lucky Buns. This is not the way it was before in  
6 the previous establishment.

7 BY MS. WILSON:

8 Q So Marcus, I know you shared a  
9 description of the video at night. Can you  
10 describe activity even during the day?

11 A Yeah. I mean it increases in the  
12 evening, but it's been similar during the day as  
13 well just like we see here. And mind you, this  
14 is my front doorstep. So the rats walk across my  
15 front area, and they aim right for that --

16 CHAIRPERSON ANDERSON: Is that a rat?  
17 I'm sorry. That looks like a cat. I apologize.

18 MS. WILSON: That's how big they are.

19 MEMBER SHORT: They've got some big  
20 ones out there.

21 THE WITNESS: Well, they're getting  
22 plenty of food, you guys. That's exactly what I  
23 wanted to point out, and they're going right to  
24 that refrigerator, right to the property, right  
25 to the trash.

1           This is a very dirty area. This is  
2 our property, and the restaurant has also taken  
3 the liberty of placing their property on it,  
4 ladders, brooms, furniture.

5           It's been really a huge disrespect to  
6 the neighbors. We're in this area, and they find  
7 it just acceptable for them to put whatever they  
8 want on our property and leaning up against our  
9 fence.

10           It's just on many levels, it's been  
11 disrespectful, and it shouldn't even happen. Why  
12 do I need to point things out like them putting  
13 their own property, wedging it against -- so this  
14 is on a daily occurrence.

15           It's not just when maybe an inspector  
16 goes and doesn't see these things. I live here  
17 along with my neighbors, and I deal with this on  
18 a daily basis. The number -- the amount of feces  
19 now as opposed to any other time has increased to  
20 where we have flies and where you have an odor.

21           So my garden that I used to dig in and  
22 plant flowers and use my hands, I cannot bear to  
23 get near it anymore. I've totally neglected it,  
24 and I've come across -- I've looked into other  
25 solutions, to put cement over it.

1                   And I've had that garden for years.  
2           I moved into that place because it was a one-  
3           bedroom that had a garden. And I thought I was  
4           very lucky to find that in Washington.

5                   I can't look at my garden anymore  
6           because it's become a rat-infested -- it's a  
7           litter box. It has all the droppings of the  
8           rats. It has the flies in the door, and it's  
9           right in front of my doorstep.

10                   It wasn't like this before Lucky Buns  
11           is being so successful with their great numbers  
12           and wonderful food production. It wasn't like  
13           this before.

14                   Q       Thank you. So one of the testimonies  
15           of Mr. McCoy is that he does take his trash bins  
16           out of the area and cleans them. So I'd like to  
17           refer to Image 15. Can you describe what you've  
18           observed? What is his process that they clean  
19           these bins?

20                   A       Okay. So just like in this photo, we  
21           see the bins outside of their little fenced area.

22                   MR. MCCOY: May I make an objection?

23                   THE WITNESS: -- and I walk --

24                   MS. WILSON: Thank you.

25                   (Whereupon, the above-entitled matter

1 went off the record at 9:43 p.m. and resumed at  
2 9:45 p.m.)

3 CHAIRPERSON ANDERSON: We're back on  
4 the record. Go ahead.

5 MS. WILSON: Thank you.

6 MR. McCOY: Can I just -- my  
7 objection?

8 CHAIRPERSON ANDERSON: What's your  
9 objection?

10 MR. McCOY: So Mr. Mirra is making a  
11 statement of fact about how we clean when he  
12 doesn't really know how we clean.

13 CHAIRPERSON ANDERSON: Sir, remember.  
14 He's testifying, okay. You're going to have an  
15 opportunity --

16 MR. McCOY: Okay. I wasn't sure if I  
17 could object to that.

18 CHAIRPERSON ANDERSON: You're going to  
19 have an -- I don't know. She's asked him a  
20 question.

21 MR. McCOY: Okay.

22 CHAIRPERSON ANDERSON: He's stating  
23 how from his perspective you can. When he's done  
24 testifying, then you can ask him questions about  
25 his testimony.



1 MR. McCOY: All right.

2 CHAIRPERSON ANDERSON: You can clarify  
3 the record if you can do so through cross-  
4 examination.

5 MR. McCOY: Okay.

6 CHAIRPERSON ANDERSON: That's the  
7 beauty of cross-examination. Someone paints a  
8 picture, and depending on how successful you are,  
9 then you'll either wipe the slate clean, or  
10 you'll make it worse. I'm just saying, but  
11 that's what we say in cross-examination.

12 MR. McCOY: All right. Thank you.

13 BY MS. WILSON:

14 Q So I'm going to only ask you one more  
15 question about the pictures because I don't want  
16 to belabor this point. I think you guys get it.  
17 Marcus, I'm on Image 24, which is also displayed  
18 on the screen. Can you describe what we are  
19 looking at?

20 A Okay. So this is now looking into the  
21 walk-in cooler, the refrigerator up over the  
22 garbage bins. So this is all within their --  
23 this is all on the sidewalk patio that we've  
24 established.

25 This is within their fenced area, and

1 so they walk in and out of this cooler, taking in  
2 and out food. I've witnessed uncovered food.  
3 I've witnessed them just like in the picture  
4 prior to that, 23.

5 I've witnessed them placing food  
6 containers on top of the trash bins in order to  
7 free their hands to open the refrigerator.  
8 There's just a lot of poor judgment.

9 There's poor judgment on keeping the  
10 area clean, on respecting the area, the  
11 neighborhood and the fact that you can see  
12 through the fence, the dilapidated fence. And  
13 that has not been fixed and right into their  
14 fridge. There's just a lot of poor judgment  
15 that's been made here.

16 Q And you mentioned they put food on top  
17 of the trash can. Can you describe is that  
18 what's happening in Image 23?

19 A Image 23, that's exactly what I saw.  
20 I saw this individual placing that container of  
21 meat on top of the trash bin in order to free his  
22 hands to open the door to the cooler. Yeah,  
23 there's --

24 Q Thank you.

25 MS. WILSON: So I would like to

1 introduce all of these images and motion to  
2 introduce all of these images. I don't want to  
3 go through all of them, but it reiterates the  
4 continued testimony of Marcus plus the other  
5 witnesses you will hear. So I would like to  
6 formally introduce them as a motion of evidence.

7 CHAIRPERSON ANDERSON: Just, all you  
8 need to say I would like to move these images  
9 into evidence.

10 MS. WILSON: I'd like to move the  
11 images into evidence.

12 CHAIRPERSON ANDERSON: And any  
13 objection, sir?

14 MR. McCOY: No. No objection.

15 CHAIRPERSON ANDERSON: So moved.

16 (Whereupon, the above-referred to  
17 document was marked as Complainant Exhibit 3 for  
18 identification and received into evidence.)

19 MS. WILSON: Thank you.

20 BY MS. WILSON:

21 Q So Marcus, I'm just going to ask you  
22 a few other questions. What have you done as a  
23 resident for rat abatement or rat treatment?

24 A Okay. So we have exterminators all up  
25 and down the street. Several residents pay for

1 the extermination on their property. We use bait  
2 stations and we use the poison, the powder poison  
3 that the exterminators use.

4 We try to -- we keep our property clean and,  
5 you know, all our garbage is on the back side of  
6 the street, so they don't have anywhere to stop  
7 and feed on any of our properties on that block.

8 They go right past my doorstep running  
9 to those bins that are chewed through. You'll  
10 notice on the photos there are lots of chewed  
11 holes for them to get into. And then they go  
12 back.

13 So I get the traffic. I get all the  
14 traffic, and up until recently I didn't have the  
15 problem of the burrows in my immediate garden.  
16 And just about maybe within the year, that's when  
17 they targeted my garden, too. So yes, there are  
18 burrows up and down the block, but that's because  
19 they're getting their food from there, from that  
20 source.

21 Q Thank you. Prior to joining this  
22 protest, did you ever meet with Mr. McCoy about  
23 these issues?

24 A Yeah. Before the protest, I met with  
25 him when they -- well, I'm not sure if it was

1 you. It was a blonde guy when you first acquired  
2 the place, and I introduced myself, wanted to see  
3 and discussed a few of these issues that I was  
4 worried about because there was that visibility  
5 of the garbage and it looked unkempt.

6 So and then later in May and then in  
7 September, I specifically remember talking to you  
8 in person in front of the garbage area, so yes.  
9 I brought up these issues, and I voiced my  
10 concern.

11 And each time, I was reassured that  
12 things were going to change, that he was doing  
13 everything in his power. I mean I could listen  
14 to him and be enchanted by what he described was  
15 right in front of me.

16 And I would shake my head. I'm  
17 looking at an entirely different situation.  
18 You're describing a paradise of cleanliness, and  
19 I'm standing on top of a lot of filth. It was  
20 not addressed. We're months later, and these  
21 things have not been addressed.

22 Q So to confirm, even after you met with  
23 him, which sounded like -- can you confirm three  
24 times? Was that three times?

25 A Yes. Well, two times with him

1 specifically, one time with another owner.

2 Q Okay. So after three meetings, did  
3 you see any improvement?

4 A I haven't seen any improvements. And  
5 of course the rat situation is only worse because  
6 of time and with reproduction. It's worse now  
7 than it was before. It's worse than it was last  
8 year, and it's worse at this point than it was  
9 months ago.

10 Q It's also my understanding, and Mr.  
11 McCoy brought this up in his testimony about a  
12 fence and that he said he's been willing to  
13 repair the fence. Have you seen any marginal,  
14 even marginal repairs to the fence?

15 A No. The fact that he points it out  
16 that someone must've torn parts of it from there.  
17 I just don't understand a successful business  
18 would not remedy these situations.

19 You have a dilapidated fence next to  
20 your tables where you have people eating, and it  
21 looks disgusting. I don't go to that restaurant  
22 because of that. I used to before when it was  
23 the previous establishment, and I would have had  
24 I not seen all of this stuff firsthand on a  
25 regular basis. I can't move myself to eat there.

1           Q       Apart from Mr. McCoy, have you met  
2 with any other D.C. agencies regarding the issues  
3 that you've seen?

4           A       Yes. I did meet with Mr. Garrett, who  
5 you mentioned, at the DOT. And he realized that  
6 there was an inconsistency between the written  
7 permit that you have for the patio and the map  
8 that was drawn up.

9                   And so he assured us that we could go  
10 further with some type of negotiation of some  
11 sorts and target that because he could not  
12 understand who would have approved the map  
13 containing a garbage next to tables on a café, on  
14 a sidewalk café.

15                   In the written permit, it says there's  
16 no -- they are not allowed to have that garbage  
17 are adjacent to the café. Yet, in the map that  
18 was drawn up and also approved, there's an area  
19 dedicated for that.

20                   So there's an inconsistency right  
21 there that Mr. Garrett identified any, and he was  
22 at a loss to know how to approach that. But he  
23 assured us that he would work with us.

24                   And we're here today because we  
25 haven't gotten anywhere with any of this, and we

1 don't know how else to deal with this problem  
2 because clearly, years ago, someone put a stamp  
3 and signature on a garbage area next to tables  
4 where people eat and next to a residence that our  
5 patio looks right over and next to a written  
6 permit that prohibits that very thing.

7 Q Do you think Mr. McCoy, his other  
8 partners or the establishment are acting in best  
9 faith for the neighborhood?

10 A No. It's very different from the  
11 previous establishment that did work with us. We  
12 didn't get to this point with any of the previous  
13 establishments because they did work with us as  
14 neighbors.

15 They even paid for mosquito spraying  
16 of the block just to ensure that there weren't so  
17 many mosquitos on their patio. None of this  
18 happens anymore. When I raise these issues with  
19 the current ownership, we haven't gotten  
20 anywhere.

21 He's pushed it all the way to this  
22 point. There's been no repairs to the fence.  
23 It's in worse deterioration now. He's blaming us  
24 for harboring rats when that can't be blamed on  
25 us.



1           The tree boxes in front of his place  
2 and ours, he's not keeping up with them like they  
3 used to in the previous establishment. There's a  
4 lot of -- there's loitering now from his  
5 employees.

6           There's tons of cigarette butts  
7 because of the cigarette breaks that his  
8 employees take, and there's just no supervision  
9 like there used to be in the previous  
10 establishment.

11           We have photos that are part of the  
12 evidence that are just tons of cigarette butts  
13 along our sidewalk, and it's because of the  
14 cigarette breaks that his employees take and  
15 well, I smelled marijuana and I smelled cigarette  
16 smoke coming into my windows because my windows  
17 are right in front. And I see this going on on a  
18 regular basis.

19           Q       Thank you. I have one final brief  
20 question. You had mentioned a lot of things that  
21 you have done. Are you changing anything  
22 structurally to the front of your garden?

23           A       Yes. Like I mentioned, I got  
24 estimates to cover my garden with cement so that  
25 we don't have this going on anymore. I don't

1 want rats making their homes in front of my  
2 doorstep.

3 So yeah, I got estimates that will  
4 also furnish evidence that this is costly to us.  
5 It didn't used to be like this, and now we have  
6 to resort to costly solutions in order not to  
7 have the droppings, the rat droppings and the  
8 flies in front of my doorstep. Yeah.

9 MS. WILSON: And I'd like to make a  
10 motion to introduce the quote that he is talking  
11 about for the garden replacement of cement. It  
12 is in the tab labeled Professional Letters and  
13 Bills and is the last page on that tab. And it's  
14 a quote for \$10,000. And with that, I have no  
15 further questions. Thank you.

16 CHAIRPERSON ANDERSON: Who's Carol  
17 Vaughn?

18 THE WITNESS: She's our treasurer at  
19 the building of the condo association.

20 MEMBER SHORT: Is that your address?

21 THE WITNESS: It's my address, 1811  
22 Vernon Street.

23 CHAIRPERSON ANDERSON: I mean, I don't  
24 know what this is for. Okay. It says -- I mean  
25 I don't know what this is.

1 MS. WILSON: This is to demonstrate a  
2 financial burden on the neighbors because of the  
3 situation of increased --

4 CHAIRPERSON ANDERSON: All right.  
5 This is an estimate to remove and take away dirt,  
6 build new wall next to building on the left using  
7 concrete blocks, paint new block walls, put  
8 concrete where dirt was removed, remove actual  
9 fence, build a new wall right next to you.

10 I mean, it's an estimate. I don't  
11 know what the estimate is for. I mean it's not  
12 --

13 THE WITNESS: Okay. If it's not very  
14 clear, the garden in front of my doorstep has a  
15 wall that's about this tall. And so this is to  
16 continue that way and to cover the dirt in that  
17 garden with cement.

18 And then because of doing that then to  
19 follow District laws of keeping in the floor area  
20 of that, the newly placed floor, you have to put  
21 on a metal fence. So all of these things have to  
22 be created in order to remove that garden from  
23 there because otherwise I now have a nesting area  
24 for rats right at my doorstep.

25 CHAIRPERSON ANDERSON: And so you just

1 -- you want to put this in evidence and say this  
2 is some cost that you --

3 MS. WILSON: It's a -- we want to  
4 enter it into evidence because the neighbors are  
5 at a point where they don't even want to have a  
6 garden.

7 CHAIRPERSON ANDERSON: Sorry. You  
8 can't do that.

9 MS. WILSON: Oh, I'm sorry.

10 CHAIRPERSON ANDERSON: Not you, ma'am.  
11 The witness is on the stand. Please do not have  
12 any conversation with the witness while the  
13 witness is on the stand. Okay? Go ahead, ma'am.

14 MS. WILSON: So as I was saying, this  
15 is an estimate because the neighbors are at a  
16 point where they don't want to have gardens where  
17 you can even have an option to have a rat burrow  
18 because the treatment, the abatement, the poison,  
19 it's not working.

20 So they are deciding to potentially  
21 rip up the garden, fill it with cement. And now  
22 that it's a walkway and enclosure you have to put  
23 a fence around it. And I don't believe it's been  
24 decided on. I believe they're taking it to the  
25 Board.

1 MS. WILSON: Yeah, we have to decide  
2 on that, but what this points out is that we are  
3 proactive in trying to do our part to eliminate  
4 where rats can live. It's a burden on us. It's  
5 a new burden. This was not the case before Lucky  
6 Buns was next door to us.

7 CHAIRPERSON ANDERSON: All right. So  
8 do you have any objection, sir?

9 MR. McCOY: No, I'd just like to ask  
10 questions.

11 CHAIRPERSON ANDERSON: Okay. All  
12 right, fine. I'll move it to evidence.

13 (Whereupon, the above-referred to  
14 document was marked as Complainant Exhibit 4 for  
15 identification and received into evidence.)

16 CHAIRPERSON ANDERSON: Yes, Mr. James.

17 MR. JAMES: Can we just have a check  
18 on the amount of time that the Protestants have  
19 used so far? Is that possible?

20 CHAIRPERSON ANDERSON: All right.  
21 She's not taking time, but I would say that we  
22 don't want to be here all night. So be mindful  
23 of your time. You can -- it's your opportunity,  
24 sir, to cross-examine.

25 MR. McCOY: Yes. Absolutely.

1 CROSS-EXAMINATION

2 BY MR. McCOY:

3 Q All right, Mr. Mirra. Do you remember  
4 when you and I met for the first time?

5 A I believe it's May. It was May.

6 Q It was not May.

7 CHAIRPERSON ANDERSON: All right. He  
8 said -- hold on. You asked him a question. He  
9 said that he believed it was May. You can't say  
10 to him it's not May. You ask him. He tells you.

11 Then you either ask another question  
12 to clarify. Ask him if he's sure it's May.  
13 Could it have been some other time? But don't  
14 say it's not May. Okay?

15 MR. MIRRA: Okay.

16 CHAIRPERSON ANDERSON: You are cross-  
17 examining him. And you don't watch TV? You  
18 don't see how they do it on TV?

19 MR. McCOY: That's why I own a  
20 restaurant because I'm not a lawyer.

21 CHAIRPERSON ANDERSON: No, but you  
22 don't have to be a lawyer. Everybody watches TV.  
23 There's so many lawyer shows on TV. You see all  
24 these lawyers on TV. They do a wonderful job in  
25 cross-examining witnesses. You don't watch TV?

1 MR. McCOY: Good thing I didn't go to  
2 law school. I'll tell you that much.

3 CHAIRPERSON ANDERSON: You don't have  
4 to go to law school. None of them on TV went to  
5 law school. Okay. Go ahead, sir.

6 BY MR. McCOY:

7 Q Could -- do you remember it being  
8 possibly being towards the end of the summer,  
9 like more like I would say like July, August-ish?

10 A No.

11 Q Okay. Well, do you remember what we  
12 talked about when I talked to you?

13 A Yes. You assured me that you were  
14 going to do many things you have not.

15 Q Did I offer you my phone number  
16 directly and say please call me if you notice  
17 anything that's, you know, not right? You can  
18 get to me directly, and that I really do want to  
19 solve this problem for the neighbors.

20 A The issues that I pointed out to you  
21 in person at the meeting. Did you want me to --  
22 okay. No, I remember you giving me your phone  
23 number and asking me to contact you if you notice  
24 -- if I notice more irregularities. I didn't see  
25 that there were more. It was just a continuation

1 of the same.

2 Q Have you contacted me at all since  
3 then to let me know about any of this?

4 A Yes.

5 Q When did you contact me?

6 A September 4th. I have it written  
7 down, but it was immediately following one of the  
8 photos and videos that I took.

9 Q And what was my response?

10 A Your response was that you were having  
11 -- you were -- you had the permit to lower the  
12 cooler, and that was going to remedy many  
13 situations that we were experiencing. But that  
14 has not happened yet.

15 Q Do you acknowledge that I have paid  
16 for the cooler, that I have done work in the  
17 basement to move the walk-in cooler to the  
18 basement?

19 A Do I acknowledge that you've done  
20 that? I don't have any proof of that. The  
21 cooler is still there. I don't have proof of  
22 what you've spent or what you've done to remedy  
23 an illegal situation that you have a cooler  
24 outside on your patio. It shouldn't have been  
25 there, and I'm not the one to need to look into



1 that. It should have been you as the owner.

2 Q Do you remember me telling you that I  
3 would hold off on doing any work in your garden  
4 because once we move the walk-in cooler into the  
5 basement, then we were going to build a new  
6 fence? And once that fence is done, then the  
7 trash area will have plenty of space for trash.

8 A You know what? It's December now, and  
9 I've been living there and going through that  
10 every day.

11 Q Do you acknowledge that was the  
12 conversation?

13 A I acknowledge that. We're still  
14 dealing with things that you told me that would  
15 be taken care of by now.

16 Q Do you -- you mentioned that you were  
17 good friends with the prior business owners. Are  
18 you aware that those business owners are our  
19 landlords now?

20 A I didn't say I was their friends.  
21 They were more cooperative with us and they were  
22 much more proactive, and they solved situations  
23 with us.

24 Q Are you aware that they are my  
25 landlords?

1           A       Yes.

2           Q       Okay. Are you aware that they are in  
3 full support of us and feel that we have done  
4 what we can and paid the money to move all this  
5 in compliance with what the neighborhood needs.  
6 And do you know that they are fully supportive of  
7 what we're doing because they feel that we've  
8 been doing the right thing?

9           A       Whether they're supportive or not, I  
10 am aware of what's in front of me. They're not  
11 here. The owner lives in New Jersey. He does  
12 not see what I see. So I'm not aware that  
13 they're in full support of what you're doing  
14 because I think that you're not doing much. And  
15 that would be a shame if they're in full support  
16 of that.

17          Q       Are you aware that walk-in coolers  
18 exist in proximity to trash areas in hundreds of  
19 restaurants around the city?

20          A       I am not aware of that, and I don't  
21 think you have the permit for that.

22          Q       I'm just asking if you're aware or  
23 not.

24          A       I am not aware of that, and you don't  
25 have the permit for that.

1           Q       I'm just asking if you're aware of  
2       that.

3                   CHAIRPERSON ANDERSON:   Let's moved on.  
4       You have asked the question, sir.  He has  
5       answered the question.  Let's move on.

6                   BY MR. McCOY:

7           Q       Are you aware that the Department of  
8       Health has actually inspected the trash area with  
9       the walk-in cooler on it and has found no  
10      violations pertaining to the trash area or the  
11      walk-in cooler on the trash area?

12          A       I am not aware of that.

13          Q       Okay.  Are you aware that, as I  
14      mentioned before, it is actually not against  
15      Department of Health code to have commercial  
16      walk-in coolers in proximity to trash in the  
17      District of Columbia?

18          A       I am not aware of that.

19          Q       Are you aware that when we clean our  
20      patio that the spray that we use does contain a  
21      biodegradable cleaning agent, and this is  
22      approved to clean patios and also get up grime  
23      and dirt and things like that?

24          A       I'm aware of the result that is not  
25      clean.  Whatever is used, I am aware of the

1 result that's left afterward that I walk over  
2 every day, and it's not clean.

3 Q Are you aware that we clean twice a  
4 week aggressively? We pull everything out and  
5 clean that.

6 A No, I'm not aware of that, but I am  
7 aware of what it looks like on a daily basis.

8 Q Are you aware that our trash cans  
9 contain rat proof lids that latch down and lock  
10 in place?

11 A I would say no, not that I'm only not  
12 aware of it but that it's not the case. I have  
13 evidence that shows rat holes bitten through and  
14 them coming in and out of like we just showed you  
15 in the video.

16 Q Are you aware that looking at the  
17 picture, and especially Picture 15, you can  
18 actually see the rat proofing locks on top of the  
19 lids?

20 A For some reason, they might not  
21 respect those locks. I don't know.

22 Q But I'm just saying. Are you aware  
23 that we have changed our trash company, and there  
24 are new cans out there from a new provider?

25 A I've seen new cans that look like the

1 old cans that are made of plastic that are  
2 getting chewed through anyways, yes.

3 Q Are you aware that the cans have no  
4 holes of them?

5 A I am not aware of that. No.

6 Q Are you aware that these cans are  
7 approved cans for use around the city for  
8 commercial and residential use?

9 A No, I'm not aware of that.

10 Q Are you aware that rats -- that there  
11 are more food sources on this street other than  
12 just our patio?

13 A No. I would say no.

14 Q So are you saying that none of the  
15 other homes have trash areas? I don't --

16 A They have them in the back in the  
17 alley. That has nothing to do with the trash  
18 traffic that I see the rats going into your  
19 garbage and back.

20 Q Do you feel that it's not unreasonable  
21 to say that the rats can easily go back and eat  
22 and breed because of the trash in the backyard,  
23 which does have holes in it as well through the  
24 pictures that I showed, do you think it's  
25 unreasonable to think they're also feeding behind

1 your buildings as well as in my trash area?

2 A The difference is that --

3 Q That was my question.

4 A The difference is --

5 CHAIRPERSON ANDERSON: Answer the  
6 question, sir.

7 THE WITNESS: The difference is that  
8 those garbage containers are in the back in an  
9 alleyway that's completely --

10 CHAIRPERSON ANDERSON: Let him answer  
11 the question, sir. He's not done. Let him  
12 answer the question.

13 THE WITNESS: That alleyway is much  
14 like all of the city in which they have their  
15 garbage in an alleyway that's completely cemented  
16 over. It has nothing to do with people's front  
17 doors and where we open to our living rooms.

18 And I don't see the avenue of rat  
19 traffic going in front, where I step, where I sit  
20 going to your containers and back, going back and  
21 forth. No, it's not the same situation.

22 BY MR. McCOY:

23 Q Are you aware that Adams Morgan has  
24 had a rat problem for as long as you've lived  
25 there?

1           A       Yes, absolutely, but it's not like  
2 this. It's changed since you've been there.

3           Q       Okay. So are you saying that my trash  
4 area has made Adams Morgan rat infested now when  
5 it wasn't rat infested?

6           A       It has complete -- I do because it's  
7 completely changed the reality in which I live.  
8 There are many more rats and burrows that we  
9 never had before, and I watch them.

10                   I watch them and I film them going  
11 straight to your garbage area and coming back,  
12 running across my property, going up the street  
13 and back down going to your food source.

14           Q       Do you as a neighbor when you were  
15 living next to the previous business, did you  
16 have this problem with rats as you do now?

17           A       No.

18           Q       Would you say then that by moving the  
19 walk-in cooler to the basement and increasing  
20 more trash cans in that trash area that that  
21 would solve the problem?

22           A       I would say it would probably worsen  
23 it.

24           Q       So you're saying that the problem that  
25 didn't exist before, by reverting it back to the

1 original plan would be worse of a problem?

2 A The reason being is that you produce  
3 so much more food and you share that trash area  
4 with another restaurant, which creates an  
5 enormous amount of food garbage, which was not  
6 the situation before.

7 And the cooperation with the  
8 establishment was very different from what you  
9 had given to the neighborhood. There are there  
10 two realities, one that was manageable before and  
11 the new one with your restaurant that is not  
12 admissible anymore.

13 Q So --

14 A It is very disturbing to live there.  
15 You don't live there, and I do. I see this on a  
16 daily basis.

17 Q So what you're saying is that the two  
18 businesses that share this trash area right now,  
19 that the inspector in his report noticed that  
20 there was no problems with the trash area, no  
21 rodents at all, by tripling the volume of trash  
22 cans and as it is manageable or what you would  
23 argue is barely manageable, you're saying that by  
24 tripling the volume to put trash in, that's going  
25 to make the problem worse?



1           A       I'm not saying that. I'm saying that  
2 with the level of garbage that you produce, this  
3 has gotten worse. I can only attest to what I've  
4 seen by living there before Lucky Buns and during  
5 Lucky Buns.

6                   And there's been a huge change in the  
7 cleanliness of our sidewalk, in the looks and  
8 maintenance of that entire area, in the care and  
9 consideration that you have put forth, which has  
10 not been any and the resistance to us and that  
11 accusations to us.

12                   This was not the relationship we had  
13 with them before. And it is worse. Our reality  
14 of the rat problem and of the cleanliness on our  
15 sidewalk is entirely different.

16           Q       Do you want the walk-in cooler  
17 removed?

18           A       Yes.

19           Q       Do you want the fence repaired?

20           A       Yes.

21           Q       Do you want the trash area reverted  
22 back to the way it was before?

23           A       I don't know what the solution is  
24 going to be about that trash, but what I will  
25 tell you is that I wasn't aware prior to this and

1 in looking into the permits, we weren't aware  
2 that there was an inconsistency between what was  
3 written in the permit and what was mapped out  
4 giving you this authority to have garbage next to  
5 our doorstep.

6 It was something that we just dealt  
7 with before and we tackled on with the previous  
8 ownership, but then we discovered that there was  
9 the inconsistency by looking into these things.  
10 And we've furnished those in our evidence, so  
11 this is a different situation now.

12 Q I just have one last question. Is  
13 that area currently DDOT approved or not?

14 A I have no idea.

15 Q I mean I do, but that's --

16 A The thing is, I know for a fact that  
17 there's a license that says not to have the  
18 garbage there, and there's a map that shows an  
19 area for garbage.

20 So you know what? There's also an  
21 ABRA, what is it, the AS, the agreement  
22 settlement that we have with you that insists  
23 that you keep the area clean and orderly.

24 And you don't do that, so when you  
25 said earlier that you have no infringements and

1 no -- nothing against your ABRA permit, that's  
2 wrong. I see it all the time. You do not keep  
3 that area clean and orderly. It's not. The  
4 photos show it. You can walk through there, and  
5 you see it. It's not.

6 Q Are you aware -- I understand your  
7 opinion of things, but are you aware that we have  
8 no ABRA violations pertaining to the trash?

9 A There was an inspector that failed to  
10 see the holes in the garbage cans and no signs of  
11 vermin, and I've shown you that there are regular  
12 signs of vermin. So I can't attest to that.

13 Q I'm just asking if you're aware or no  
14 that there are no violations.

15 A I'm aware that there are violations.

16 Q But they're not. Okay. That was my  
17 last question.

18 CHAIRPERSON ANDERSON: All right.  
19 Thank you. Let me ask a question. Is either in  
20 your PIP or in the Protestant's PIP, is there a  
21 copy of the DDOT permit?

22 MR. McCOY: Yes, I have it.

23 CHAIRPERSON ANDERSON: Where is that?  
24 Where's the DDOT permit? Who has it?

25 MR. McCOY: I have it right here. If

1 you like, I can --

2 CHAIRPERSON ANDERSON: I'm saying is  
3 it disclosed in the Protestant? Is it in the  
4 Protestant's PIP? Yeah, the DDOT permit we're  
5 talking about. Is that in your PIP?

6 MS. WILSON: I don't think we  
7 submitted the permit.

8 MR. IRANI: It's on the PIP, but we  
9 have it here.

10 CHAIRPERSON ANDERSON: I'm sorry.  
11 It's what?

12 MR. IRANI: It's not -- I don't  
13 believe it's --

14 CHAIRPERSON ANDERSON: Do you have  
15 that? Did you disclose that in your PIP, sir?

16 MR. McCOY: Yes, I did.

17 CHAIRPERSON ANDERSON: All right.

18 MS. WILSON: The whole permit, not the  
19 drawing.

20 MR. McCOY: Yes. The data, permit and  
21 certificate of use.

22 CHAIRPERSON ANDERSON: All right.

23 MS. WILSON: There's a difference. I  
24 just want to clarify.

25 CHAIRPERSON ANDERSON: All right.

1       What I'm going to do is that I'm going to accept  
2       -- it's probably -- that document probably is in  
3       our records, however, but I don't have it in  
4       front of me, but yes, ma'am.

5               MS. WILSON: I just want to clarify.  
6       I want to ensure that if you're going to accept  
7       his permit, it's my understanding that he is just  
8       going to submit the drawing.

9               CHAIRPERSON ANDERSON: I did not ask  
10       for the drawing. This is the question I asked  
11       for. The question I asked for, in the PIP that  
12       was not timely disclosed, is the DDOT permit a  
13       part of that disclosure, because in order for him  
14       to have a -- because I'm trying to figure it.

15               In order for him to have a sidewalk --  
16       the sidewalk café is on -- does this DDOT permit,  
17       does it also cover the sidewalk café?

18               MR. McCOY: Correct.

19               CHAIRPERSON ANDERSON: All right.

20               MS. WILSON: That's what the permit's  
21       for.

22               CHAIRPERSON ANDERSON: All right. So  
23       we should have that in our records, but there's  
24       really not one here for me to look at. So if  
25       that document is part of the disclosure, then I

1 will allow that in evidence, the DDOT permit.

2 MR. IRANI: The permit here, should I  
3 email it?

4 MR. McCOY: I have the permit right  
5 here in paper.

6 CHAIRPERSON ANDERSON: All right. Can  
7 you show him the permit? Is this the same  
8 document? Show him the permit. It was not  
9 disclosed by -- that's what I'm trying to find  
10 out if he disclosed. That's what I was trying to  
11 figure out.

12 MEMBER SHORT: Did he submit it?

13 CHAIRPERSON ANDERSON: Yes, he did.  
14 It was late, Mr. Short. I'm just trying to see  
15 if it's there. I'm sorry. Is that the same  
16 document? That's the permit? Okay.

17 I know that in order to use a sidewalk  
18 café, it's in our records, but I'm going to allow  
19 him to -- although it was not timely, I'm going  
20 to allow him to submit that. So I want to see  
21 that document. What exhibit is that?

22 MR. McCOY: That is under mine at --  
23 let me pull this up. It is the II and JJ on  
24 ours.

25 CHAIRPERSON ANDERSON: Have you

1 located that?

2 MR. MCCOY: Let me get the actual. I  
3 have the drawing the COU. I don't have the other  
4 --

5 MS. WILSON: He doesn't have -- right.

6 MR. IRANI: He doesn't have the  
7 permit.

8 MS. WILSON: So he has the drawing as  
9 I mentioned, but he doesn't actually have the --

10 MEMBER SHORT: Does that have a city  
11 seal on it, that map?

12 MR. IRANI: I have the actual permit,  
13 the drawing, everything.

14 MEMBER SHORT: Until I see one with a  
15 raised seal on it, approved and stamped by the  
16 Agency.

17 CHAIRPERSON ANDERSON: Well, hold on  
18 a minute. Just hold up, Mr. Short. That's all I  
19 wanted. Okay. What is it that you're saying  
20 that you have, sir?

21 MR. IRANI: I just have -- Alex has  
22 said that he has the certificate of use and the  
23 site plan but not the actual permit. We're  
24 saying that I have the documents he's holding  
25 plus the actual permit in a PDF, and I'd be happy

1 to email it to you.

2 CHAIRPERSON ANDERSON: All right.

3 MR. McCOY: So can I clarify?

4 CHAIRPERSON ANDERSON: We're off the  
5 record.

6 (Whereupon, the above-entitled matter  
7 went off the record at 10:19 p.m. and resumed at  
8 10:26 p.m.)

9 CHAIRPERSON ANDERSON: Okay, Mr.  
10 Mirra?

11 THE WITNESS: Yes.

12 CHAIRPERSON ANDERSON: How long have  
13 you been living in this --

14 THE WITNESS: For six years.

15 CHAIRPERSON ANDERSON: For six years?

16 THE WITNESS: Yes.

17 CHAIRPERSON ANDERSON: And how long  
18 ago did this restaurant open up?

19 THE WITNESS: Two years ago.

20 CHAIRPERSON ANDERSON: Two years ago.  
21 So where did -- what restaurant was in the -- was  
22 at the location prior to this restaurant?

23 THE WITNESS: It was called Café  
24 L'Enfant.

25 CHAIRPERSON ANDERSON: And where did



1 they store their trash?

2 THE WITNESS: In that enclosed area,  
3 that same enclosed area, but there was no outdoor  
4 fridge there. There were fewer bins, and there  
5 was less trash. They were a café.

6 CHAIRPERSON ANDERSON: All right. So,  
7 but the same space was used for trash. However,  
8 there was less trash. Is that what you're  
9 saying?

10 THE WITNESS: Correct. Yes.

11 CHAIRPERSON ANDERSON: And so this is  
12 actually a more successful restaurant in the  
13 sense that they have more business?

14 THE WITNESS: Yes. It has much more  
15 traffic. The capacity has changed. I believe  
16 they did work inside to change the format of  
17 their kitchen or whatnot or they pulled out the  
18 fridge in order to have more capacity.

19 So yes, they produce much more food,  
20 and they expanded the outside café. It's my  
21 understanding that they've enlarged the seating  
22 area and placed planters actually beyond what was  
23 permitted.

24 When I spoke to Mr. Garrett at DOT, he  
25 noticed that the area of the seating, the patio

1 area with the planters was protruding beyond what  
2 was -- what had been approved. So yes, there  
3 have been changes made in order to increase the  
4 capacity way beyond what there used to be.

5 MR. McCOY: I object to that. That is  
6 not true.

7 CHAIRPERSON ANDERSON: Sir?

8 MR. McCOY: Sorry. I just --

9 CHAIRPERSON ANDERSON: Sir, I'm asking  
10 questions.

11 MR. McCOY: I'm sorry. It's just --

12 CHAIRPERSON ANDERSON: You've had your  
13 opportunity. Sir, this is --

14 MR. McCOY: I'm sorry. I apologize.  
15 I just --

16 CHAIRPERSON ANDERSON: We're the ones  
17 that should be upset --

18 MR. McCOY: I know.

19 CHAIRPERSON ANDERSON: -- because  
20 we've been here since 9 o'clock this morning.

21 MR. McCOY: I know.

22 CHAIRPERSON ANDERSON: You guys just  
23 got here at 6:30 this afternoon, okay. And we  
24 are calm, cool and collected, and we have been  
25 working here since 9 o'clock this afternoon.

1 MR. McCOY: I know. I understand.  
2 I'm sorry.

3 CHAIRPERSON ANDERSON: So if we can  
4 sit up here and we are giving you the patience to  
5 listen to what you have to say, you can do the  
6 same --

7 MR. McCOY: Okay. I'm sorry. I  
8 apologize.

9 CHAIRPERSON ANDERSON: -- because as  
10 I said before, we've been here since 9 o'clock  
11 this morning, and we are all here with a smile on  
12 our face and we all are paying attention to  
13 what's going on.

14 MR. McCOY: You're absolutely right.

15 CHAIRPERSON ANDERSON: So I expect  
16 that from you, sir. All right. Now the pictures  
17 that we just saw, when were these pictures taken?

18 THE WITNESS: Starting late last year  
19 into May maybe, yeah, starting -- over several  
20 months.

21 CHAIRPERSON ANDERSON: Starting when?

22 THE WITNESS: Yeah, about May.

23 CHAIRPERSON ANDERSON: May of 2018 or  
24 '19?

25 THE WITNESS: '19, this month, I mean

1 this year, yeah.

2 CHAIRPERSON ANDERSON: The problem I'm  
3 having, were you here when our investigator  
4 testified?

5 THE WITNESS: Yes, I saw him.

6 CHAIRPERSON ANDERSON: You saw the  
7 pictures the investigator showed?

8 THE WITNESS: Yes.

9 CHAIRPERSON ANDERSON: How is it that  
10 our investigator went to the establishment, and  
11 I'm looking at the report from the investigator.  
12 Where is that? Okay. I'm looking at Exhibit 11,  
13 12 from our investigator. Our investigator also  
14 testified that he observed the property. He went  
15 to property on several occasions.

16 THE WITNESS: I have the photos with  
17 dates on them in my phone.

18 MEMBER SHORT: Ma'am, you can't do  
19 that.

20 THE WITNESS: But I'm just showing him  
21 --

22 CHAIRPERSON ANDERSON: No.

23 MEMBER SHORT: But you can't do that.  
24 You can't approach him while you're --

25 THE WITNESS: Can I give it to them to

1 show him?

2 CHAIRPERSON ANDERSON: Here. Give it  
3 to him, but you can't walk up to the witness.

4 THE WITNESS: I'm sorry. I apologize.

5 CHAIRPERSON ANDERSON: I know this  
6 process is --

7 THE WITNESS: It's new to all of us.

8 CHAIRPERSON ANDERSON: But it's not  
9 that informal, okay. All right.

10 THE WITNESS: If we need --

11 CHAIRPERSON ANDERSON: Hold on. All  
12 right. Our investigator went October 6th,  
13 Sunday, October 10th, Thursday, October 13th,  
14 October 19th, October 15th, October 16th, October  
15 22nd.

16 And the first time he went was 11:50  
17 p.m. to 12:30, 3:15 p.m. to 3:30, 1:00 a.m. to  
18 1:30, 10:30 to 11:30 p.m., 11:30 p.m. to 12:00  
19 a.m., 1:45 to 3:00 a.m., 4:45 to 5:10. So he has  
20 gone there different times over different days.

21 And this was as of October. So how is  
22 it that you're showing these pictures. He went  
23 there, and he saw something differently in the  
24 sense that he stated that the trash area was  
25 clean with cans shut and no visible signs of

1 vermin.

2 So he went there in October, and this  
3 is what he saw. So why is that this is what was  
4 presented to the Board from our investigator in  
5 October, which is completely different from what  
6 you're providing?

7 THE WITNESS: Yes. I believe it's  
8 different, but it has a totally different degree  
9 of detail. And he doesn't spend hours there like  
10 I do. My photos are over that time period,  
11 before and after and between those visits.

12 CHAIRPERSON ANDERSON: But I hear you,  
13 but I guess what I'm saying, and I'm not saying I  
14 disbelieve you. If our investigator went there  
15 for a week, different times and he's not seeing  
16 anything that you saw, so is it that you took  
17 those photos, it was in that way last year in  
18 May, but there were changes made as of October?  
19 This doesn't exist anymore? That's what I'm  
20 asking because that I don't know.

21 THE WITNESS: Sure. And my answer is  
22 that the garbage is still there, and the rats are  
23 still there and the uncleanliness is still on the  
24 sidewalk and odors and flies and rat droppings  
25 are still there.

1           So whether he noticed the rat holes in  
2 the garbage cans or not, he didn't write that he  
3 saw any signs of vermin. But during his visits,  
4 I have photos with time stamps on them from when  
5 they were taken during that same week with rat  
6 holes bitten through the plastic containers. And  
7 with that level of traffic of rats comes all of  
8 the other things that I've described.

9           CHAIRPERSON ANDERSON: Where are  
10 these? Are they in the record? Were they  
11 disclosed? Which ones are these?

12          MS. WILSON: So they're all the same  
13 pictures. We --

14          MR. IRANI: If I may, I can point out  
15 some of the images and give you dates. So  
16 October 17th, Images 17 through 21 in the binder  
17 of the tabbed photos.

18          CHAIRPERSON ANDERSON: I'm sorry.  
19 Which ones were -- that was under the photos?

20          MR. IRANI: Under photos.

21          CHAIRPERSON ANDERSON: So you're  
22 saying image what?

23          MR. IRANI: Images 17 through 21 was  
24 taken on October 17th. On October 16th, I mean  
25 there's --

1 CHAIRPERSON ANDERSON: This is October  
2 17th.

3 MR. IRANI: Yes.

4 CHAIRPERSON ANDERSON: Do you have any  
5 pictures that were taken October 6th, October  
6 10th, 13th, 19th, 15th, 16th or 22nd?

7 MR. IRANI: I have the 16th. Of those  
8 dates, I have the 16th.

9 CHAIRPERSON ANDERSON: Which one is  
10 the 16th, image what?

11 MR. IRANI: 26. And that would  
12 coincide with the yellow bucket that's in one of  
13 the inspector's photos as well.

14 CHAIRPERSON ANDERSON: And what time  
15 was this taken?

16 MR. IRANI: I'd have to look that up.  
17 Let me see, Image 26. It's this one, right?

18 THE WITNESS: Yeah.

19 MR. IRANI: So if go here, 1:26 a.m.

20 MR. McCOY: May I make a comment?

21 CHAIRPERSON ANDERSON: No, sir. I'm  
22 just asking a question.

23 MR. McCOY: Sorry.

24 CHAIRPERSON ANDERSON: I'm just  
25 comparing our -- the information from our



1 investigator and then the investigation of the  
2 picture.

3 MR. McCOY: It just pertains to that.  
4 There's no trash there. It's actually --

5 CHAIRPERSON ANDERSON: I'm asking  
6 different questions. The question I asked -- I'm  
7 not saying if there was trash there or not.

8 MR. McCOY: Because there's a trash  
9 bag, so it makes it look like it's trash.

10 CHAIRPERSON ANDERSON: I don't know,  
11 sir. The only question that I asked --

12 MR. IRANI: It looks very messy.  
13 You're right.

14 CHAIRPERSON ANDERSON: Hold on,  
15 please. Hold on, sir. Hold on. The only  
16 question I asked is there an image that was taken  
17 the same day as the investigator went. That is  
18 the only thing.

19 I am not making any type of conclusion  
20 what is or isn't there. All I'm trying to do is  
21 try to compare because what's been -- our  
22 investigator went on several occasions.

23 And our investigator said that, and  
24 these are all different times. And our  
25 investigator said from his perspective,

1 everything was okay. All right?

2 And I'm hearing a witness who lives  
3 there is painting a different picture. And so  
4 one of the questions I asked, when were these  
5 pictures taken. If these pictures were taken,  
6 maybe this is what the place looked like a year  
7 ago.

8 But maybe as of October when our  
9 investigator went there, it changed. So now I'm  
10 being shown a picture that was taken on October  
11 16 at -- October 16th. And you're saying that  
12 picture was taken at?

13 MR. IRANI: It says date stamp 1:26  
14 a.m.

15 CHAIRPERSON ANDERSON: And our  
16 investigator was there October 16th at 1:45.

17 MEMBER SHORT: A.m. or p.m.?

18 CHAIRPERSON ANDERSON: A.m., which is  
19 20 minutes after you took your picture.

20 MR. IRANI: It's October 16.

21 CHAIRPERSON ANDERSON: Oh, I'm sorry.  
22 It says November. Okay. No, so there's no --  
23 I'm sorry. We don't have any -- I apologize. So  
24 this is November. So there's no dates. You  
25 don't have any pictures from any dates that the

1 investigator went there?

2 MR. IRANI: No, but I picked out some  
3 pictures that are within a couple days before and  
4 after.

5 CHAIRPERSON ANDERSON: But it's not  
6 the same day, so I'm just curious why is it that  
7 what our investigator -- so one of the pictures  
8 that we have that's taken -- from the pictures  
9 that were shown, what pictures do we have that --  
10 do we have any pictures outside of this one that  
11 was taken in October of this year, October 2019?  
12 Do we have pictures that were taken from October  
13 19th forward?

14 MR. IRANI: 19th?

15 CHAIRPERSON ANDERSON: Yes, from --  
16 because our investigator went there in October.  
17 So do you have any pictures that were disclosed  
18 of the condition of the property as of October  
19 2019?

20 MR. IRANI: Oh, yeah. Yes. So if you  
21 go to -- well, I'm going to point out --

22 CHAIRPERSON ANDERSON: I don't need  
23 you to point out.

24 MR. IRANI: Okay.

25 CHAIRPERSON ANDERSON: All I need you

1 to do, answer the question.

2 MR. IRANI: Then I'll just tell you.

3 CHAIRPERSON ANDERSON: No. The  
4 question I asked you, if you have a picture, show  
5 me a picture. If you have a picture that was  
6 taken --

7 MR. IRANI: In October 2019?

8 CHAIRPERSON ANDERSON: From October  
9 2016 subsequent to now because the question is  
10 that maybe we had all these issues, and maybe he  
11 could have rectified him. But the picture that  
12 you're showing me -- all right.

13 Mr. Mirra, how often is the trash --  
14 in your estimation, how often is the trash  
15 removed?

16 THE WITNESS: I'm not there all the  
17 time to see it removed. I hear that it's daily.

18 CHAIRPERSON ANDERSON: He says that  
19 trash is removed daily.

20 THE WITNESS: So I would trust that it  
21 is, but what I see until it's removed is that  
22 very often it stockpiles and that it overflows  
23 from their bins.

24 CHAIRPERSON ANDERSON: But the trash  
25 is removed daily?

1 THE WITNESS: I don't know. I can't  
2 attest to that, but I believe --

3 CHAIRPERSON ANDERSON: Sir, I mean  
4 come on. You live there. This is a place that  
5 always has trash spewing. You should be able to  
6 tell me whether or not the trash is removed daily  
7 because you live there.

8 You're complaining about all the other  
9 issues. He says he removes the trash daily, and  
10 so maybe if it's not being -- I don't know what  
11 the Board is going to do. But the Board can say  
12 because of the volume of trash, maybe he needs to  
13 have twice a day pickup.

14 I don't know. So because you live  
15 there and you're asking -- and I don't know what  
16 the solution is. I don't know what it is because  
17 the difference I'm hearing is that the restaurant  
18 that was there before utilized the same space.

19 It appears this is a much more  
20 successful restaurant, so yes, they have more  
21 trash. So if they have more trash, how is it  
22 that if -- and I know that ABRA can't suspend a  
23 license.

24 THE WITNESS: Sure.

25 CHAIRPERSON ANDERSON: Okay. So it's

1 either we're going to renew the license, or we're  
2 going to revoke his license. And you're asking  
3 for suspension, so we can't suspend it. Okay.

4 So what we can -- we can order to say  
5 this is what you have to do, or we can say that  
6 we're not going to renew your license and revoke  
7 it. Those are our options.

8 THE WITNESS: Yes.

9 CHAIRPERSON ANDERSON: Or we can renew  
10 it with conditions. So he's saying that his  
11 trash has been picked up every day and I'm asking  
12 you because if you live there, sir, you should  
13 notice that okay, there's sometimes I come home  
14 and there's no trash or there's -- or you can say  
15 the trash is there 24/7.

16 THE WITNESS: No. There are times  
17 when the trash is not there, yes, and there are  
18 times when it's overflowing. So I believe him  
19 when he says that it's removed every day. I just  
20 don't have it in my head when it happens, and it  
21 might happen at different times of the day. I'm  
22 not sure.

23 CHAIRPERSON ANDERSON: All right. So  
24 because you live there, how it is that you  
25 believe, in your view, how can this problem be

1 solved? And since I've now established that the  
2 previous restaurant, they had their trash there,  
3 too, but because it's a more successful  
4 restaurant, there's a lot more trash.

5 So how is it that you believe that --  
6 how do you believe that this can be remedied?

7 THE WITNESS: Personally, knowing that  
8 there's going to be more trash generated and that  
9 their plan is to have more bins there, I can only  
10 imagine to have the trash picked up more often.

11 So if that means twice a day, I would  
12 say okay. Let's start by that. When we came  
13 across the inconsistency in the licenses, we  
14 realized that there was a part that said it  
15 wasn't allowed to have -- they weren't allowed to  
16 have garbage there.

17 And so if, there was no presence of  
18 garbage there, then that would eliminate the food  
19 source for the rats and the uncleanness of  
20 having trash there and having trash picked up  
21 there at this level because at this level of  
22 trash production, the times that the trash pick-  
23 up removes and takes the garbage out is what's  
24 dirtying the sidewalk.

25 And they're not managing that. So two

1 separate things. There's the rats, but there's  
2 also the trash management.

3 So if they're not keeping the sidewalk  
4 clean, even if they're having twice a day pickup,  
5 if they're not cleaning and they're not being  
6 conscientious about being a neighbor on a  
7 residential street, I don't know what else to ask  
8 them but to follow those rules that are in their  
9 agreement, their settlement agreement that  
10 they're supposed to be respecting now which is  
11 keeping that whole area clean.

12 The fence is in total disarray. It's  
13 broken in areas, and they haven't bothered to fix  
14 it. So I don't know what else to suggest. I  
15 wish that trash area wasn't next to our doorstep.

16 And then I found a permit saying that  
17 they can have their patio but no trash there, so  
18 of course I looked at that and said wait a  
19 minute. There's an inconsistency here, so I  
20 would love that trash not to be there at all.

21 It's next to our doorstep, but if  
22 they're going to have to keep that trash there,  
23 then it has to be kept clean, which they haven't  
24 done. And it has to be picked up more often and  
25 totally different than what they're doing



1 currently.

2 MEMBER SHORT: Mr. Chair, can I please  
3 ask that he put that back one screen? I think  
4 that would clear up everything because apparently  
5 there's some disinformation that we've been  
6 accepting.

7 CHAIRPERSON ANDERSON: Well --

8 MEMBER SHORT: This deed says 2011 to  
9 2012, renewed annually, and he's submitting that  
10 to us for 2019?

11 CHAIRPERSON ANDERSON: No, Mr. Short.

12 MEMBER SHORT: Okay. I understand.

13 CHAIRPERSON ANDERSON: Mr. Short, he's  
14 not the one who gave this to us.

15 MEMBER SHORT: I understand.

16 CHAIRPERSON ANDERSON: I got that from  
17 a Protestant. Okay. I do not know --

18 MEMBER SHORT: The one you had on the  
19 screen, it becomes a lot clearer and I really  
20 think it would clear up a lot of things.

21 CHAIRPERSON ANDERSON: Now Mr. Short,  
22 this is a permit.

23 MEMBER SHORT: That's for 2011.

24 CHAIRPERSON ANDERSON: Mr. Short, this  
25 is a permit that's on the screen.

1                   MEMBER SHORT: So we accept a permit  
2 that's supposed to be done annually for 2011?

3                   CHAIRPERSON ANDERSON: I don't know.

4                   MEMBER SHORT: Where's 2019?

5                   CHAIRPERSON ANDERSON: Hold on, Mr.  
6 Short. I don't know where that is, okay. The  
7 question that we're here, and I mean we just have  
8 the question where people are talking about  
9 permits.

10                   And I said well, the permit in the  
11 record. The only permit that we're discussing  
12 that's on the screen that's here is a permit  
13 that's dated 3/21/2012. It says this permit  
14 expires in 2012.

15                   I'm not familiar with -- I have a  
16 permit that sidewalk café that expired in 2013.  
17 I'm not going to say I'm familiar with the DDOT  
18 permitting system.

19                   MEMBER SHORT: Can I say that I am?

20                   CHAIRPERSON ANDERSON: Mr. Short?

21                   MEMBER SHORT: I worked for the  
22 government for 33 years.

23                   CHAIRPERSON ANDERSON: Mr. Short,  
24 please sir.

25                   MEMBER SHORT: I know. I understand.

1 CHAIRPERSON ANDERSON: Please, let me  
2 finish.

3 MEMBER SHORT: Yes, sir.

4 CHAIRPERSON ANDERSON: All I'm saying  
5 -- I'm saying I am not stating that I'm familiar  
6 with the DDOT permitting system. I will find out  
7 when the Board issues whatever decision the Board  
8 will issue, I do not know off the top of my head  
9 how often, whether or not -- when in order to  
10 operate a sidewalk café if we need to have a  
11 currently permit. I don't know that off the top  
12 of my head.

13 THE WITNESS: Sure.

14 CHAIRPERSON ANDERSON: But by the time  
15 we -- when the decision is written, that will be  
16 there, okay.

17 THE WITNESS: Okay.

18 MEMBER SHORT: Can I please ask? It's  
19 one thing.

20 CHAIRPERSON ANDERSON: Yes, Mr. Short.

21 MEMBER SHORT: Can I see that, please?  
22 Thank you.

23 THE WITNESS: The presence of the  
24 garbage is what causes --

25 MEMBER SHORT: Please, sir.

1 CHAIRPERSON ANDERSON: What's the  
2 question you want to ask, Mr. Short?

3 MEMBER SHORT: It's not a question.  
4 If you look at --

5 CHAIRPERSON ANDERSON: It has to be a  
6 question because he's under cross-examination.  
7 So that's why.

8 MEMBER SHORT: Okay. Then I'll ask  
9 him, if he were permitted a copy of this, I want  
10 him to read the third from the bottom star.

11 CHAIRPERSON ANDERSON: Who are you  
12 asking?

13 MEMBER SHORT: I'm asking him to read  
14 the question. That's my question to him. The  
15 question is no trash may be stored on or adjacent  
16 to the sidewalk café. No trash enclosure may be  
17 adjacent to the sidewalk café.

18 So what are we talking about? Look at  
19 third from the bottom. I read it when it was on  
20 the screen very briefly. And then on here, again  
21 it says --

22 CHAIRPERSON ANDERSON: All right.  
23 Okay.

24 MEMBER SHORT: Either it is or isn't.

25 CHAIRPERSON ANDERSON: All right.

1                   MR. McCOY: I don't want to interrupt,  
2 but I have an email from Ellie Garrett talking  
3 about repairing the trash area.

4                   CHAIRPERSON ANDERSON: That's not  
5 relevant for the moment. That's not where we  
6 are, okay. Irrespective of whether or not --  
7 this is -- let me clarify for the record and  
8 state.

9                   Irrespective of what the permit says,  
10 the sidewalk is stated, it appears that this  
11 restaurant and the restaurant prior to this have  
12 always stored their garbage at the same place.

13                   So whether or not this establishment  
14 is compliant with the law, the other  
15 establishment was not compliant with the law  
16 because the trash was in the same place.

17                   The only difference that we have now  
18 is that it's a volume of trash because this  
19 restaurant is producing more trash. That's the  
20 only difference. That's my reason I had asked  
21 Mr. Mirra where was the other restaurant storing  
22 their trash. And the trash was being stored in  
23 the same place. It's just there's a different  
24 volume.

25                   THE WITNESS: Volume and then their

1 cleanliness with the sidewalk and their care for  
2 the area.

3 CHAIRPERSON ANDERSON: All right.  
4 Okay. So we're going to move on from the  
5 sidewalk café, and what we'll -- we're going to  
6 move on from this issue. And as I stated before,  
7 whenever the Board issued -- whatever the  
8 decision the Board issues, then we'll address  
9 this in an issue.

10 If there's a sidewalk café, then it  
11 needs to be -- it's going to -- I'm going to make  
12 sure that whatever decision it is, it will be  
13 addressed. Okay. All right.

14 I don't have any other questions for  
15 you. Does anyone else have a question for the  
16 witness? All right. So all right, Mr. Mirra.  
17 Thank you very much for your testimony. You can  
18 step down.

19 THE WITNESS: Thank you, Board.

20 CHAIRPERSON ANDERSON: All right. Do  
21 you have another witness?

22 MS. WILSON: We do, sir. We would  
23 like to call Lorrie Clark to the stand, and I  
24 promise we will do our best to keep this brief.

25 MR. IRANI: Image 16 is the most

1 recent image we have, and that's November 11th,  
2 taken at 9:30 in the morning.

3 CHAIRPERSON ANDERSON: All right. Ms.  
4 Clark, I see you just went up there with a big  
5 stack of documents.

6 MS. CLARK: This is, I'm not--

7 CHAIRPERSON ANDERSON: You have to  
8 take that big stack of documents right back  
9 there, ma'am. And you can't have any documents  
10 with you. So raise your right hand, please.

11 Do you swear or affirm to tell the  
12 truth and nothing but the truth? All right.  
13 Thanks. Have a seat. Pull the microphone next  
14 to you. Your witness, please.

15 THE WITNESS: First of all, would  
16 anybody like some chocolate?

17 CHAIRPERSON ANDERSON: No, thank you,  
18 but all right.

19 THE WITNESS: Okay. We have a bag  
20 there, and I'm happy to share.

21 CHAIRPERSON ANDERSON: Okay. Go  
22 ahead.

23 WHEREUPON,

24 LORRIE CLARK  
25 was called as a witness by Counsel for the

1 Complainant and, having been first duly sworn,  
2 assumed the witness stand, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WILSON:

6 Q Lorrie, can you please introduce  
7 yourself and where you live?

8 A Sure. I'm Lorrie Clark. I live at  
9 1813 Vernon Street NW, which is on the same side  
10 of the street as Lucky Buns. There's Lucky Buns.  
11 There's the Vernon House condo 1811, where Marcus  
12 lives, and I'm immediately adjacent to that.

13 I've lived in that house for 20 years,  
14 and I'm basically here today because of the  
15 dramatic increase in rat activity I've seen, and  
16 I am going to talk about it from a different  
17 problems and issues than what Marcus talked  
18 about.

19 Q Right. So we won't go through  
20 pictures. We know that there's kind of rat  
21 burrows in 1811. Can you describe what practices  
22 you yourself have done to address the rat issues  
23 that you're experiencing?

24 A Is it possible to put the picture of  
25 the house because I think it helps clarify?



1                   CHAIRPERSON ANDERSON: Ma'am, you're  
2 the witness. Questions are being asked of you.  
3 You answer the question if you're able to answer  
4 the question. If not --

5                   BY MS. WILSON:

6                   Q       So I will clarify. Can you quickly  
7 just describe your house and the landscape and  
8 the front yard?

9                   A       My house is 16 feet, 1 inch across.  
10 On the front of my house, I have five rat  
11 stations, and these are the super duper rat  
12 stations. They have snap traps in them as well  
13 as poison.

14                   I have two exterminator services. One  
15 comes every other week and starting in the spring  
16 when the activity in the café, the sidewalk café  
17 increased dramatically. There's more people out  
18 there.

19                   There's more food out there, major  
20 increase in rat activity. We catch on average  
21 two to five. Now remember, I have five stations.  
22 So in that case, every one is full.

23                   They are actually caught in the snap  
24 trap. That's not counting rats that catch the  
25 poison in there. I also have another

1 exterminator service. And I have spent in 2019 a  
2 little over \$3,500 on exterminators.

3 Q Lorrie, can you clarify what your  
4 discussions have been with your exterminator  
5 about the problem that they are seeing and the  
6 frequency of what they're catching?

7 A Yes. The exterminator that comes  
8 every other week has basically said this is the  
9 first time we've had significant burrows in my  
10 front yard and that he puts tracking powder down  
11 the burrows.

12 We cover it, and the burrows reappear  
13 and I get new burrows. He said the problem will  
14 not go away or be significantly reduced as long  
15 as there's the immediate food source.

16 And the only immediate food source is  
17 Lucky Buns' trash, which is two houses away. And  
18 you see the rats run across my front yard,  
19 Marcus' front yard to the trash and then come  
20 back. And now they're digging in my whole.

21 And there's a safety issue in that.  
22 I have to walk up a set of stairs to get into my  
23 house, and almost every night a rat runs in front  
24 of me, terrifies me. I scream.

25 I'm afraid of getting bit, and I and

1 various other people have almost fallen off the  
2 steps because a rat runs right in front of you,  
3 runs up your handrail where you have your hand,  
4 runs across your foot. I scream. I'm almost  
5 falling backwards. That is a safety issue.

6 MS. WILSON: At this point, I'd like  
7 a motion to introduce the evidence on the  
8 Professional Letters and Bills tab.

9 CHAIRPERSON ANDERSON: What  
10 professional, what's that?

11 MS. WILSON: I'm sorry. So in the  
12 binder, there's a tab indicating professional  
13 letters and bills. And I would like to -- a  
14 motion to introduce a letter from Lorrie's  
15 exterminator.

16 CHAIRPERSON ANDERSON: Well, why don't  
17 you? All right.

18 MS. WILSON: I just want to --

19 CHAIRPERSON ANDERSON: Ask her what it  
20 is.

21 MS. WILSON: Okay. I'm sorry. Can  
22 you discuss what your exterminator said?

23 CHAIRPERSON ANDERSON: No. Show her  
24 this letter and ask her to identify it.

25 MS. WILSON: Oh, I'm sorry.

1 BY MS. WILSON:

2 Q Do you recognize this notice?

3 A Yes, I do.

4 Q Can you explain what it is, please?

5 A It's a letter from my best company  
6 that comes twice a month acknowledging that when  
7 they come, they've seen a dramatic increase in  
8 the rat activity, that they on average catch two  
9 to four rats, again, in a maximum of five traps  
10 every two weeks and that in their professional  
11 opinion that the situation doesn't call for more  
12 traps or more bait in my yard. As long as  
13 there's a food source, I'm going to have this rat  
14 problem.

15 CHAIRPERSON ANDERSON: So you want to  
16 move this into evidence. Do you have any  
17 objection, sir?

18 MR. McCOY: Mm-mmm.

19 CHAIRPERSON ANDERSON: So moved?

20 (Whereupon, the above-referred to  
21 document was marked as Complainant Exhibit 5 for  
22 identification and received into evidence.)

23 CHAIRPERSON ANDERSON: What's the  
24 other one?

25 MS. WILSON: Okay. And then the other

1 one I would like to just pull out what looks like  
2 an Excel spreadsheet. Can you clarify what this  
3 is?

4 THE WITNESS: Yes.

5 CHAIRPERSON ANDERSON: Where is that  
6 document?

7 MS. WILSON: It's in the same tab. It  
8 is two back, the second to the last page, and it  
9 has dates, costs.

10 CHAIRPERSON ANDERSON: Ask her to  
11 identify it.

12 MS. WILSON: Can you identify that,  
13 please?

14 THE WITNESS: Sure. It's an Excel  
15 spreadsheet I made based on the other documents  
16 that are attached, that are screen shots from my  
17 checking account showing payments to my two  
18 exterminator services.

19 And what I did was put in every  
20 payment I've made for rat-related treatment from  
21 January 1, 2019 through my payment on December  
22 6th, which it's coming out of my checking  
23 account. And it totaled \$3,500 and something.

24 MS. WILSON: Thank you.

25 CHAIRPERSON ANDERSON: Do you have an

1 objection, sir?

2 MR. McCOY: Nope.

3 CHAIRPERSON ANDERSON: So moved. All  
4 right.

5 (Whereupon, the above-referred to  
6 document was marked as Complainant Exhibit 6 for  
7 identification and received into evidence.)

8 BY MS. WILSON:

9 Q Okay. Lorrie, I mean you have a  
10 beautiful garden. We've seen your landscape. Do  
11 you have anybody who works in your garden? Do  
12 you maintain that yourself?

13 A No. I have a professional gardener  
14 who has repeatedly told that there's problems in  
15 there. The rats are chewing through the roots of  
16 my plants, including a tree that's been there  
17 almost as long as I've been, 20 years.

18 And the tree is at first, that the  
19 smell of rat urine is so bad that it's a health  
20 hazard to her and to anybody else walking in the  
21 house. Also, she takes care of the burrows.

22 She covers them over. She fills in  
23 any holes in the wall or cracks that we have that  
24 rats can hide in. And her position is that she  
25 is considering not working on my garden anymore

1 because of the threat to her health from doing  
2 this.

3 She has also chopped all my plants a  
4 foot and a half off the ground a foot and a half  
5 down, a foot and a half off the ground so that we  
6 can see when the rats are running through and  
7 keep track of them, a foot and a half down, again  
8 sight lines so we can see things because I have  
9 kind of a tiered garden and that my plants are  
10 likely to die because of this aggressive  
11 chopping.

12 But again, I had it professionally put  
13 in and maintained for 18 or so years.

14 Q I'd like to draw your attention to the  
15 second document in that same time, right after  
16 the pest letter. Lorrie, can you identify this  
17 for us, please?

18 A Yes. It's an email that my  
19 professional gardener sent to me basically saying  
20 that she's considering not continuing to work on  
21 the garden because of the rat problem and that  
22 she's seen them in the daytime because she's only  
23 there during the day time.

24 MS. WILSON: Thank you. I would like  
25 to make a motion to introduce this as evidence

1 please.

2 CHAIRPERSON ANDERSON: Any objection,  
3 sir?

4 MR. McCOY: Nope.

5 CHAIRPERSON ANDERSON: So moved.

6 (Whereupon, the above-referred to  
7 document was marked as Complainant Exhibit 7 for  
8 identification and received into evidence.)

9 BY MS. WILSON:

10 Q Okay. Lorrie, do you have any house  
11 sitters? Do you have anybody else who lives in  
12 your residence besides yourself?

13 A I have a basement apartment, which is  
14 currently vacant. The reason I was not a  
15 protester here is that I was out of the country  
16 for three months during a big part of this  
17 period.

18 And my friend, who is sitting in the  
19 audience, Jason Campbell, housesat for me. And  
20 he got the unpleasant task two consecutive days  
21 in a row of disposing of dead rat bodies that  
22 were on my sidewalk, which is not a typical  
23 occurrence.

24 These are small rats that had been  
25 poisoned presumably from my bait stations, and it



1 was in between the twice a month service. Mr.  
2 Campbell, my friend who's my house sitter also  
3 the night before I left the three months, we had  
4 an experience that still gives me nightmares.

5 I've never seen anything like this.  
6 We had literally dozens of rats swarming around  
7 my sidewalk, on my personal sidewalk, excuse me.  
8 And they were fighting.

9 They were screaming, and it just went  
10 on for an extended period of time. He was about  
11 to leave my house. He couldn't leave because we  
12 were afraid they were either going to trip him  
13 because the activity was so great, or he was  
14 going to get bitten.

15 We went to the second floor of my  
16 house, looked down, saw it again, walked down to  
17 the first floor. And he went out the back alley  
18 of my house, which we've all acknowledged that's  
19 where the trash from most of the street is  
20 stored.

21 It's rat problems there because it was  
22 safer for him to go out the back than the front  
23 of the house.

24 MS. WILSON: I have no further  
25 questions.

1 CHAIRPERSON ANDERSON: Any questions,  
2 sir?

3 MR. McCOY: Yes.

4 CROSS-EXAMINATION

5 BY MR. McCOY:

6 Q How you doing?

7 A Hi, Mr. McCoy.

8 Q Thank you so much for the chocolate by  
9 the way.

10 A That's my role in life.

11 Q There you go. Have you and I ever had  
12 a conversation before?

13 A I don't believe so.

14 Q Have you ever come over to the  
15 restaurant or contacted me with any issues to try  
16 to explain what's going on with the hopes that we  
17 could help you work through this problem?

18 A No, but I am part of the neighborhood  
19 association, and I know that I was in touch. I  
20 was not out of touch while I was out of the  
21 country for three months.

22 I was getting the emails, and to be  
23 fully honest about this, I was the person who in  
24 beginning of May said this is unbelievable the  
25 problems I have. I'm sending out an email to

1 everybody I have email addresses for on Vernon  
2 Street saying am I the only one.

3 Am I seeing this? So I started the  
4 most recent action to take care of this problem  
5 in May of this year.

6 Q Did -- oh, I'm sorry. Go ahead.

7 A And I've done this in the past.

8 Q Did you include Lucky Buns or any of  
9 the owners or any landlords in any of the  
10 conversations?

11 A No, but I didn't exclude them. I just  
12 didn't have your email address, and so we met out  
13 in front of your restaurant. We walked around  
14 the front of the houses. We walked in the back  
15 alley, and we identified burrows and problems.

16 And we said, you know, we'd contact  
17 me. And again, division of labor. You know,  
18 there's other people on the street that I'm  
19 working with and contacting the city, which  
20 Ashley on our behalf did on this.

21 Q Did you have any issue with the trash  
22 area prior to us moving in?

23 A No. As my neighbor, immediate  
24 neighbor Marcus explained, it was a very  
25 different situation. There wasn't overflowing

1 trash. You know, occasionally, and I mean very  
2 occasionally you'd see a rat go in there.

3 We'd call the owners of the previous  
4 restaurant, and they'd say okay, we're going to  
5 do this and this. And I'd say we're going to do  
6 this and this. And we'd send out an email, and  
7 we addressed it. This time we can't address it.  
8 We can't get on top of the problem.

9 Q So you said yourself that if there's  
10 a problem you usually just contact the previous  
11 owners, have a conversation with them and it  
12 would usually get fixed. Correct?

13 A I knew them.

14 Q Okay.

15 A Because as you may be aware, they had  
16 an annual event.

17 Q They had a big party, yeah.

18 A They had Bastille Day, and they put  
19 the stage right in front of my front walk, so I  
20 couldn't get out the house. And they were good  
21 neighbors so, you know, they were a good  
22 neighbor.

23 I'm a good neighbor. We let it  
24 happen. They put all kinds of trash. I mean all  
25 kinds of trash came on my front yard when it

1 happened. They moved it. The next morning my  
2 yard looked pristine.

3 They fixed a fence that somebody  
4 trampled on, so yeah, I knew them. I saw them in  
5 the street. I waved. I knew them. I'm sorry,  
6 you know, I haven't met you before. And again,  
7 when the most action was happening, that's why  
8 you haven't seen me at the hearings before. I  
9 was out of the country.

10 Q Understandable. When -- as I was  
11 discussing with the protesters the steps we were  
12 taking to move the walk-in to the basement,  
13 replacing the fence, the timeline, was any of the  
14 information ever passed on to you in terms of  
15 what we were actually getting done or planning to  
16 do so you would be updated on exactly what was  
17 going on with that trash area?

18 A My neighbors did a good job of keeping  
19 me updated. I was on my email. They forwarded  
20 any of the email chains. It may have taken an  
21 extra day for me because of the time difference,  
22 again being in Eastern Europe.

23 But I looked at them. I sent them  
24 emails. I asked questions. So I was in the  
25 loop. I just wasn't physically present.

1 Q So are you aware --

2 A And also, my house sitter, Jason, you  
3 know, when he shoveled the rats off my front  
4 step, he sent me nice, charming pictures one day  
5 and then the next day.

6 Q So are you aware that we have already  
7 finished digging out the basement? Are you aware  
8 that we have already paid for the new walk-in  
9 cooler, and are you aware that once that cooler  
10 is installed on the 17th, which I have a  
11 confirmation of, that we are going to build a new  
12 fence around the trash area?

13 A What I'm aware of is this issue was  
14 brought up. And I know you were aware of it at  
15 least at the beginning of June because I have the  
16 emails from you on this.

17 So that's six months ago, and the  
18 refrigerator is still there. I don't know your  
19 plans. I don't know whether they're going to  
20 happen. You know, best intentions often fall  
21 through.

22 Q Yeah. Are you aware that in order to  
23 do these in the city, in the District of  
24 Columbia, it's not like you can just call someone  
25 and then it gets done?

1           Are you aware that you have to go to  
2 DCRA? You have to get permitting. The plans  
3 need to be approved, and then that work needs to  
4 be approved as well. And every step of the way,  
5 the city needs to approve individual steps.

6           And those things take time, especially  
7 when you're dealing with custom units, when  
8 you're dealing with digging out a basement. Are  
9 you aware that those things do take time, and  
10 they're not immediate?

11           A       I, for 30 years, have been a  
12 regulatory lawyer working with a federal agency.  
13 We've made -- I know timeframes. And I know that  
14 things can take longer, but I also know that  
15 there's often a chance to expedite it. And this,  
16 to me, seems to be taking longer than it should.

17           Q       Fair enough. It seems like it's  
18 taking longer than it should. If I were to show  
19 you documents which show that we've actually done  
20 everything exactly the way it should be done and  
21 we followed the timeline that we're basically  
22 being held to, would you change your opinion of  
23 that?

24           A       If you tell me that you're putting in  
25 the -- moving the refrigerator into the basement

1 --

2 Q If I show you the invoices, all that.

3 A -- and your license and I don't  
4 understand all the details because I am not an  
5 ABRA attorney, it's conditioned on your  
6 accomplishing that, then I'm --

7 Q If I were to show you --

8 A -- comfortable with if you satisfy the  
9 condition, that issue is off the table.

10 Q If I were to show you the prepaid  
11 invoices that show that we've paid for all of  
12 this, all these units, the emails that show that  
13 when they're going to be delivered as well as you  
14 can come down to the basement and see the dig  
15 out. If you've seen --

16 A Will I see a rat?

17 Q What's that?

18 A Will I see a rat when I go down there?

19 Q You'll never see a rat because we've  
20 never been cited for a rat on our property.

21 A No, but you've had a Yelp review from  
22 six days ago.

23 Q You mean the neighbor?

24 A The person described themselves as no  
25 longer living in D.C.



1 Q No, it was a neighbor. They --

2 A They were describing actually seeing  
3 rats.

4 CHAIRPERSON ANDERSON: Hold on.

5 BY MR. McCOY:

6 Q I'll get to that actually in my  
7 closing statement. I'm glad you brought that up,  
8 the neighbor that wrote a Yelp review.

9 A And you responded to acknowledging  
10 that there was --

11 Q I acknowledged that they were a  
12 neighbor and they were part of the protest.

13 CHAIRPERSON ANDERSON: All right.  
14 You're asking questions, sir.

15 MR. McCOY: But that's just a very --

16 CHAIRPERSON ANDERSON: You ask her  
17 questions.

18 MR. McCOY: Yes.

19 CHAIRPERSON ANDERSON: You're just  
20 asking the question. You're not giving an  
21 answer.

22 MR. McCOY: If we were to -- would it  
23 be unrealistic to say that as the current trash,  
24 the volume, right, so I disagree with your  
25 assessment, the assessment of the trash area from

1 the summer. And granted, there have been some  
2 days where things haven't been great.

3 CHAIRPERSON ANDERSON: All right. Is  
4 there a question, sir?

5 MR. McCOY: Yes. Absolutely.

6 CHAIRPERSON ANDERSON: All right. I'm  
7 going to allow you to do this entire time.

8 MR. McCOY: I have one question and  
9 that's it.

10 CHAIRPERSON ANDERSON: You can ask  
11 whatever question you need to ask, but I don't  
12 need you to front load it by testifying.

13 MR. McCOY: Okay.

14 CHAIRPERSON ANDERSON: If you ask her  
15 a question, ask her a question.

16 BY MR. McCOY:

17 Q Do you feel that with the change in  
18 having new trash cans brought in, by removing the  
19 walk-in, which will then triple the amount of  
20 space that we can keep trash, would that make you  
21 feel better about the use of the trash area, if  
22 we hold onto a two times per week cleaning  
23 schedule, working with the ANC?

24 A You described your trash cans --

25 Q Yes.

1           A       -- as residential or commercial use.  
2           And whatever they are, and you've talked about  
3           the trash cans in the alley and that you saw  
4           holes in them. I'm a resident. I put my trash  
5           out.

6                    Many nights, I get a new hole. A rat  
7           chews through. I think in the last year I've  
8           ordered three new sets of trash cans in there.

9                    I am not confident new trash cans,  
10          more trash cans is going to solve the problem as  
11          long as there's a food source because unless  
12          those trash cans are truly metal and the rats  
13          can't get into them and the lids are closed and  
14          all that, they have a food source. And that's  
15          the problem.

16                  Q       Are you aware that those trash cans  
17          are DOH approved? They're DDOT approved.

18                  A       My trash cans are DOH approved, too.

19                  Q       Are you aware that these trash cans  
20          are the same trash cans that are used by every  
21          single restaurant in the entire city?

22                  A       But does every single restaurant have  
23          their trash cans in the front while the  
24          residents' trash can is in the back, which  
25          creates a rat run when they go to the food

1 source?

2 Q I'm just asking if you're familiar  
3 that those trash cans are the same cans in every  
4 restaurant in the city?

5 A I'm not familiar with the commercial  
6 trash cans.

7 Q Are you familiar with the fact that  
8 with our trash company that any time there's a  
9 hole, you know, unlike residential where you have  
10 to go and buy, are you familiar that they just  
11 bring out new trash cans every time we request  
12 them?

13 A I'm familiar with the fact that I've  
14 seen the pictures that Marcus has taken over a  
15 five-month stretch, and there are rat holes in  
16 the trash cans repeatedly.

17 Q Are you --

18 A Whether they're new trash cans, and  
19 they've been replaced, there are constantly rat  
20 holes in them.

21 Q Are those trash cans that you've seen,  
22 the green trash cans, are they the current trash  
23 cans that are out on the patio at this point?

24 A I don't believe that's the case, but  
25 if you put the new trash cans out in a short

1 period of time, they just may have not had a  
2 chance to get holes with.

3 Q I'm just asking are you aware that  
4 those trash cans are different?

5 A I believe so from my visual  
6 observation.

7 Q Okay. So do you believe that based on  
8 the fact that we've spent over \$25,000 in  
9 improvements, which don't include the cost of  
10 putting in a new fence and concerning the fact  
11 that we've already replaced trash cans, we've  
12 done biweekly cleanings and we've set that  
13 schedule, are you aware that we are making steps  
14 to try to make this trash area more, I think  
15 better for the neighborhood.

16 A I take you at your face value that  
17 you're doing that.

18 Q And I appreciate that answer, but --

19 A I'm not seeing the results yet.

20 Q Okay. And as I said before, if you  
21 saw the documentation which shows the timeline,  
22 would that change your opinion of it?

23 A I'm from Missouri. The documentation,  
24 until it happens -- it needs to happen for me to  
25 believe that.

1           Q       Fair enough. The documentation, I'll  
2 just leave it at that. I'll leave it at that.  
3 Thank you very much, and thank you for that.

4           CHAIRPERSON ANDERSON: The Board was  
5 laughing because we've heard that. We have had  
6 two protestants here today, and we have heard  
7 that statement today, that I am from Missouri.  
8 And that's --

9           THE WITNESS: So I get the cliche  
10 crown for the evening?

11          CHAIRPERSON ANDERSON: So I've heard  
12 that today. The only difference was that the  
13 first person said I'm from the Show Me State, and  
14 you just said I'm from Missouri. So that's why  
15 you heard the response. Two protest hearings  
16 today --

17          THE WITNESS: I'm used to people  
18 laughing when I talk.

19          CHAIRPERSON ANDERSON: -- and it's the  
20 same comment. It is 11:15, and so the Board has  
21 to have some levity. Okay. All right. Any  
22 questions of this witness by the Board? Yes, Mr.  
23 Short.

24          MEMBER SHORT: The document that's on  
25 the screen right now, can you see it? Do you

1 need to stand up?

2 THE WITNESS: Can I stand up and go  
3 around? Thank you.

4 MEMBER SHORT: Just make sure that  
5 microphone is pretty close to you.

6 THE WITNESS: Okay. I'll hold the  
7 microphone because my eyesight isn't what it used  
8 to be or my voice.

9 MEMBER SHORT: Will you read the last  
10 three dots that are on that permit that was  
11 submitted today by this --

12 THE WITNESS: You want me to begin  
13 sidewalk café or trash?

14 MEMBER SHORT: Start with that first  
15 one, sidewalk café shall not.

16 THE WITNESS: Okay.

17 MEMBER SHORT: And then read all the  
18 way down.

19 THE WITNESS: Okay. Sidewalk café  
20 shall not exceed the dimensions listed on this  
21 permit and shall DOT approve sidewalk café plans.  
22 The extent of the café is the outside edge of any  
23 fixture or feature used to delineate the  
24 boundaries of the café.

25 No trash may be stored or adjacent to

1 the sidewalk café. No trash enclosure may be  
2 adjacent to the sidewalk café. No change in  
3 size, layout, design or materials in the existing  
4 feature is allowed.

5 Permit holder is responsible for all  
6 damage to public space as a result of work done  
7 under this permit.

8 MEMBER SHORT: Okay. Now read all the  
9 way to the bottom. Permit holder --

10 THE WITNESS: I'm sorry. Permit  
11 holder is responsible for all damages.

12 MEMBER SHORT: No, no, under that.

13 THE WITNESS: Oh, I'm sorry. Permit  
14 effective August 30, 2011.

15 MEMBER SHORT: Expired what date?

16 THE WITNESS: June 25, 2012.

17 MEMBER SHORT: And for the record, all  
18 these permits have to be renewed annually, and  
19 for the record, this document was submitted today  
20 in evidence that this person or this business is  
21 in compliance with the law.

22 CHAIRPERSON ANDERSON: Hold on. Sir,  
23 please be quiet. I'll let the record reflect  
24 this is not a permit that was submitted by the  
25 Applicant. This permit was not put in the record



1 by the Applicant.

2 MEMBER SHORT: Okay. Well --

3 MR. IRANI: This was the permit that  
4 was provided to me by the Applicant, as I'm  
5 saying.

6 MR. McCOY: As an example.

7 CHAIRPERSON ANDERSON: All right. But  
8 as I'm saying, this is not a -- this permit -- I  
9 want the record to reflect, this permit, it is  
10 and, you know, this permit is not in evidence.

11 It's not in evidence. It's not in the  
12 record because it was not submitted. I thought  
13 -- when I asked the question, I thought the  
14 Applicant, in his PIP that was not, which was not  
15 allowed in the evidence because it was not  
16 provided within the seven days, because we had a  
17 significant amount of conversation regarding the  
18 permit, I asked the question is the permit -- was  
19 that disclosed.

20 But this permit has not been  
21 disclosed, so I just want the record -- this is a  
22 permit, but it was not put into evidence by the  
23 Applicant as his current permit.

24 MEMBER SHORT: I stand corrected. Can  
25 I ask another question?

1 CHAIRPERSON ANDERSON: Yes, Mr. Short.

2 MEMBER SHORT: Now --

3 CHAIRPERSON ANDERSON: Excuse me.

4 MEMBER SHORT: -- Ms. Clark, Lorrie  
5 Clark, are you part of the Protestants?

6 THE WITNESS: I am not an official  
7 Protestant because I was out of the country when  
8 they filed the protest. And my understanding at  
9 the time was you couldn't accept electronic  
10 signatures, and I had no other way to do it.

11 But I have been in communication with  
12 them the entire time. As I mentioned, I started  
13 this kind of movement, and I'm here.

14 MEMBER SHORT: Okay. Can I ask you to  
15 do us a favor?

16 THE WITNESS: Of course.

17 MEMBER SHORT: As a person that's one  
18 of the neighbors, can you ask him to ask the  
19 business owner if he would show you a current  
20 document like this, up to date, that was issued  
21 to him.

22 MR. McCOY: Yes. If you want to ask  
23 that, absolutely.

24 THE WITNESS: I will certainly ask you  
25 the question.

1 CHAIRPERSON ANDERSON: Well, our --

2 MEMBER SHORT: I'm asking questions.  
3 It's still my question time, isn't it?

4 CHAIRPERSON ANDERSON: But Mr. Short,  
5 you can't ask the witness to ask the Applicant --

6 MEMBER SHORT: I didn't ask. No, I  
7 asked her could she ask to get a copy to submit  
8 to the person when you do that.

9 CHAIRPERSON ANDERSON: But she can't  
10 ask him.

11 MEMBER SHORT: I didn't ask the person  
12 to --

13 THE WITNESS: I think I understand  
14 your question. You're just asking if I could,  
15 and my answer is I can.

16 MEMBER SHORT: Well, I'll withdraw the  
17 question, Mr. Chair. I'll withdraw the question.

18 CHAIRPERSON ANDERSON: Because he  
19 feels that he needed to respond to the question  
20 that was --

21 MEMBER SHORT: Another thing he said,  
22 but I'll wait my turn. Mr. Chair, that's it.  
23 That's the end of my questions. Thank you very  
24 much.

25 MR. McCOY: Can I just give some --

1 CHAIRPERSON ANDERSON: No, sir.

2 MR. McCOY: Okay, because I can answer  
3 that question.

4 CHAIRPERSON ANDERSON: No. Any other  
5 questions from any other Board members? Say your  
6 name again, ma'am. I'm sorry.

7 MEMBER SHORT: Lorrie.

8 THE WITNESS: Lorrie Clark.

9 CHAIRPERSON ANDERSON: Ms. Clark.

10 THE WITNESS: Call me Lorrie.

11 CHAIRPERSON ANDERSON: Ms. Clark,  
12 thank you very much for your testimony. You can  
13 step down.

14 THE WITNESS: Thank you.

15 CHAIRPERSON ANDERSON: Do you have  
16 another witness?

17 MR. JAMES: Yes. The Protestants  
18 called Amir Irani, Commissioner Irani, to the  
19 stand.

20 CHAIRPERSON ANDERSON: Is this the  
21 last witness, or is it another one?

22 MR. JAMES: No, there will be one  
23 more.

24 CHAIRPERSON ANDERSON: One more.

25 MR. JAMES: It'll be short.

1 CHAIRPERSON ANDERSON: All right. Mr.  
2 Irani, can you raise your right hand, please? Do  
3 you swear or affirm to tell the truth and nothing  
4 but the truth?

5 MR. IRANI: Yes.

6 CHAIRPERSON ANDERSON: Yes, what?

7 MR. IRANI: Yes, I affirm to the tell  
8 the truth and nothing but the truth.

9 CHAIRPERSON ANDERSON: Thank you.  
10 Your witness. Go ahead.

11 MR. JAMES: Thank you.

12 WHEREUPON,

13 AMIR IRANI

14 was called as a witness by Counsel for the  
15 Complainant and, having been first duly sworn,  
16 assumed the witness stand, was examined and  
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. JAMES:

20 Q Mr. Irani, could you describe the  
21 various actions you took in connecting with D.C.  
22 government agencies to try to help resolve this  
23 situation?

24 A Yes. I started with our council  
25 member's office, Ward 1 council member and worked

1 with our council member's office to connect to  
2 DPW, DOH, DDOT, the Mayor's office of Clean City  
3 and we had in person meetings as well as site  
4 visits, the new Office of Nightlife as well.

5 I might be missing somebody in there,  
6 but we brought in a lot of agencies. And some  
7 things led to citations. And the only change in  
8 behavior I've seen is recently the trash pickup  
9 company has changed since the DPW violation.

10 Q Is it your understanding that  
11 Wednesday, May 29, 2019, a stop work order was  
12 issued by DDOT to the establishment and a number  
13 of concerns were raised that were non-permitted  
14 items, including refrigerator, six large garbage  
15 cans, two ladders, three unpermitted umbrellas,  
16 which were stored on the sidewalk café patio?  
17 Are you familiar with that?

18 A Yeah, I'm familiar with that. I had  
19 exchanged some emails. I'm not familiar with the  
20 citation or the stop work order specifically  
21 because I never saw a copy of it, but I did  
22 exchange some emails with DDOT in an attempt to  
23 get a copy of it and to understand what the  
24 resolution was.

25 Q So --

1           A       That's when they notified me of the  
2 stop work order and the citation.

3           Q       For the Board's interest, it's in tab  
4 number 3, these various emails. It's rather  
5 dense, so I'm trying to -- okay, District  
6 Government Emails, Tab 3.

7                       So in relation to the stop work order,  
8 is it accurate that a DDOT official, Brant  
9 Miller, emailed you to inform you that the  
10 Certificate of Use is issued through DCRA and  
11 that Lucky Buns was not needed to have a new one  
12 issued?

13          A       It's correct that he informed me that  
14 the Certificate of Use was issued through DCRA  
15 and was expired and needed a new one issued.

16          Q       Okay. Thank you for that. Going to  
17 another particular encounter, you had contacted  
18 -- did you contact the Office of Clean City, a  
19 Ms. Julie Lawson there?

20          A       Yes, I did. I contacted Julie because  
21 I happened to see a tweet from her indicating  
22 that Clean City was figuring out solutions for  
23 businesses and trash areas.

24          Q       Okay. Do you recall on August 2, 2019  
25 Julie Lawson sent you an email?

1 CHAIRPERSON ANDERSON: Are these  
2 documents in our --

3 MR. JAMES: Yes, could I? I'd like to  
4 introduce them as evidence.

5 CHAIRPERSON ANDERSON: Okay.

6 MR. JAMES: Do I move the --

7 CHAIRPERSON ANDERSON: No.

8 MR. JAMES: No?

9 CHAIRPERSON ANDERSON: Ask him to  
10 identify the document and ask him what does the  
11 document state. So the first document, show it  
12 to him. How is this document identified by?

13 MR. JAMES: Okay. So I'm going to  
14 take them out of the book.

15 CHAIRPERSON ANDERSON: Take it out of  
16 the book. Ask him to identify the document, and  
17 once you ask him to identify the document, ask  
18 him what does the document state.

19 MR. JAMES: So the first topic that I  
20 mentioned bridged two pages.

21 CHAIRPERSON ANDERSON: Ask him to  
22 identify the document.

23 BY MR. JAMES:

24 Q Please identify the documents that I  
25 just handed you.



1           A           This is an email between DDOT, Council  
2           and myself.

3           Q           And when you say Council, you mean  
4           Council member Nadoe's office?

5           A           Yes. The email indicates citations,  
6           a stop work order and an expired certificate of  
7           use for Lucky Buns.

8           Q           All right.

9           MR. JAMES: Mr. Chair, do I need to  
10          enter them as evidence one at a time?

11          CHAIRPERSON ANDERSON: After he's done  
12          testifying, you can move to enter all of them  
13          into evidence.

14          MR. JAMES: I'm really trying to focus  
15          on the ones that appear most glaring.

16          CHAIRPERSON ANDERSON: They're not  
17          going to be in evidence unless they're identified  
18          and moved into evidence.

19          MR. JAMES: I'd like to hand another  
20          email to -- page with an email from Julie --  
21          well, to Commissioner Irani here, and could you  
22          please identify this email and what it contains.

23          THE WITNESS: This is an email between  
24          Julie Lawson and myself. Julie is with the  
25          Mayor's Office of Clean City, and the email cites

1 open buckets of grease, grease spillage and a  
2 large fridge near the trash cans that are an  
3 issue.

4 MR. JAMES: Okay. Thank you. So I  
5 think I'd like to introduce these two as evidence  
6 on behalf of the Protestants.

7 CHAIRPERSON ANDERSON: The first one?  
8 Did they already have a number on them?

9 THE WITNESS: I believe that they're  
10 the second and the third email.

11 CHAIRPERSON ANDERSON: No, but do they  
12 have a number on the document?

13 MS. WILSON: No, there's no number on  
14 the document.

15 THE WITNESS: It says it at the  
16 bottom.

17 MS. WILSON: Yeah.

18 THE WITNESS: It says one through  
19 four, one out of four and then one out of seven  
20 in the bottom right.

21 MS. WILSON: So if you're in the  
22 District Emails tab, it would be the first one,  
23 one out of seven in the bottom corner, which I  
24 believe is the fourth page, one out of seven in  
25 the bottom right corner.

1 CHAIRPERSON ANDERSON: All right. So  
2 you're trying to move into evidence the email  
3 from -- the email dated May 17, 2019. Is that  
4 one?

5 MS. WILSON: No. It's the email from  
6 Miller Brant -- Brant Miller, I'm sorry.

7 CHAIRPERSON ANDERSON: So you want to  
8 move into evidence the email from Fuller to  
9 Miller, Brant dated June 7, 2019? What's the  
10 other one?

11 MS. WILSON: That is correct.

12 CHAIRPERSON ANDERSON: How many pages  
13 is that document?

14 MR. JAMES: Two pages.

15 MS. WILSON: It's two pages.

16 CHAIRPERSON ANDERSON: All right.  
17 What's the other document?

18 MS. WILSON: It's that one page and  
19 the one right behind it. That's two of seven,  
20 which is just a continued email communication.

21 CHAIRPERSON ANDERSON: All right. Do  
22 you have any objection, sir?

23 MR. MCCOY: No, no objection.

24 CHAIRPERSON ANDERSON: So moved.

25 (Whereupon, the above-referred to

1 document was marked as Complainant Exhibit 8 for  
2 identification and received into evidence.)

3 CHAIRPERSON ANDERSON: What's the  
4 other document? So that's the email from Miller,  
5 Brant dated June 7, 2019. It's admitted without  
6 objection. What other document?

7 MR. JAMES: So this is -- I should be  
8 reading this to you, but I gave him my copy so  
9 I'm having to read. And thank you Ashley here  
10 for helping. So this is an email from August  
11 13th. It's titled as follow up on Clean City Rat  
12 Initiative.

13 CHAIRPERSON ANDERSON: What number is  
14 that? That's dated what? What's the page number  
15 on it at the bottom?

16 MR. JAMES: It's one of four.

17 MS. WILSON: It's one of four, and  
18 it's following a picture of trash cans.

19 CHAIRPERSON ANDERSON: So the email  
20 from Amir Irani from Julie Lawson dated August  
21 13, 2019. All right.

22 MR. JAMES: So that's actually him  
23 thanking her for responding on August 2nd.

24 CHAIRPERSON ANDERSON: All right. But  
25 how many pages is this email, does this email

1 testify to?

2 MS. WILSON: Three pages.

3 CHAIRPERSON ANDERSON: Any objection,  
4 sir?

5 MR. McCOY: No, no objection.

6 CHAIRPERSON ANDERSON: So moved.

7 (Whereupon, the above-referred to  
8 document was marked as Complainant Exhibit 9 for  
9 identification and received into evidence.)

10 CHAIRPERSON ANDERSON: All right.

11 Let's move on. Where are we now?

12 BY MR. JAMES:

13 Q Mr. Irani, do you recall any other  
14 incidents where either there was a direct  
15 observance by a city official of violation  
16 associated with Lucky Buns or another email, you  
17 know, which contains information leading to a  
18 violation or about a violation and how it had to  
19 be cured by the Applicant?

20 A Yes. There's an email also early on  
21 between Council. Council and I walked Vernon  
22 Street and walked in front of Lucky Buns, and we  
23 took pictures.

24 And we witnessed grease stains and a  
25 trail of grease coming from the Lucky Buns' trash

1 area down the sidewalk. And we took pictures of  
2 it. And then Council sent an email to DOH and  
3 attached those pictures.

4 The email that I'm mentioning is the  
5 first email in the tab under District Government  
6 emails. In addition to that, there was emails to  
7 -- I was an eyewitness to DPW writing tickets to  
8 Lucky Buns for broken trash containers and co-  
9 mingling of recycled and trash goods, which is a  
10 violation of their settlement agreement and which  
11 I had emailed the Applicant about days before,  
12 which he tersely replied to me saying that he  
13 doesn't have any broken lids. Yeah, so.

14 MR. JAMES: Okay. So we'd like to  
15 enter that email into evidence.

16 CHAIRPERSON ANDERSON: What email was  
17 that?

18 MR. JAMES: It's on the very first  
19 page of tab 3.

20 CHAIRPERSON ANDERSON: There's an  
21 email from Fuller dated -- to Duffy that is an  
22 email dated May 17, 2019?

23 MR. JAMES: Correct. I believe  
24 Celeste Duffy is at DPW.

25 CHAIRPERSON ANDERSON: Is that a one-

1 page document?

2 THE WITNESS: May I point it out?

3 CHAIRPERSON ANDERSON: I'll talk to  
4 you after the move. So this is the document you  
5 just testified to you're trying to move into  
6 evidence?

7 MR. JAMES: I didn't hand him this  
8 before we started this discussion. So this was  
9 the email of which I was just speaking.

10 CHAIRPERSON ANDERSON: So this is the  
11 email from?

12 THE WITNESS: This is from Fuller to  
13 Ronnie Taylor, Taylor Ronnie at DOH. And that's  
14 5/17. It's different than the email to Celeste  
15 Duffy at DPW.

16 MS. WILSON: It has three pictures.  
17 It should be your second page in your tab.

18 CHAIRPERSON ANDERSON: Okay.

19 MS. WILSON: There's pictures.

20 CHAIRPERSON ANDERSON: So you want to  
21 move this document into evidence?

22 MR. JAMES: Yes, please.

23 CHAIRPERSON ANDERSON: Any objection,  
24 sir?

25 MR. McCOY: No, no objection.

1 CHAIRPERSON ANDERSON: So moved.  
2 That's an email from Fuller dated May 17, 2019 at  
3 12:01 p.m.

4 (Whereupon, the above-referred to  
5 document was marked as Complainant Exhibit 10 for  
6 identification and received into evidence.)

7 CHAIRPERSON ANDERSON: Any other  
8 documents?

9 MR. JAMES: Yes, just one more in this  
10 tab, and it begins I believe --

11 CHAIRPERSON ANDERSON: Show her the  
12 document -- I'm sorry. Show him the document and  
13 have him identify the document.

14 MR. JAMES: So this is a --

15 CHAIRPERSON ANDERSON: Show him the  
16 document.

17 MR. JAMES: Yes, sir.

18 CHAIRPERSON ANDERSON: And have him  
19 identify the document.

20 MR. JAMES: Mr. Irani, could you  
21 please identify this document and what it  
22 contains?

23 THE WITNESS: This is an email  
24 exchange I had with the Mayor's Office of  
25 Community Relations in an attempt to get a few



1 agencies to come along for a walk all at once  
2 instead of trying to tackle this, you know, one  
3 agency at a time over many months.

4 I also want to point out that this  
5 walk took place on October 17th, after months of  
6 emails..

7 CHAIRPERSON ANDERSON: So what email  
8 is this? I --

9 MS. WILSON: If you're in the -- it's  
10 the last four.

11 MEMBER SHORT: Can you hold it up?

12 MR. JAMES: It has the logo there.

13 MS. WILSON: It's the last four pages  
14 of your tab.

15 CHAIRPERSON ANDERSON: I've got it.  
16 All right. So this is an email from foreman to  
17 foreman dated -- I guess it's an email from  
18 September.

19 MS. WILSON: Actually, I think --

20 CHAIRPERSON ANDERSON: Yeah.

21 MS. WILSON: -- one more page, 9/27.  
22 I'm sorry. It was the last five pages dating --

23 MR. JAMES: For the --

24 CHAIRPERSON ANDERSON: These emails,  
25 they have a page number at the bottom.

1 THE WITNESS: Exactly, at the bottom  
2 right.

3 CHAIRPERSON ANDERSON: What's the page  
4 number?

5 MS. WILSON: It says one of eight.

6 CHAIRPERSON ANDERSON: But what page  
7 are we dealing with?

8 MS. WILSON: We'd like to submit one,  
9 two, three, the five pages because that's the  
10 full email exchange?

11 MEMBER SHORT: What's the last page  
12 number on the bottom?

13 MS. WILSON: The last page on the  
14 bottom is five of eight.

15 CHAIRPERSON ANDERSON: Any objection,  
16 sir?

17 MR. McCOY: No.

18 CHAIRPERSON ANDERSON: So moved.

19 (Whereupon, the above-referred to  
20 document was marked as Complainant Exhibit 11 for  
21 identification and received into evidence.)

22 BY MR. JAMES:

23 Q Mr. Irani, how long did it take to set  
24 up that meeting with the Mokers, as they're  
25 commonly known, and the team that they assembled?

1           A       Maybe about two or three months.

2           Q       Thank you. And was there a result  
3 from the actual visit to the site?

4           A       There was -- the biggest gain I think  
5 we had there is that it resulted in -- at least I  
6 hope that there will be a gain here. It resulted  
7 in the establishment changing their trash company  
8 because DPW wrote them a ticket for their broken  
9 cans. And I think, I mean I'm just speculating  
10 that Alex saw that and acted to do something.

11          Q       Alex, you mean Mr. McCoy?

12          A       Mr. McCoy, the Applicant.

13          Q       So while you were present, a  
14 representative of DPW actually a wrote a ticket  
15 for the trash cans and their condition?

16          A       That's correct. Yeah. He --

17          Q       That's good.

18          A       Okay.

19          Q       So changing subjects, this is a  
20 slightly different discussion, but it's something  
21 we think is important. I'm sorry. On the  
22 subject of trash compactors, are you aware of any  
23 other trash compactors located in Adams Morgan?

24          A       Yes, I am.

25          Q       Can you please describe what you know

1 of it and where it's located?

2 A There's a trash compactor that serves  
3 -- it's a relatively small size, and it serves  
4 Federalist Pig, Potter's House, a small medical  
5 office and a small apartment building, one  
6 compactor.

7 Q Right, and of those locations that you  
8 named, is Federalist Pig an ABC establishment?

9 A It is.

10 Q That's the only one?

11 A That is an ABC establishment.

12 Q Okay. And are you familiar enough  
13 with the site there to describe how pickup would  
14 work? What is the physical layout of where that  
15 trash compactor was located? Was there a  
16 driveway right near there? How did they get it  
17 to offload into a truck?

18 A I believe they just wheel it out and  
19 the truck picks it up.

20 Q Wheel it out to?

21 A Wheel it out to the alley, I mean away  
22 from -- there's no driveway.

23 Q Okay. All right. So in your opinion,  
24 is there a way that a compactor could be brought  
25 to use in this situation for Lucky Buns? I mean

1 I want to ask that in conjunction with the  
2 knowledge that's been admitted that Lucky Buns  
3 currently takes it grease across the street, as  
4 has been mentioned. What is meant by across the  
5 street. Could you describe that?

6 A So Lucky Buns currently takes its  
7 grease to the area behind El Tamarindo, which is  
8 another ABC establishment.

9 And I, at some point, thought that --  
10 and it's also indicated in my email to Clean City  
11 dated August 13th that I thought we were getting  
12 someplace. And we might get a settlement  
13 agreement because they were considering a  
14 compactor.

15 Q I'd like to keep going. So in this  
16 space, are you aware of who owns the property  
17 there?

18 A In my understanding, it's El  
19 Tamarindo.

20 Q Thank you. And have you seen any  
21 document that shows that is the case?

22 A No.

23 Q In that space, could you describe it  
24 a little more fully? Have you ever walked back  
25 into that area?

1           A       Yeah.  It's on an alley.  There are no  
2 apartment buildings nearby.  It is serving a  
3 handful of establishments, including the newly  
4 opened Imperial, Jack Rose, Blaggard, all ABC  
5 establishments and --

6           Q       Is it also serving a small carry out  
7 called Meat in the Box?

8           A       Meat in the Box, that's the one, yeah.

9           Q       So there's Jack Rose, Meat in the Box  
10 --

11                   CHAIRPERSON ANDERSON:  Where are we  
12 going with this because -- I hope you're not  
13 asking the Board to tell them that they need to  
14 take their grease and store it over at El  
15 Tamarindo.

16                   MR. JAMES:  The question, I believe,  
17 just to -- I believe Mr. Irani has already stated  
18 that that is his understanding as to where the  
19 grease is already being taken.

20                   CHAIRPERSON ANDERSON:  But -- and so  
21 you're telling us that for what?  To say that we  
22 should direct them to take their grease over  
23 there?

24                   MR. JAMES:  Well, are you asking me to  
25 testify?

1                   CHAIRPERSON ANDERSON: No. Where are  
2 you going with that?

3                   MR. JAMES: You know, it's getting  
4 late and Commissioner Irani knows about as much  
5 of this as I do, but he would be giving you  
6 hearsay.

7                   CHAIRPERSON ANDERSON: Yeah, but I  
8 guess the question I'm asking, where are we going  
9 with this testimony. It's like okay, it's good  
10 for you that he's disposing of his grease  
11 somewhere else. But are you saying that's a  
12 violation? That's wrong?

13                  MR. JAMES: No, I'm not at all.

14                  CHAIRPERSON ANDERSON: Are you telling  
15 us that --

16                  MR. JAMES: We're trying to get to the  
17 point of suggesting that there is a good  
18 alternate location for all of the trash,  
19 recycling and --

20                  CHAIRPERSON ANDERSON: Well, that's  
21 something that you guys could have discussed in a  
22 settlement. The ABC Board is not going to order  
23 him to take his trash and dump it over at El --

24                  MR. JAMES: Well, it would be through  
25 an agreement with the owner of the property.

1                   CHAIRPERSON ANDERSON: The ABC Board  
2 cannot order him to sign an agreement with  
3 another owner. That's something you guys can do  
4 in a settlement agreement. I'm not even sure if  
5 we could -- if that's something -- if that's  
6 enforceable, but we don't need to go there  
7 because that's not relevant to this hearing.

8                   MR. JAMES: Well, we thought --

9                   CHAIRPERSON ANDERSON: Not in the  
10 sense of us ordering him to sign an agreement  
11 with some other ABC establishment to dispose of  
12 his grease.

13                   I think your time is better if you're  
14 telling us to order him to do -- to dispose of  
15 his grease on his property in some other way but  
16 not to go across the alley to dispose of his  
17 grease in some other ABC establishment. That's  
18 not helpful. Let's move on.

19                   MR. JAMES: I don't think I have any  
20 further questions?

21                   CHAIRPERSON ANDERSON: Do you have any  
22 questions, sir?

23                   MR. McCOY: Yes, please, and I'll make  
24 it quick.

25                   CROSS-EXAMINATION



1 BY MR. McCOY:

2 Q Okay. Mr. Irani, when we met in May  
3 and you voiced to me your issue with the trash  
4 and the grease, are you aware that we immediately  
5 then moved that grease can off of the trash area?

6 A No.

7 Q Are you aware that that grease can  
8 does not exist on the trash area anymore and has  
9 not for months and months and months?

10 A Can you say that one more time?

11 Q Do you agree that that grease can does  
12 not exist in our trash area currently?

13 A No, because I have pictures and have  
14 submitted. I have seen it and taken pictures of  
15 buckets of grease stored on your patio.

16 Q You just said that we take our grease  
17 across the street because we don't have a grease  
18 can on our trash area, so explain to me how we  
19 can have a grease pan on the patio and then have  
20 a grease can across the street if --

21 A Sure. I'd be happy to explain it.  
22 You store buckets of grease, and then I think  
23 sometime in the morning because I've seen buckets  
24 of grease stored there at 1:00 a.m., sometime in  
25 the morning you go and drag them across the

1 street where you probably dispose of them though  
2 I've never seen it.

3 Q Did we move the grease to across the  
4 street at the request of the neighborhood?

5 A I don't know.

6 Q Okay. Are you aware that we were  
7 issued a stop work order for having an expired  
8 certificate of use?

9 A Yes.

10 Q Are you aware that we received a new  
11 certificate of use the next day?

12 A I don't know when you received it.

13 Q But you're aware that we have a new  
14 certificate of use?

15 A Yeah.

16 Q Okay. Are you aware that you can't  
17 get a current certificate of use without a  
18 current public space permit?

19 A No.

20 Q Are you aware that we have a current  
21 public space permit?

22 A No.

23 Q Okay. All right. Are you aware that  
24 after we received a stop work order that I  
25 immediately met with Matthew Marcou, Elliott

1 Garrett and Stacey Collins, and they immediately  
2 issued a stay on the stop work order because I  
3 explained to them that we were moving the walk-in  
4 cooler and created a whole framework?

5 A Your question is am I aware of a  
6 meeting. I'm not aware of a meeting. I am aware  
7 that a stay, a grace period was granted as  
8 indicated in the email that has been submitted.

9 Q Are you aware that that stay was  
10 issued because DDOT and my business are working  
11 to get that trash area in compliance and that  
12 DDOT is aware of the trash area?

13 A What was the question? Am I aware  
14 that the stay was issued?

15 Q Are you aware the stay was issued?

16 A Yes.

17 Q Okay. Per our conversations, because  
18 we've had a number about this, are you aware that  
19 that stay was issued in order for me to create a  
20 plan to move the walk-in cooler to the basement,  
21 that DDOT was very happy to acquiesce?

22 A No, I'm not aware of all of those.

23 Q Okay. But you're aware that we are  
24 currently in compliance with DDOT right now as  
25 we're able to operate our patio and have a

1 current stay?

2 A I'm not aware that you're in  
3 compliance with DDOT.

4 Q Okay. Are you aware that Reuben,  
5 let's see, Reuben who -- Reuben from -- that's  
6 the liaison from the Mayor's office had an all  
7 hands walk up and down Vernon Street?

8 A When did that walk occur?

9 Q You mentioned yourself. You said in  
10 October.

11 A Oh, October 17th. Yeah, I was there.

12 Q Were you --

13 A I was there.

14 Q Okay. So are you aware that the DOH,  
15 DDOT, DPW didn't find any violations on our  
16 property but actually did find violations on  
17 neighbors' property?

18 A No, that's not my understanding of  
19 this walk at all.

20 Q Are you aware that I have had  
21 conversations with Reuben in which he actually  
22 mentioned to me there was no violations found on  
23 our property, but there were violations found on  
24 other properties?

25 A I was eyewitness to violations found

1 on your property and a ticket being written by  
2 District government officials on a District iPad.

3 Q Are you aware that those -- we're  
4 talking about two completely different days? I'm  
5 talking about are you aware that --

6 A You said October 17th.

7 Q -- the walk with -- what is it -- the  
8 all hands walk with Reuben from the city -- let  
9 me see. You actually had mentioned that. It was  
10 the all hands walk that was different from the  
11 day that the citations were issued.

12 The neighborhood was walked by DOH,  
13 DDOT, the Office of the Mayor, going up and down,  
14 looking at all the neighbors, looking at our  
15 trash area.

16 A You're referring to October 17th, and  
17 I'm telling you that were issued violations on  
18 October 17th.

19 Q That was not the day I'm talking  
20 about. But are you aware those are two different  
21 things, in any case.

22 CHAIRPERSON ANDERSON: Why don't you  
23 ask a clear question, sir?

24 MR. MCCOY: What's that?

25 CHAIRPERSON ANDERSON: Ask a clear

1 question because you two are talking across each  
2 other.

3 MR. McCOY: I'm going to pass on that  
4 because I've got to find the actual -- I have the  
5 information. It's a conversation I had with  
6 Reuben, but I can't give it to you guys  
7 unfortunately.

8 BY MR. McCOY:

9 Q Are you aware that we changed all of  
10 our trash cans to new trash cans?

11 A That's my understanding.

12 Q Are you aware that we're moving the  
13 walk-in cooler to the basement?

14 A That's been my understanding for the  
15 last seven months.

16 Q Are you aware that we're building a  
17 new fence once the walk-in cooler is completed?

18 A No, I'm not aware.

19 Q Okay. Are you aware that the walk-in  
20 cooler is being delivered on the 17th of  
21 December?

22 A No.

23 Q Okay. Are you aware that we had a  
24 conversation about trash compactors on the patio  
25 of our establishment?

1           A       Yes.

2           Q       Okay. Are you aware that I called the  
3 trash companies looking for information on trash  
4 compactors?

5           A       No.

6           Q       Are you aware that the trash company,  
7 per a conversation I had with you, said that they  
8 couldn't install a trash compactor on our patio  
9 because there's no -- for two reasons.

10           MEMBER CROCKETT: Sir, would you ask  
11 him questions about things that he's  
12 knowledgeable of? How would he be knowledgeable  
13 of a conversation you had with a trash compactor  
14 company?

15           MR. McCOY: Because I actually had  
16 conversations with him about it.

17           MEMBER CROCKETT: So you're testifying  
18 then, not him.

19           MR. McCOY: Well, no. I just want to  
20 make it clear that him and I conversations about  
21 this where I told him this information, and he --

22           CHAIRPERSON ANDERSON: So why don't  
23 you ask him did -- why don't you -- rather than  
24 asking if he's aware, just ask him the nature of  
25 the conversations that you have had with him

1 directly.

2 BY MR. McCOY:

3 Q Are you aware that I attempted to look  
4 at information about a trash compactor and that  
5 couldn't work because there's no street access to  
6 the trash area?

7 A I'm aware that you told me that you  
8 had a conversation with another company and they  
9 said that you can't have a compactor there.

10 Q Okay. Are you aware that I also  
11 looked into a rolling compactor, and they said  
12 they couldn't do it because it's a huge risk?  
13 Rolling down the street, it could get loose and  
14 hit a car.

15 A That's what you told me.

16 Q So you're aware that I've tried to  
17 look into other options for the trash area to try  
18 and please the neighborhood?

19 A I know that you've -- well, I know  
20 what you've told me that you've talked to a trash  
21 company.

22 Q Fair. And then my final question is  
23 in the photos you took of the grease that's  
24 coming off of our patio, I don't actually see a  
25 picture of grease coming off our patio. I see



1 grease that's on the side --

2 CHAIRPERSON ANDERSON: Would you ask  
3 him the question, sir? You're testifying.

4 MR. McCOY: Yeah, I'm just asking  
5 where's the picture of the grease coming off of  
6 my patio. All I just see is runoff on --

7 MEMBER CROCKETT: Which picture are  
8 you referring to?

9 MR. McCOY: I'm sorry, this picture  
10 right here where he --

11 MEMBER CROCKETT: What exhibit number?

12 MR. McCOY: Unfortunately, I don't --

13 MEMBER SHORT: The number at the  
14 bottom of the page. There's a number at the  
15 bottom of the page.

16 MEMBER CROCKETT: What tab is it in,  
17 the Photos tab?

18 MR. McCOY: I apologize.

19 MEMBER SHORT: Tab 3.

20 MR. McCOY: Tab 3, page 2.

21 MS. WILSON: You're in District  
22 Government Emails tab.

23 MR. McCOY: I'm sorry. I apologize.

24 MS. WILSON: And I believe we've  
25 already given you guys this document. It's the

1 one with three pictures.

2 CHAIRPERSON ANDERSON: All right. So  
3 what's the question about the document?

4 MR. McCOY: So where's the picture of  
5 the grease actually coming off my property? I  
6 just see grease.

7 CHAIRPERSON ANDERSON: Sir, it's not  
8 what you see. Ask a question.

9 BY MR. McCOY:

10 Q Where's a picture of the grease  
11 actually physically coming off my property?

12 A I was an eyewitness there. I could  
13 see a trail of grease coming from your property  
14 and per your settlement agreement and ABRA  
15 regulations, you are responsible for the front of  
16 your property, which there are clearly pictures  
17 of.

18 You are responsible to 18 inches from  
19 the curb, which there are clearly pictures of,  
20 and pictures of grease.

21 Q So you saw with your eyes the grease  
22 coming off my property, but you didn't take a  
23 picture of it? You only took a picture of what  
24 we don't even actually really know is grease. It  
25 looks like runoff just coming down from up the

1 street.

2 A These were a few pictures shared to  
3 DOH showing grease in front of Lucky Buns.

4 Q I'm asking --

5 A There are other pictures in our photos  
6 that show grease on Lucky Buns, a trail coming  
7 from the trash barn that you have.

8 Q I just want to know where the pictures  
9 of it coming off of our property are. That's all

10 A Okay. They're in the 8th tab. I  
11 could probably give you a number if I could go  
12 through it.

13 Q Well, that's all of my -- oh, are you  
14 aware that you wrote a five-star review of Lucky  
15 Buns earlier this year?

16 A No, I'm not.

17 Q All right. I just wanted --

18 CHAIRPERSON ANDERSON: Any questions  
19 by the Board members? Hearing none, thank you,  
20 Mr. Irini for your testimony. You may step down.  
21 Who is the final witness?

22 MS. WILSON: We actually have no more  
23 witnesses.

24 CHAIRPERSON ANDERSON: I'm sorry. Say  
25 what?

1 MS. WILSON: We do not have any more  
2 witnesses.

3 CHAIRPERSON ANDERSON: I thought you  
4 told me you had another one.

5 MS. WILSON: I'm sorry. We're trying  
6 to help, so we eliminated a witness.

7 CHAIRPERSON ANDERSON: All right.

8 MEMBER SHORT: It's a developer.

9 MS. WILSON: As best as we could.

10 CHAIRPERSON ANDERSON: What?

11 MEMBER SHORT: It's a developer.

12 CHAIRPERSON ANDERSON: All right. So  
13 do you rest?

14 MS. WILSON: We rest.

15 CHAIRPERSON ANDERSON: Are you ready  
16 for closing, sir?

17 MR. McCOY: Yes.

18 CHAIRPERSON ANDERSON: Okay. Five  
19 minutes.

20 MR. McCOY: Okay. So I think there's  
21 a couple issues here, and I want to just state  
22 for everybody, I want to have a good relationship  
23 with the neighbors. I really do. And you know,  
24 there's obviously been bad blood between all of  
25 us, but I want to make that better.

1                   And I hope that I've proven through  
2                   invoices and through showing that we are moving  
3                   the walk-in cooler downstairs, that we're  
4                   building new fences, that we're trying to do  
5                   things in order to make that trash area much more  
6                   hospitable and able to take more trash so that we  
7                   don't run into these issues because I don't want  
8                   to have bad blood with the neighbors.

9                   And I have documentation of that. We  
10                  worked really hard to try to get to this point.  
11                  We've got a couple days left. The walk-in cooler  
12                  is going to be delivered on the 17th. Once  
13                  that's delivered and installed, that walk-in  
14                  cooler on the outside is gone.

15                  A new fence is up, and we have more  
16                  trash cans back there to handle the volume of  
17                  trash so that we don't have to run into these  
18                  problems. We can start mending our relationship  
19                  with the neighbors.

20                  I do ask the Board, you know, do pay  
21                  attention to the fact that this is the  
22                  jurisdiction of DDOT. DDOT has the jurisdiction  
23                  over this trash area. We have worked with DDOT  
24                  to have these things approved and worked with  
25                  them over the past year to make sure that they

1 were okay with it.

2           They have issued us stays on stop work  
3 orders. Mrs. Collins and Mr. Garrett, Mr.  
4 Marcou, Mr. Marushian are all very familiar with  
5 what's going on right now, and they're all very  
6 happy that we're moving the walk-in to the  
7 basement. And we're trying to get that place up  
8 and running properly.

9           I do want to note that the permit that  
10 we have, the drawing that we have doesn't show  
11 planters. And we just replaced everything that  
12 was already there. So there were planters  
13 existing. We have planters out.

14           The same amount of seats, we actually  
15 have less seats out there now than we were on the  
16 initial plan. So there's less people sitting on  
17 the patio than was approved for and approved on  
18 the plan.

19           We have a current certificate of use.  
20 We have a current permit to use the patio by  
21 DDOT, you know, and these issues, and I  
22 understand that there is an issue with the  
23 drawing.

24           And I understand that there's an issue  
25 with the permit. This needs to be dealt with in

1 public space. This needs to be dealt with, with  
2 the Department of Transportation because this is  
3 where a lot of our issues are coming in because  
4 we've been granted use of that space.

5 It's been used for 20 years.  
6 Obviously, they have issue with that, but that  
7 needs to be dealt with in public space. The  
8 reality is we have zero ABRA violations.

9 We have zero ABRA trash violations.  
10 The report by Inspector Luiz clearly shows that  
11 we've been keeping that place clean and  
12 organized. And honestly, I think that based on  
13 some of the other information about, you know,  
14 what we've been doing to keep that place clean,  
15 it shows that we have a real commitment to  
16 getting this done and finished.

17 And I know the neighbors are  
18 frustrated, and I know this timeline is a lot  
19 longer than they expected. And I understand  
20 that. And I understand the frustration.

21 But I am committing myself to  
22 everybody here that this is going to get done  
23 because I want to have a good relationship with  
24 everybody. I want to have a good relationship  
25 with ABRA and DDOT and DOH.

1           And I will do whatever it takes to get  
2 to that point. And I've shown invoices to prove  
3 that fact. You know, I'm happy with our  
4 settlement agreement, and I intend on working  
5 really hard to like maintain that trash area and  
6 make sure that trash area is organized.

7           You know, that's really all I have to  
8 say. We want to work hard for the neighborhood.  
9 We want to work hard to create an establishment  
10 that we can be proud of and that the neighbors  
11 can be proud of.

12           And I want the neighbors to feel like  
13 they have a place on the street that they can  
14 come to. And I do hope that once the walk-in is  
15 removed and we have the trash cans out there that  
16 this will start to calm down.

17           And neighbors will see that there are  
18 less rats in the neighborhood, that things are  
19 getting better. And at that point, hopefully, we  
20 can start mending our relationship.

21           That is our hope. And you know, I  
22 don't know what to say. I've provided proof of  
23 all the stuff we're doing. You know, I don't  
24 know what else I can give you guys other than my  
25 guarantee and these invoices and pictures that



1 show that we've been doing this work.

2 And we've been getting these approvals  
3 from the city. And we've been working with DCRA,  
4 and we've been working with DDOT. And we're in  
5 full compliance right now, and I want to keep it  
6 that way. And I want to make sure that, you  
7 know, we keep moving forward. That's really the  
8 best I can say, so.

9 CHAIRPERSON ANDERSON: All right. I'm  
10 ready for you.

11 MS. WILSON: Oh, I'm sorry. Okay.  
12 We, as residents, did not want to take this  
13 protest as far as this hearing has come.  
14 However, after numerous attempts over the past  
15 six months to work with the Applicant to rectify  
16 issues plaguing our neighborhood, with little to  
17 no action from Lucky Buns, we had no other choice  
18 but to take the action which has led us here  
19 tonight.

20 Lucky Buns is obligated to follow ABRA  
21 and other District agency regulations, which  
22 state that they shall ensure that all solid waste  
23 inside the property and in the outdoor spaces  
24 immediately surrounding the property are stored  
25 and containerized for collection in a manner that

1 will not provide food, harborage or breeding  
2 places for insects or rodents or other animals or  
3 to create a nuisance of a fire hazard.

4 The Applicant is also in violation of  
5 the trash recycling grease and fatty oils outside  
6 an area, an outside area maintenance provisions  
7 of its enforced current settlement agreement.

8 As indicated by the witness  
9 testimonies, violations and citations from the  
10 District agencies and countless documentation of  
11 trash, litter and rat infestation on Vernon  
12 Street, it is evident that Lucky Buns is not in  
13 compliance.

14 It is also evident that they have a  
15 permit which states that no trash may be stored  
16 on or adjacent to the sidewalk café and that no  
17 trash enclosure may be adjacent to the sidewalk  
18 café.

19 We have no documentation that the  
20 Applicant has filed annually for his permit  
21 renewal and that the only permit we have been  
22 provided by the Applicant is the one we have  
23 shared with you tonight, which expires on  
24 6/25/2012.

25 We believe the issues with the permit

1 should be discussed and further investigated  
2 between ABRA and DDOT. We requested the Board  
3 also take administrative notice of DCMR Chapter  
4 3, Sections 310, 314 and 315, which indicates  
5 that trash and refuse storage shall not be  
6 located in the vicinity of a sidewalk café.

7 It can also -- there cannot be a  
8 structure or enclosure to accommodate the storage  
9 of garbage shall not be erected, maintained or  
10 placed adjacent to a sidewalk café. We have no  
11 evidence that Lucky Buns has requested an  
12 exception to this regulation.

13 As mentioned by some of the Board  
14 members themselves, you have probably never seen  
15 a protest to this degree with a hearing of a  
16 restaurant.

17 We appreciate your time and attention  
18 this evening, and we hope you will agree that the  
19 elimination or the not approving the renewal of  
20 their liquor license is necessary until the  
21 Applicant can move their trash and their  
22 refrigerator.

23 We are hopeful that this will ensure  
24 that Lucky Buns will work to immediately rectify  
25 the neighborhood issues we have shared with you

1 here tonight. Thank you.

2 CHAIRPERSON ANDERSON: Thank you. Do  
3 the parties wish to file post-findings of fact  
4 and conclusions of law or waive their right to do  
5 that, meaning that do you want us to make the  
6 decision on the evidence and testimony that was  
7 made tonight, or do you want to wait until the  
8 transcript is issued, read the transcript and for  
9 you to write what was presented here today?

10 MR. JAMES: We -- for the Kalorama, we  
11 waive it. We trust that the Board heard us and  
12 will make a good decision.

13 MR. McCOY: I waive it.

14 CHAIRPERSON ANDERSON: All right.  
15 Thank you.

16 MS. WILSON: Oh, I'm sorry. The Group  
17 of 9 will waive as well.

18 CHAIRPERSON ANDERSON: All right. As  
19 Chairperson of the Alcohol Beverage Control  
20 Board for the District of Columbia and in  
21 accordance with the D.C. Official Code Section  
22 2574b of the Open Meetings Act, I move that ABC  
23 Board hold a closed meeting for the purpose of  
24 seeking legal advice from our counsel on Case  
25 Number 19-CMP-000 -- no, I'm sorry, 19-PRO-00084,

1 Lucky Buns pursuant to D.C. Official Code Section  
2 2574b for -- of the Open Meetings Act and  
3 deliberate upon Case Number 19-PRO-00084, Luck  
4 Buns for the reasons cited in D.C. Official Code  
5 Section 2574b13 of the Open Meetings Act.

6 Is there a second?

7 MEMBER SHORT: Second.

8 CHAIRPERSON ANDERSON: Mr. Short has  
9 seconded the motion. I will now take a roll call  
10 vote on the motion, of course, now that it's been  
11 seconded. Mr. Short?

12 MEMBER SHORT: I agree.

13 CHAIRPERSON ANDERSON: Mr. Cato?

14 MEMBER CATO: I agree.

15 CHAIRPERSON ANDERSON: Ms. Crockett?

16 MEMBER CATO: I agree.

17 CHAIRPERSON ANDERSON: Mr. Anderson,  
18 I agree. As it appears that the motion has  
19 passed, I hereby give notice that ABC Board will  
20 recess these proceedings to hold a closed meeting  
21 in an ABC Board Conference Room pursuant to  
22 Section 2574 of the Open Meetings Act.

23 I want to thank the parties for their  
24 presentation today.

25 MR. McCOY: Thank you.

1                   CHAIRPERSON ANDERSON: The Board will  
2 -- we have to close this case first. I would  
3 want to thank the parties for their presentation  
4 today, and the Board will issue a decision I  
5 think within the next 90 days. I believe we'll  
6 issue a decision where we are.

7                   One of the things I've always stated  
8 is that I prefer settlement agreements because at  
9 the end of the day, this is your neighborhood and  
10 you have to live together.

11                   You have to live -- none of us live in  
12 that neighborhood, but now we will make a  
13 decision, and I'm not sure. One side might be  
14 happy. The other side might be sad, but we'll  
15 try to make a decision that we believe, by  
16 listening to the testimony and making a decision  
17 that we believe is in the best interest of the  
18 residents of the District of Columbia. All  
19 right.

20                   MR. McCOY: Thank you very much.

21                   CHAIRPERSON ANDERSON: Well, thank you  
22 for your presentation today.

23                   MR. McCOY: Thank you very much.

24                   (Whereupon, the above-entitled matter  
25 went off the record at 12:25 a.m.)

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In the matter of: Lucky Buns

Before: DCABRA

Date: 12-04-19

Place: Washington, DC

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