

PETITION FOR THE ESTABLISHMENT OF A  
MORATORIUM ZONE IN THE 1900 BLOCK OF  
9<sup>TH</sup> STREET, NW

CALLED THE NORTH SHAW & NINTH STREET  
NEIGHBORHOOD MORATORIUM ZONE

Submitted by:

The Westminster Neighborhood Association

**ABC BOARD PETITION FOR ESTABLISHMENT OF A MORATORIUM ZONE IN THE  
1900 BLOCK OF 9<sup>TH</sup> STREET NW**

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## **PETITION FOR THE ESTABLISHMENT OF A MORATORIUM ZONE IN THE 1900 BLOCK OF 9<sup>TH</sup> STREET**

The Westminster Neighborhood Association (WNA) is petitioning the Alcoholic Beverage and Cannabis Control Board (“ABC Board” or “Board”) to approve an alcohol/liquor license moratorium in the 1900 block of 9<sup>th</sup> street based on the details furnished herein:

The WNA is a DC registered tax-exempt entity as follows:

DC File Number: 97176  
Registration Date: 5/28/1997

With the following mailing address:

Westminster Neighborhood Association  
c/o Lynn Johnson, President  
922 Westminster Street, NW  
Washington, DC 20001

The WNA membership area is primarily comprised of the land and its lots bound by S and T, 9<sup>th</sup> and 10<sup>th</sup> Streets, NW, which includes Westminster Street, NW. It includes approximately 170 rowhouses (mostly single-family structures interspersed with some two-family structures) which comprise the association membership. As a neighborhood civic association, WNA’s mission includes volunteer, private management of a public playground, neighborhood cleanliness, rat abatement, and quality of life issues including public safety and seeking protections for the residential community to allow quiet enjoyment of their homes.

### **I. Introduction**

The character of the North Shaw & Ninth Street Neighborhood is one of primarily historic row houses, with multi-family buildings, and mixed-use lots. While the WNA membership has supported growth and development throughout the neighborhood, it is now clear that there is a saturation of liquor licenses which, as demonstrated through this petition, have an overwhelmingly negative impact on the WNA community.

The mapped area selected for the moratorium is within a locality, centered at 1914 9<sup>th</sup> Street, at the establishment by Kolben. Under § 25-352(d)(1), “[i]f the requested moratorium area is a locality, there shall exist in the area at least 3 licensed establishments of the same class or 6 licensed establishments of any class or

combination of classes.” The WNA seeks a moratorium on liquor licenses in the 1900 block of 9<sup>th</sup> Street, where there are 23 licenses (including 15 Taverns), allowing 2,473 occupants (“Moratorium Zone”).

Not surprisingly, given this high concentration of liquor licenses, the “DC Crime Card Map” reports that this neighborhood, including the Moratorium Zone, has the highest property and violent crime numbers in DC, with 664 crimes reported, including reports of 72 violent crimes.

The number of licenses in the Moratorium Zone has forced the WNA to seek a moratorium based on the Appropriateness Standards as specified in § 25-313(b)(2)(3)(4):

(2) Effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in § 25-725 and § 25-726;

(3) Effect of the establishment on residential parking needs and vehicular and pedestrian safety;

(4) In the case of a license renewal the provision of this subsection and § 25-315;

and § 25-314(a)(4):

(4) Whether issuance of the license would create or contribute to an overconcentration of license establishments which is likely to affect adversely the locality, section or portion in which the establishment is located.

As discussed in detail below, the overconcentration of liquor licenses in the Moratorium Zone causes regular disturbances of the peace, noise and quiet for the neighborhood at all hours of the night and early morning, makes resident parking nearly impossible, and brings increased crime to the area. As such, the creation of the requested Moratorium Zone is appropriate.

## **II. Moratorium Zone**

The WNA seeks a moratorium on all liquor licenses for the lots/addresses on the 1900 Block of 9<sup>th</sup> Street. The Moratorium Zone is enclosed in a red line on the Moratorium Zone Map (“Map”), attached hereto as Exhibit 1, and includes the following address sets: 1. All even addresses on the west side of 9<sup>th</sup> Street, from 1902 9<sup>th</sup> Street through 1942 9<sup>th</sup> Street; 2. All odd addresses on the east side of 9<sup>th</sup> Street, from 1901 9<sup>th</sup> Street to 1935 9<sup>th</sup> Street.

Also noted on the Map is the close proximity of the clubs in the Moratorium Zone (depicted by orange lines and the red line for the Moratorium Zone) to a significant number of residential rowhouse homes (represented by selected green lines), which holds great significance. While all citizens within the WNA are affected by the overconcentration of clubs in the Moratorium Zone, those living directly adjacent to the Moratorium Zone have little to no reprieve from the daily influx of people, bringing noise, litter and overpopulation of the streets.

### **III. Overall Licenses Within the Moratorium Zone**

The Moratorium Zone contains a total of 23 liquor licenses comprised of the following licenses:

- 15 Taverns (CT)
- 4 Restaurants (CR)
- 1 Nightclub (N)
- 1 Off-premises, Retailer – Class B
- 2 Off-premises, Retailer - Liquor Store, Class A<sup>1</sup>

These liquor licenses equate to a total of 2,473 occupants permitted in the Moratorium Zone.

City planning agencies, along with professional nightlife management practitioners, have a profound comprehension of the adverse consequences associated with nightclub activities and the presence of clubgoers, particularly in relation to taverns and clubs. The negative impacts on livability due to intoxicated and disruptive behaviors, including sporadic instances of violence involving nightlife patrons, hinder adjacent residents from experiencing peace, order, and quiet. These issues also impose excessive noise and litter burdens on residents, exacerbate residential parking demands, and compromise public safety.

Establishing restrictions on taverns and nightclubs, as well as those restaurants with endorsements allowing for tavern/nightclub-like operations (along with off-premises retailers), will -- similar to moratoria in effect in Adams Morgan, Glover Park, Langdon Park and West Dupont Circle -- promote peace, order, quiet, safety, and parking relief, among other benefits. The intent of the moratorium is to return balance to a scale that is now tipped in support of clubs and taverns. We seek to obtain consideration for the neighborhood and hundreds of residents who live nearby. The benefits sought are distinctly achieved by an established moratorium

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<sup>1</sup> See Moratorium Zone License Roster, attached as Exhibit 2.

and further, will expand the opportunity to attract more restaurants and neighborhood-serving businesses representing a balanced commercial mix.

#### **IV. Appropriateness Standards**

##### **A. The Effect of Overconcentration on Peace, Order, Quiet, Including the Noise and Litter Provisions**

As demonstrated below, the overconcentration of clubs in the Moratorium Zone has a negative effect on the peace, order and quiet in the neighborhood by: 1) increasing the amount of crime and noise disturbances; 2) creating unease through the need for increased police presence; 3) club patrons having regular “car parties” on the neighborhood streets; 4) increased litter and trash; and 5) failure to mitigate noise.

##### **1. Increased Crime and Noise Disturbances**

The establishment of a moratorium is primarily driven by the goal of enhancing public safety and fostering a peaceful and orderly neighborhood. The data from the DC Crime Cards strongly supports the designation of the Moratorium Zone within an area experiencing the highest level of crime activity in DC in and around the Moratorium Zone. (See DC Crime Cards Map, attached at Ex. 3.) It is crucial to prohibit the expansion or increase of liquor license operations and the influx of patrons as part of the community's proactive efforts to enhance public safety.

A brief overview of the crimes committed in and around the Moratorium Zone demonstrates the negative effect these establishments have on the community.

The following is a sample of recent (2021 – 2023) violent crimes which are described as tavern/club-associated occurring both in the 1900 block of 9<sup>th</sup> Street and in the adjacent residential neighborhood around the time of establishment closing hours, most often between 3/3:30 a.m. (weekends) or 2/2:30 a.m. (weekdays) or later:

- (11<sup>th</sup> & U Street) Stabbing, July 14, 2023 – 1:25 am - A juvenile female was found and transported to a local hospital.
- (700 block of T Street) Stabbing, July 14, 2023 – 1:58 am - Both an adult man and woman were found suffering from stab wounds. Both victims were transported to a hospital for treatment. The male victim's injuries are life-threatening.
- (2000 block of 10<sup>th</sup> Street) Stabbing, July 14, 2023 – 3:34 am - An adult female was stabbed during the fight and sent to the hospital.

- (9<sup>th</sup>/T intersection, NW): 5 drive-by gunshots (1/2023)
- (900 block of Westminster Street): 7 drive-by gunshots (1/2023)
- (900 Block of U Street): Gunfire, victim shot (5/2022)
- (1000 Block of U Street): Stabbing (5/2022)
- (1900 Block of 9<sup>th</sup> Street): 60 person sidewalk and street brawl (3/2022)
- (1800 block of 9<sup>th</sup> Street): Gunfire, victim shot in leg (11/2021)
- (1800 block of 9<sup>th</sup> Street): Assault with deadly weapon (11/2021)
- (1800 block of 9<sup>th</sup> Street): Gun homicide, sidewalk (8/2021)
- (900 Block of Westminster Street): Drive-by gunfire (5/2021)
- (1900 block of 9<sup>th</sup> Street): Gunfire victim shot, sidewalk (1/2021)

The following is a sample of solely 1900 block of 9<sup>th</sup> Street, recent (2021 – 2023) patron in-club and in front of club, violent crime:

- Gunfire, in front of club – victim shot twice in back, sent to hospital (Right Spot, 6/7/2023)
- Stabbing murder, inside club (Cloud Lounge, 2022)
- Gunfire, inside club (Empire Lounge's<sup>2</sup>, 2022)
- Stabbing, in front of club -- by the security guard that stabbed a clubgoer (Mirror Lounge, 2022)
- Gunfire casualty, in front of club – clubgoer was sent to hospital after an altercation between two clubgoers, one clubgoer shooting another (Empire Lounge, 2021)

Indeed, this is not the first time that ABCA is being made aware of issues affecting the Peace, Order and Quiet in the Moratorium Zone. At a protest hearing held on July 20, 2022, related to the Empire Lounge's (now Sound Bar, see n.2) request for substantial change, MPD sergeant (Sergeant Vernick) testified, and his comment summary conveyed, that the Empire Lounge should not be permitted to expand their operations, as the block is already over capacity with clubs and clubgoers and adding to it would further jeopardize public safety.

The following are further public safety concerns outlined by the Sergeant and documented in the July 20, 2022 Hearing Testimony pertaining to the 1900 block of 9<sup>th</sup> Street:

- “So the 1900 block in 9<sup>th</sup> Street is predominantly run by hookah-type bars that generally draw a younger crowd, some of which the patrons

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<sup>2</sup> Empire Lounge was recently renamed to Sound Bar and is located within the Moratorium Zone.



are unruly, at best. We deal with a lot of fighting in the streets, stabbing, shootings, robberies, and just chaos. More so on the weekend than the weekdays, but violence does erupt Monday mornings, you know, at the [Empire] club.” (Empire Transcripts, attached at Exhibit 4, at pp. 55-56.)

- “So that 1900 block in 9th Street is an extremely violent area in relation to other blocks in the U Street corridor. So it does get a lot of my attention.” (*Id.* at p. 57.)

Yet another example of increased crime in the area is a significant street brawl that took place on March 13, 2022. This altercation, which occurred in front of the Empire Lounge involved more than sixty (60) clubgoers and unfolded in the middle of the street following the closure of the clubs at approximately 3:15 a.m. Once again, this incident underscores the negative outcomes resulting from the excessive number of tavern licensees and the allowances for patron occupancy, which directly impacts both this particular block and the neighboring residential area.

While not always crime related, further exacerbating the impact on peace, order, and quiet are disruptions caused by clubgoers either when exiting clubs or after the clubs close. Though incidents may begin as early as 6:00 p.m. or 7:00 p.m., the police will not undertake any quieting measures until 10:00 p.m. when the DC noise ordinance is in effect. However, even after 10:00 p.m., police must provide multiple warnings to club-goers before an infraction is issued. Past and continuing noise disturbances of these type are readily shared by neighbors and persist seven days a week.

The closing-time disturbances have been observed and documented by neighbors in multiple ways. First, many neighbors have complained that after the clubs close, many clubgoers congregate on residents’ front entry stoops and continue to party outside.<sup>3</sup>

In addition, many neighbors have also submitted letters outlining their experiences with crime and noise disturbances due to the number of licensed establishments in the neighborhood:

- We moved from our house on 929 T Street, NW, in September 2022 to raise our daughter in a safer area. The constant noise from people that were drunk coming out of the nearby clubs and their screaming and fighting that was going on every weekend spilling on to our street was

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<sup>3</sup> See pictures attached as Exhibit 5, documenting an example of a “front stoop” party taken after the clubs had closed for the evening.

too much for us. So among other reasons, the constant increase of crime in the neighborhood (from car breaking, robberies to shooting and fatal stabbing) was anxiety producing and a daily fear which became intolerable. (See Bouvet/Jagwani letter, attached as Ex. 6.)

- As COVID restrictions lifted, noticeably in Spring 2021, the noise and crime escalated in a highly distressing manner. Friday and Saturday nights are raucous, especially in the summer. We endure extreme noise from loud music from cars and verbal altercations. There have been many occasions when we have left our house at 1am or 3am to ask people to turn down music and move on – a risky move and usually to no avail. (Baker/Kalaris letter, attached as Ex. 7.)
- We are both city people with a high tolerance for typical urban nuisances, however the current conditions on 9<sup>th</sup> Street are unacceptable to the point where we need to move. Every day, we step on fresh broken glass on the sidewalks from cars that have been broken into. Every weekend, we cannot sleep because of the loud fighting happening between people hanging out drinking and doing drugs by their cars after the clubs of 9<sup>th</sup> Street close for the night... The January 15<sup>th</sup> shooting on our street was the final straw. At 3am, I awoke to the sounds of about a dozen gun shots. Four cars and several houses were riddled with bullets and a neighbor's young daughter found a bullet lodged in her window frame. (WNA Member letter, attached at Ex. 8)
- Nearly every single weekend night between 10pm-4am, I wake up to the sound of intoxicated club patrons shouting at each others, music blasting from cars with non-DC license plates, car windows being smashed, and/or gunshots. (Denny letter, attached at Ex. 9.)

## **2. Increased Police Presence**

A persistent and visible reminder of the public safety challenges arising from tavern operations in the neighborhood is the presence of parked police vehicles with flashing emergency lights. Each night, one or two police vehicles are stationed in the middle of the road within the 1900 block of 9th Street, their emergency lights continuously flashing until 3:00 or 4:00 a.m. This serves as an ongoing indication of the public safety concerns associated with the taverns in the area.

The continuous exposure to these lights can be unnerving, as they flash into residents' homes through their front windows, casting an evening-long flickering

glow on their living room and bedroom walls. The nightly presence of flashing lights creates a sense of unease, as residents feel a constant reminder of the perceived danger associated with tavern operations. Consequently, the livability of the neighborhood is compromised, and residents' anxiety remains heightened.

In line with the sentiments expressed earlier, the MPD affirms the existence of ongoing and deeply rooted public safety concerns within the 1900 block of 9th Street, specifically related to its tavern and club licensee operations. The presence of concentrated clubs further reinforces the block's reputation as the most perilous area in both the U Street corridor and the surrounding neighborhood. The safety of the contiguous and adjacent residential community remains at risk as a result.

### **3. “Car Parties”**

Another disruption to peace, order and quiet, is exemplified by the occurrence of “car parties,” which involve individuals who arrive in the neighborhood before heading to a club and host pre-club gatherings in their cars, often in front of residential homes. These gatherings involve open windows, open car doors, and activities such as smoking cannabis and consuming alcoholic beverages from bottles. Many car parties feature loud, ground-vibrating music that can shake the windows of nearby homes, significantly impacting the residential neighborhood. Compounding the issue of car parties are the presence of “party-only cars.” These vehicles are occupied by drivers and passengers who come to the area solely to partake in car parties, without any intention of visiting a club. Instead, these party-only cars take advantage of the rowdy atmosphere created by the abundance of taverns and clubs in the vicinity.

One family living near the Moratorium Zone strategically parks the family car in front of their home so as to ensure that a “car party” does not take place in front of their house. However, this does not stop the “car party” from taking place down the street and disturbing other neighbors. One such example occurred on the 900 block of Westminster Street on April 22. At 3:00 am the neighbor was forced to call 311 to request MPD to ask the “car parties” to disperse. At 3:20 a.m. the resident went outside and asked the parties himself to turn down the volume of their music. At 4:45 a.m. the parties remained outside. (See Car Party Letter, attached at Ex. 10.) This occurred on an entirely residential street, yet the “car parties” occur on these streets where parking can be found and is in close proximity to the bars and taverns.

### **4. Litter and Trash**

The neighboring WNA community has an effective sidewalk and street-curb trash and debris cleaning initiative led by dedicated resident volunteers for over

three decades. While these volunteers diligently conduct a weekly trash pick-up, the sheer volume of trash left behind by parked cars would necessitate a two- and possibly three-day cleaning program to maintain the cleanliness of the neighborhood. As a consequence, the public spaces in the neighborhood become overwhelmed with trash, which can persist throughout the week.

Indeed, the neighbors have submitted letters addressing the litter strewn through the streets from club patrons. Some excerpts are as follows:

- Trash, condoms, drug paraphernalia, and liquor bottles are routinely dumped out of party cars onto the sidewalks. (WNA Member Letter, attached at Ex. 8.)
- Every weekend morning my husband sweeps up broken glass from alcohol bottles and smashed car windows from the sidewalk in front of our house, so that our toddler and our dog don't get cut as we leave the house. (Denny Letter, attached at Ex. 9.)
- Beyond the noise is the trash that litters our street in the mornings – broken car windows, litter, vomit, even human feces. (Baker/Kalaris Letter, attached at Ex. 7.)

The litter problem is further illustrated through the attached pictures taken by residents. (See Litter Photo attached at Ex. 11.)

The litter problem caused by the high concentration of clubs in both the proposed Moratorium Zone is further support for granting this petition.

## **5. Failure to Mitigate Noise**

The livability of residential areas is closely intertwined with the prevalent Victorian homes, which continue to be repurposed for club activities. Unfortunately, these buildings are often inadequately renovated to address the sound and vibration impacts associated with taverns and clubs. Without proper acoustic or sound mitigation measures, the club operations in Victorian homes undeniably diminish the peace, order, and quiet of the surrounding residential community.

In the 1900 block of 9th Street, there are a handful of establishments that have a documented history of noise complaints and recorded violations, with some even facing additional complaints related to vibrations. Surprisingly, despite utilizing the ABCA complaint hotline and participating in the protest process, the neighboring

residents have not witnessed any significant improvements. This lack of progress has allowed the persistent noise and vibration violations by taverns/clubs to continue unchecked, spanning several years or even longer.

Exacerbating the adverse impact and crisis is the recurring trend of restaurant licensees (CRs) transitioning into club-like operations after dinner hours through the use of license endorsements. Previously, these licensees operated solely as restaurants, catering to patrons who prioritized food over loud, recorded, or live amplified music. However, they have now begun converting their second floors or entire establishments into club-like venues with amplified music once the restaurant hours conclude around the 10:00 p.m. hour, without having proper noise mitigation installed. It is anticipated that these establishments will soon seek to file substantial change applications to obtain tavern licenses.

Furthermore, restaurants holding tavern licenses (CTs) that previously prioritized their food offerings have increasingly shifted their focus to cater to nightclub patrons during the post-dinner hours, without noise mitigation installed. The cumulative impact of these operational changes has intensified the overconcentration status of the neighborhood. The effects outlined in this petition, along with the feedback from residents, highlight that the community is overwhelmed and has surpassed the threshold of tolerable noise and problems that can be effectively addressed through the ABCA complaint hotline and the protest process.

There are over seventy residences, consisting of single-family homes and small multi-family units, as well as a 130-unit apartment building (half of the Shay apartments) that are in the same block or share a back yard with the taverns/clubs located in the 1900 block of 9th Street. This residential cluster is significantly affected by the presence of the clubs, especially those houses that share a backyard or alley with the clubs on 9th Street. In general, these residents access their homes from 9 ½ Street and 8th Street, although some multifamily condominium residences have a front entry directly on 9th Street and may share a party-wall. The actual distance between these residents and the clubs varies depending on the layout of their structures. For those who share an alley or backyard, the distance is typically limited to a ten (10) to thirty (30) foot yard or alley, or a combination of both, resulting in minimal separation between the structures.

The residents here have unsuccessfully tried to gain several establishments' compliance with the law and reduce noise and vibrations by filing ABCA complaints and license protests. Unfortunately, but often, residents continue to be forced to sell their homes and move from the neighborhood due to unyielding noise and vibrations from these establishments.

Similarly, some owners are forced to move and rent out their units. In several of these cases, their leased unit tenant occupancy has resulted in the same dynamic. Here, the tenant occupancy has been equally degraded with rental turnover. Often these tenants terminate their lease following a first year's lease end. Again, due to unmitigated licensees' noise and vibrations.

In our experience, the attempts made by several licensees to address acoustic mitigation through construction have been generally ad-hoc or otherwise ineffective. Without the involvement of an expert acoustic engineer for proper planning, oversight, and communication with complainants, the results often lead to unresolved issues and persistent disturbances for homeowners, with the same ongoing noise and vibrations. Complaints from neighbors persist, particularly regarding Empire Lounge (1909 - 9th Street), Mirror Lounge (1920 - 9th Street), and MK Lounge (1930 - 9th Street).<sup>4</sup>

Meanwhile, homeowners and tenants in the neighborhood not only suffer the loss of their right to enjoy their homes but also have to invest their time in becoming well-versed in ABCA regulations, zoning laws, and building codes. The evidence clearly demonstrates that noise and vibration disturbances primarily originate from establishments with a Tavern license, while Restaurant licensed establishments without entertainment, cover charge and dancing endorsements are rarely the cause. To safeguard the peace and quiet of the already affected residential community, a moratorium on approved Tavern/Nightclub licenses, including restaurants that mimic their operations through modified licenses and added endorsements, is of utmost importance. This moratorium will provide time for a comprehensive examination of the issues and provide an opportunity for effective planning, enabling the government and regulatory bodies to address these concerns in a timely manner.<sup>5</sup>

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<sup>4</sup> Furthermore, Rito Loco/El Techo (606 Florida Avenue) and Flash (645 Florida Avenue), which are located in a contiguous block just outside the Moratorium Zone, also continue to pose problems; though, it is too soon to decipher whether recent ABCA stipulations for operating and sound mitigation on El Techo will provide a lasting solution.

<sup>5</sup> The time to study and thoughtfully consider the expansion of entertainment endorsements in these Victorian homes is particularly important as the WNA knows first-hand that with the proper amount of time and investment, a solution can be reached to minimize the impact of the noise. By way of example, there is one Licensee that stands as a model of noise mitigation and embodies the qualities of a good neighbor. DC-9 nightclub (1938 - 9th Street, NW), an exemplary Nightclub establishment, has taken proactive measures to ensure superior acoustic mitigation in their operations within a Victorian structure. Remarkably, there is no record of any



## **B. Effect on Parking Needs and Vehicular and Pedestrian Safety**

In addition to disturbing the peace, order and quiet of the neighborhood, the overconcentration of liquor licenses in the Moratorium Zone has an adverse impact on both residential parking and pedestrian safety as demonstrated below.

### **1. Residential parking**

The taverns and clubs in the proposed Moratorium Zone primarily cater to clubgoers who reside outside of the neighborhood. It is improbable that these clubgoers rely on public transportation such as buses or the metro to reach these venues, as they operate mostly until 2:00 or 3:00 a.m., beyond the operating hours of the Metrorail and with lengthy wait times for Metro bus transit. Limited public parking options are available in the neighborhood, resulting in residential street parking being the main choice for both club employees and patrons. This creates an unsustainable situation where a significant number of patron vehicles search for parking on residential streets that are in part designed and regulated for residents' use via the RPP (Residential Parking Permit) program.

Starting from around 5:00 or 6:00 p.m. on weekend nights, as well as regularly during the week, the residential parking permit (RPP) street parking spaces in the neighborhood become filled with RPP parking violations. As a result, residents with valid RPP parking decals are unable to find any available RPP spaces to park their vehicles. Furthermore, clubgoers consistently demonstrate a disregard for neighborhood parking regulations, as evidenced by their frequent violation of the clearly marked "no parking" zones at each street intersection, where illegally parked cars occupy these corner spaces in direct violation of the law. These vehicles have been the focus of the towing crews with associated relocations, tickets and impoundments listed below.

The substantial evidence of these violations and the adverse neighborhood impact are seen by the Mayor's Nightlife Task Force's (MNTF) operational activity. The list below provides some MNTF operating figures for the period between July and Labor Day, 2022. For this short period, within the U Street neighborhood, including the Moratorium Zone, MNTF undertook the following parking violation and enforcement measures:

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noise complaint lodged against this venue, despite their regular programming featuring live bands for over twenty (20) years.

- Vehicle relocations: 224
- Vehicle impounds: 66
- Tickets: 877

This is a shocking number of violations in such a short time period and underscores the negative impact the high concentration of licensed establishments has on parking in the neighborhood.

## **2. Effect on Pedestrian Safety**

The density of licensed establishments on the 1900 block of 9th Street has a significant impact on pedestrian safety. Within this specific block the sidewalks are typically three feet, nine inches (3'9") wide, with some extending to five feet, eleven inches (5'11") or seven feet in width. However, the effective width of all sidewalks on the block is often further reduced due to sidewalk intrusions caused by Licensee-placed marketing signage and queuing stanchions. These intrusions frequently extend deep into the public space, specifically at the entry points of taverns and clubs. Such installations can significantly impact public safety and diminish the usable sidewalk area to as little as two feet or even one and a half feet in front of a few establishments.

The current density of clubgoers on 9th Street, permitted by license occupancy allowances, leads to congested pedestrian flow within the block, causing inconvenience and escalating conflicts among individuals. Furthermore, the overflow of clubgoers extends beyond the immediate block, affecting the residential neighborhood. The ongoing consequences of the existing occupancy allowances, both at individual establishments and in their cumulative impact, have not been adequately evaluated in terms of the effects on clubgoers in the Moratorium Zone, and throughout the surrounding neighborhood and community.

Consequences of excessively crowded clubgoers is clearly evident, both within the 1900 block of 9<sup>th</sup> Street and throughout the surrounding neighborhood. It is within this confined, built environment that a significant number of clubgoers are allowed to pass through, queue, and occupy the space. To be precise, the published ABCA licensed occupancy figures indicate that within the 1900 block of 9th Street alone, there are 2,285 permitted clubgoers.

Ensuing overcrowded and blocked sidewalks prevent egress for neighbors and passersby. Increased human proximity also promotes associated altercations, further reducing public safety. Also, and consequentially, the mobility impaired who require use of a wheelchair or a cane/walker are excluded from these sidewalks, posing an endangerment to their health and civil rights.



The effect on the safety of pedestrians due to the concentrated presence of clubgoers in adjacent blocks is illustrated through attached letters from former and current residents, including tenants and property owners, such as the following:

- The cars that come to park on our street with the intention of frequenting clubs are often driven recklessly. In one instance, when I was 7 months pregnant with my daughter Lucy, I was almost hit while in a crosswalk by a woman at dusk driving with no lights on. (Baker/Kalaris Letter, attached at Ex. 7.)
- Female residents have noted that they do not feel safe at times entering and exiting the building at night due to the presence of drunk men congregating on the street nearby. (Szpakowski Letter, attached at Ex. 12.)

These statements highlight the substantial impact on pedestrian safety due to the number of licensed establishments within the Moratorium Zone.

Unfortunately, many residents have chosen to move because of the conditions presented by the high concentration of licenses in the neighborhood. In order to support those who have chosen to remain, it is crucial to restore a better balance between commercial and residential interests. This entails a renewed emphasis on protecting residents' rights to peace, order, and quiet, addressing the issues of excessive noise and litter, and mitigating the negative impacts on residential parking requirements.

## **V. Additional Support**

Once the ABC Board determines that the petitioner has met two of the appropriateness standards, the Board, per **§ 25-354, Section (c)**, will – in addition to holding public hearings – solicit formal comments from five (5) persons or agencies. The petitioner has proactively received letters of support from the following two persons, who have indicated their support for the establishment of the Moratorium Zone:

- (1) Councilmember Brianne Nadeau – who represents the ward where the moratorium is located (*see* Councilwoman Nadeau Letter, attached at Ex. 13);
- (2) ANC1B – 02 Commissioner – who represents the full moratorium area, as well as the locality (*see* Holihan Letter, attached at Ex. 14.)

## VI. Petitioner Actions Sought

As demonstrated through this petition, a Moratorium Zone should be created for the 1900 Block of 9<sup>th</sup> Street. Specifically, the WNA is seeking the following:

1. As specified below, the classes of licenses to be covered by the moratorium are:  
Retailer class CT, DT, CN, DN, CR and DR and Off-premises Retailers class A & B.
2. With respect to CT, DT, CN, DN, and Off-premises Retailers Class A & B licenses only, there is a prohibition of:
  - a. New licenses
  - b. Transfers of these types of current-license classes from outside of the moratorium zone to inside the moratorium zone
  - c. Transfers of these types of current license classes from a location within the moratorium zone boundaries to another location within the moratorium zone
  - d. Change in license type (with the excepted allowance for a change from a current tavern license to a restaurant license--but without entertainment, cover charge or dancing endorsements).
3. Moratorium on the following substantial changes to existing CR/DR license:
  - a. Adding an entertainment endorsement
  - b. Adding a cover charge endorsement
  - c. Adding a dancing endorsement
4. Moratorium on the following substantial changes to existing CT/DT and CN/DN licenses:
  - a. Adding an entertainment endorsement
  - b. Adding a cover charge endorsement
  - c. Adding a dancing endorsement
  - d. Expanding occupancy
  - e. Expanding operating space (square-footage of operations)
  - f. Expanding interior operating hours
  - g. Expanding exterior operating hours
5. Moratorium exemption:
  - a. Hotels
  - b. New restaurants (CR/DR) that do not have an endorsement for cover charge, live entertainment or dancing (stated another way, the WNA is **not** seeking to include restaurants without endorsements in this Moratorium)

6. Initial moratorium period requested: 3 years<sup>6</sup>

## VII. Conclusion

Despite the urgent and escalating nature of the adverse impacts on the adjacent residential neighborhood, the existing tools provided by the ABCA, such as the reporting hotline and protest process, are insufficient in addressing these issues effectively. It is only through the establishment of the proposed Moratorium Zone that the neighborhood can have a comprehensive solution to prevent the unsustainable proliferation of taverns and nightclubs, thereby mitigating the existing concentration problems and preventing further deterioration. The establishment of the Moratorium Zone will also allow the community time to better balance the interest of both the commercial tenants and residents who live in this vibrant community.

Respectfully submitted,

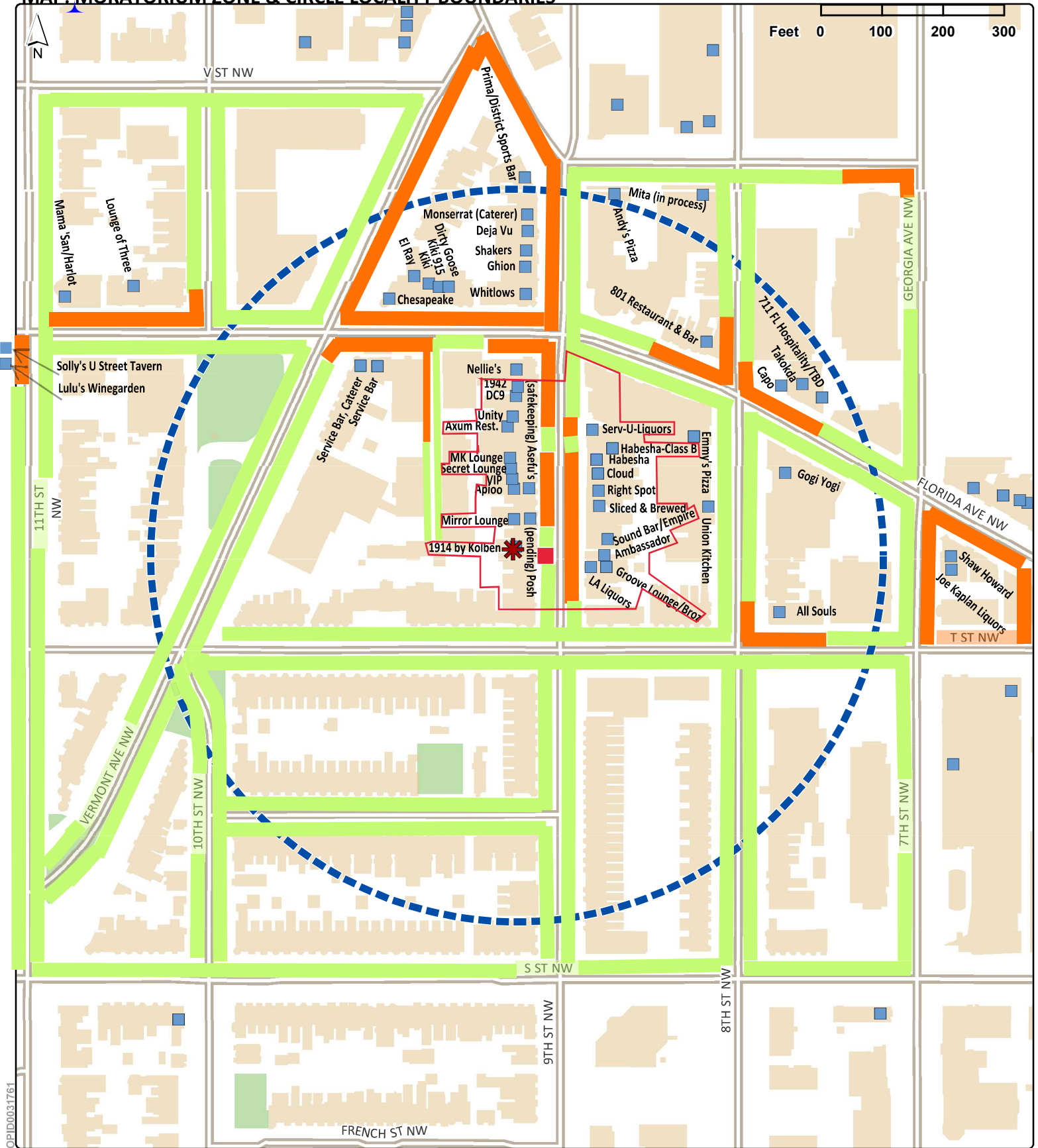
/s/ Kerry Brainard Verdi

Kerry Brainard Verdi  
Verdi & Ogletree PLLC  
1325 G Street, NW  
Suite 500  
Washington, DC 20005  
*Counsel to the WNA for the  
Moratorium Petition*

---

<sup>6</sup> Though § 25-351, Subsection (e) articulates that the ABC Board shall set an initial operating period of 5 years, it further details that it may reduce that period as the facts support a lesser period. This Petitioner asks for a **three-year (3)** period with the potential for extensions. An initial three-year period will provide the community with time to prepare and work with the DC government, elected officials and its regulators to formulate protocols and adopt procedures which will reduce the adverse impacts that underlie this petition for a moratorium.

# MAP: MORATORIUM ZONE & CIRCLE LOCALITY BOUNDARIES



= by Petitioner...(ORANGE) represents blocks (or partial) and lots which are currently or likely to be dedicated to Tavern/nightclub establishments with alcohol licenses.  
 = by Petitioner...(GREEN) represents blocks (or partial) and lots which are currently or predominately residential (e.g. RF-1), multifamily, or for non-profit or municipal uses.

= Subject Property

**1914 9th Street NW**  
**Office of Planning ~ March 28, 2023**  
**Government of the District of Columbia**

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

600' Radius  
 ABRA Licensees

WNA PETITION EXHIBIT 1

**MORATORIUM ZONE LICENSE ROSTER\***

License Number	Status	Entity Name	Trade Name	Address	City	State	Zip Code	Class Type	Establishment Type	Capacity
<b>ESTABLISHMENTS -- MORATORIUM, 9TH STREET ONLY (LOCALITY/CIRCLE, PARTIAL)</b>										
ABRA-122135	Active	Broz Dynasty, Inc.	Groove Lounge	1905 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	103
ABRA-123184	Active	Legacy Alum Liquors, LLC	LA Liquors	1905 9TH ST NW, UNIT 1	WASHINGTON	DC	20001	A	Retail-Liquor Store	
ABRA-090422	Active	ROMYO LLC	Ambassador Restaurant	1907 9th ST NW	WASHINGTON	DC	20001	C	Restaurant	48
ABRA-122864	Active	Noah Naol DC, LLC	Sound Bar (Empire Lounge)	1909 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	125
ABRA-116067	Active	The Culinary District, Inc.	1914 by Kolben	1914 9th ST NW	WASHINGTON	DC	20001	C	Tavern	117
ABRA-115871	Active	Zemen M, LLC	Sliced and Brewed Restaurant	1915 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	24
ABRA-100631	Active	Meskerem Abebe, LLC	Right Spot	1917 9TH ST NW	WASHINGTON	DC	20001	C	Restaurant	120
ABRA-093572	Active	Kat, LLC	Cloud Restaurant & Lounge Sports Bar	1919 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	122
ABRA-087362	Active	Zeni, LLC	Habesha Market & Carry-Out Restaurant	1919 9TH ST NW	WASHINGTON	DC	20001	T	Tavern	50
ABRA-087363	Active	Zeni, LLC	Habesha Market & Carry-Out Restaurant	1919 9TH ST NW	WASHINGTON	DC	20001	B	Beer & Wine	0
ABRA-112748	Safekeeping	Yegna Restaurant and Lounge, Inc.	Asefu's Palace	1920 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	38
ABRA-111950	Active	9th Street Lounge, LLC	Mirror Lounge	1920 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	151
ABRA-125250 (ADDED BY PETITIONER)	PENDING	Momentux Hospitality, LLC	Rush	1923 9TH ST NW, #101	WASHINGTON	DC	20001	C	Tavern	188
ABRA-094795	Active	Appioo, LLC	Appioo	1924 9TH ST NW	WASHINGTON	DC	20001	C	Restaurant	49
ABRA-123209	Active	Posh Bar & Restaurant LLC	Posh Lounge	1924 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	49
ABRA-119913	Active	Marcon, Inc	Vip Lounge	1926 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	90
ABRA-107123	Active	Eleana, LLC	Secret Lounge	1928 9th ST NW	WASHINGTON	DC	20001	C	Tavern	199
ABRA-088787	Active	Family, LLC	MK Lounge & Restaurant	1930 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	122
ABRA-119716	Active	ZMBE LLC	Axum Restaurant	1934 9th ST NW	WASHINGTON	DC	20001	C	Restaurant	124
ABRA-060026	Active	Beletesh, Ltd	Serv-u-Liquors	1935 9TH ST NW	WASHINGTON	DC	20001	A	Retail-Liquor Store	
ABRA-109064	Active	FD, LLC	Unity	1936 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	205
ABRA-071156	Active	Bar 9, LLC	DC 9	1940 9TH ST NW	WASHINGTON	DC	20001	C	Nightclub	416
ABRA-070728	Active	Etete Ethiopian Cuisine, Inc.	1942 DC	1942 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	133

**(\*) TOTAL , 9TH ST: 23 Licenses**

**TOTAL TAVERNS (CT): 15**

**TOTAL OCCUPANTS: 2473**

**TOTAL NIGHTCLUBS (CN): 1**

**TOTAL RESTAURANTS (CR): 4**

**TOTAL RETAIL, CLASS A: 2**

**TOTAL RETAIL, CLASS B: 1**

**TOTAL CATERERS: 0**

**ESTABLISHMENTS -- LOCALITY/CIRCLE, PARTIAL (ADDITIONS TO 9TH STREET)**

ABRA-112322	Active	Gunju 1924 LLC	Gogi Yogi	1921 8th ST NW, #115	WASHINGTON	DC	20001	C	Restaurant	120
ABRA-115133	Active	ESQ Shay, LLC	Emmy Squared	1924 8TH ST NW, STE 140	WASHINGTON	DC	20001	C	Restaurant	100
ABRA-111996	Active	Union Kitchen, LLC	Union Kitchen	1924 8th ST NW, STE 155	WASHINGTON	DC	20005	B	Retail-Full Service	
ABRA-086205	Active	Flora Restaurant and Lounge, LLC	Ghion Restaurant and Lounge	2010 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	20
ABRA-121849	Active	WOW Enterprise, Inc (??)	Shakers	2012 9TH ST NW	WASHINGTON	DC	20001	C	Tavern	220
ABRA-110906	Active	Montserrat House, LLC	Montserrat House, LLC	2018 9TH ST NW	WASHINGTON	DC	20001		Caterer	
ABRA-121029 (ADDED BY PETITIONER)	PENDING	Prosperity DC, LLC	Deja Vu Lounge	2020 9TH ST NW	WASHINGTON	DC	20001	C	Restaurant	149
ABRA-121509	405.1 New Const	711 FL Hospitality, LLC	TBD	711 FLORIDA AVE NW	WASHINGTON	DC	20001	C	Tavern	60
ABRA-103693	Active	Capo, LLC	Capo	715 Florida AVE NW	WASHINGTON	DC	20001	C	Tavern	147
ABRA-096823	Active	Florida Avenue Group, LLC	Takoda	715 Florida AVE NW	WASHINGTON	DC	20001	C	Tavern	158
ABRA-088179	Active	All Souls, LLC	All Souls	725 T ST NW	WASHINGTON	DC	20001	C	Tavern	48
ABRA-103120	Active	801 Restaurant LLC	801 Restaurant & Bar	801 FLORIDA AVE NW	WASHINGTON	DC	20001	C	Tavern	125
ABRA-075240	Active	Rocdo LLC	Nellie's Restaurant & Sports Bar	900 U ST NW	WASHINGTON	DC	20001	C	Tavern	334

(\*) ABCA data as of July 1, 2023 [Note: three items "ADDED BY PETITIONER"]

WNA PETITION EXHIBIT 2

License Number	Status	Entity Name	Trade Name	Address	City	State	Zip Code	Class Type	Establishment Type	Capacity
ABRA-082871	Active	Brixton Pub LLC	Whitlow's on Wilson	901 U ST NW	WASHINGTON	DC	20001	C	Tavern	575
ABRA-101299	Issued	The Dirty Goose, LP	The Dirty Goose	913 U ST NW	WASHINGTON	DC	20001	C	Tavern	205
ABRA-119480	Active	Kiki 915 U St, LLC	Kiki 915 U ST	915 U ST NW	WASHINGTON	DC	20001	C	Tavern	129
ABRA-122613	Active	KiKi, LLC	KiKi	917 U ST NW	WASHINGTON	DC	20001	C	Tavern	70
ABRA-121605	Active	U Street Partners, LLC	El Rey	919 U ST NW	WASHINGTON	DC	20001	C	Tavern	93
ABRA-117583	Active	925 U Street Partners, LLC	Chesapeake	925 U ST NW	WASHINGTON	DC	20001	C	Tavern	0
ABRA-106553	Active	Service Bar, LLC	Service Bar	926 U ST NW	WASHINGTON	DC	20001		Caterer	
ABRA-103008	Active	Service Bar, LLC	Service Bar	926 U ST NW	WASHINGTON	DC	20001	C	Tavern	40
ABRA-123829	Active	Andys Pizza V ST, LLC	Andys Pizza V ST	808 V ST NW	WASHINGTON	DC	20001	C	Restaurant	149

**TOTAL , NON-9TH ST: 22 Licenses**

**TOTAL TAVERNS (CT): 15**

**TOTAL OCCUPANTS: 2742**

**TOTAL NIGHTCLUBS (CN): 0**

**TOTAL RESTAURANTS (CR): 4**

**TOTAL RETAIL, CLASS A: 0**

**TOTAL RETAIL, CLASS B: 1**

**TOTAL CATERERS: 2**

#### LOCALITY/CIRCLE

##### SUBTOTAL:

Within circle

boundaries ... **45 Licenses**

**TOTAL TAVERNS (CT): 30**

**TOTAL OCCUPANTS: 5215**

**TOTAL NIGHTCLUBS (CN): 1**

**TOTAL RESTAURANTS (CR): 8**

**TOTAL RETAIL, CLASS A: 2**

**TOTAL RETAIL, CLASS B: 2**

**TOTAL CATERERS: 2**

#### **ESTABLISHMENTS -- IN POLYGON, LOCATED OUTSIDE LOCALITY/CIRCLE BOUNDARY**

ABRA-113558	Active	N&M, LLC	Lounge of Three	1013 U ST NW	WASHINGTON	DC	20001	C	Tavern	75
ABRA-095169	Active	Shaw Howard Deli, LLC	Shaw Howard Deli	1911 7th ST NW	WASHINGTON	DC	20001	B	Retail - Class B	
ABRA-060351	Active	DK, Corporation	Joe Caplan Liquors	1913 7TH ST NW	WASHINGTON	DC	20001	A	Retail-Liquor Store	
ABRA-122413	Issued	900 FL, LLC	The District Sports Bar	900 FLORIDA AVE NW	WASHINGTON	DC	20001	C	Tavern	100
ABRA-114205	Active	Nicolas Hospitality, Inc.	Mama 'San/Harlot	2001 11TH ST NW	WASHINGTON	DC	20001	C	Tavern	200
ABRA-075811	Active	Liquid Inspiration Llc	Solly's U Street Tavern	1942 11TH ST NW	WASHINGTON	DC	20001	C	Tavern	121
ABRA-077574	Active	Pac Concepts, Inc.	Lulu's Winegarden	1940 11TH ST NW	WASHINGTON	DC	20001	C	Restaurant	140
ADDED BY PETITIONER	ABCA APPLICATION PENDING	TBD	Mita (in process)	804 V STREET NW	WASHINGTON	DC	20001	TBD	TBD -expected Restaurant	TBD

**TOTAL , ADJACENT: 8 Licenses**

**TOTAL TAVERNS (CT): 4**

**TOTAL 636  
OCCUPANTS:**

**TOTAL NIGHTCLUBS (CN): 0**

**TOTAL RESTAURANTS (CR): 2**

**TOTAL RETAIL, CLASS A: 1**

**TOTAL RETAIL, CLASS B: 1**

**TOTAL CATERERS: 0**

License Number	Status	Entity Name	Trade Name	Address	City	State	Zip Code	Class Type	Establishment Type	Capacity
----------------	--------	-------------	------------	---------	------	-------	----------	------------	--------------------	----------

**TOTAL -- LOCALITY &**

**POLYGON**

Within polygon

boundaries ... 53 Licenses

TOTAL TAVERNS (CT): 33

TOTAL NIGHTCLUBS (CN): 1

TOTAL RESTAURANTS (CR): 10

TOTAL RETAIL, CLASS A: 4

TOTAL RETAIL, CLASS B: 2

TOTAL CATERERS: 2

=

**TOTAL**

**OCCUPANTS: 5663**



## DC CRIME CARD\* MAP

Period: May 14, 2022 to May 13, 2023

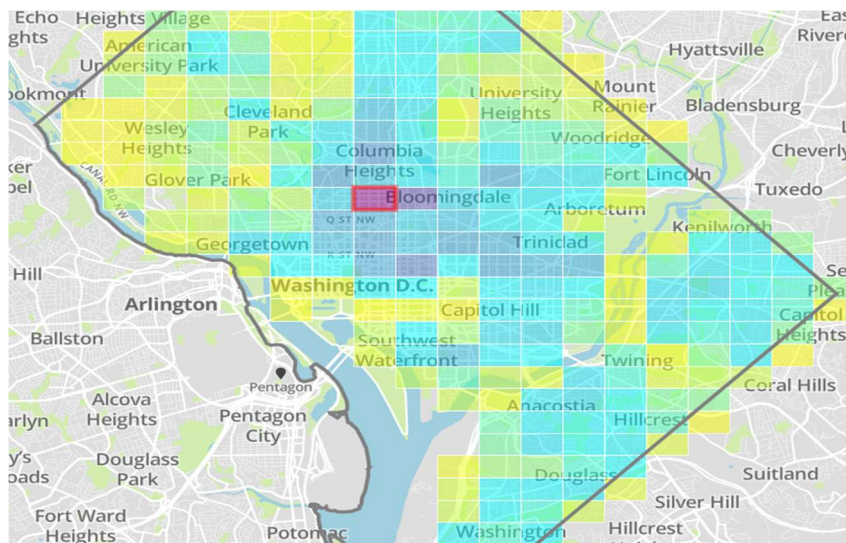
In summary, the crime card maps below convey that the area which includes the petitioner's moratorium zone has a large public safety problem. It has the highest number of crime incidents/events in DC as described in the commentary preceding each of the two maps below.

### ALL CRIME, OVERVIEW & GRAPHIC

This chart reflects all (property and violent\*\*) crimes over the past year, citywide on a heat map.

The moratorium zone is encapsulated within the two rectangular boxes in the map center, below, beginning in the respective, left-most box indicated by a red perimeter and where the "B" is located (for Bloomingdale). The collapsed map inaccurately denotes the named location as Bloomingdale (though this is actually Shaw/East Dupont and U Street). The second box is the one directly to the right of the first box. These two boxes hold the highest number of DC crime events (with **664 reported crimes**) as conveyed by the two darkest shades of purple/gray on the map.

Specifically, the left box -- is described as the property bound, approximately, by 16<sup>th</sup>, W, 9<sup>th</sup> and S Streets -- has the most crime in the DC for the period, with **386 crimes**. The right box -- with property bound, approximately by 9<sup>th</sup>, W, 2<sup>nd</sup>, and S Streets -- has the second most crimes for this period in DC with **278 crimes**.



(\*) Source: <https://crimecards.dc.gov/>

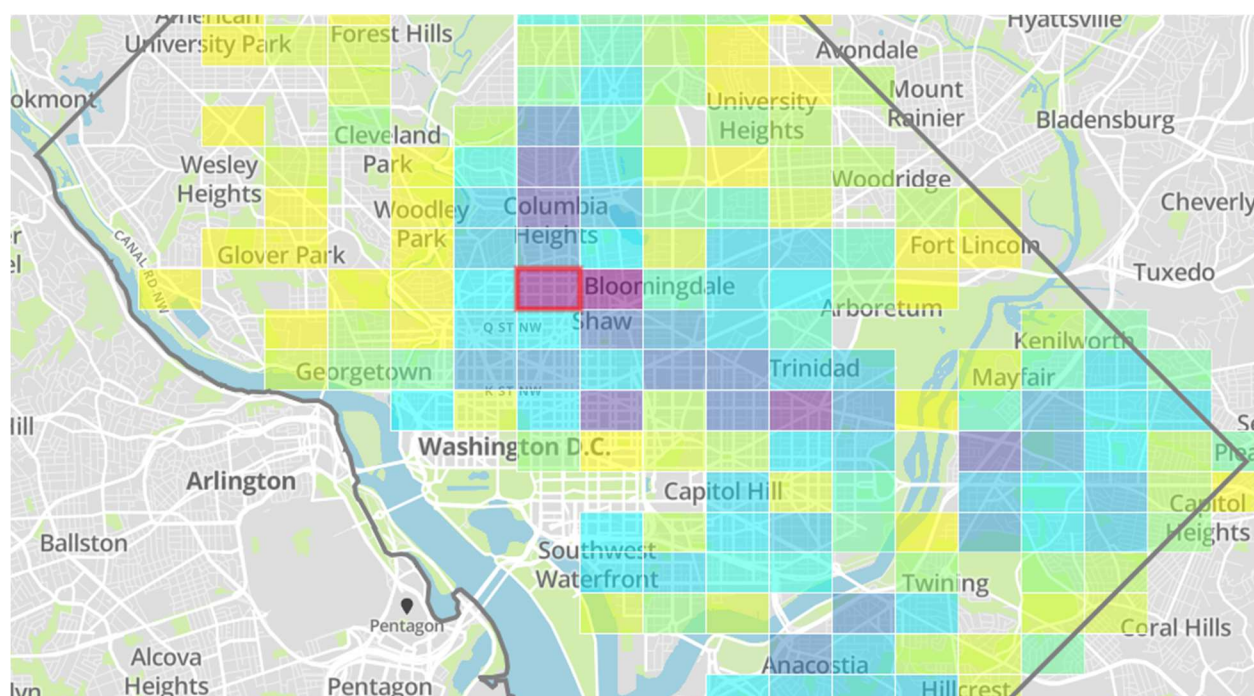
(\*\*) Violent Crimes include homicide, sex abuse, assault with a dangerous weapon (ADW), and robbery. Property Crimes include burglary, motor vehicle theft, theft from vehicle, theft (other), and arson.



## VIOLENT CRIME, OVERVIEW & GRAPHIC

This chart reflects all violent\* crimes citywide over the past year, citywide on a heat map.

Our facts here continue the narrative highlighting a serious public safety and crime problem establishing the area including the moratorium zone with the most violent crime in DC, with **36 crime events in each of the two boxes (for a total of 72 crimes)**, in the map below. The two referenced boxes include the left-most box, marked by a red perimeter, and the box to its right. The “Bloomingdale” label remains, as it was on the first page, misleading in that the area indicated in the two respective squares, here, is predominately East Dupont, Shaw/U Street. (Note: the streets included in the two boxes remain the same as, and are described above, under the first graphic).



---

(\*) Violent Crimes include homicide, sex abuse, assault with a dangerous weapon (ADW), and robbery.

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=====
IN THE MATTER OF:                :
                                   :
Empire, LLC                       :
t/a Empire Lounge                :
1909 9th Street NW               : Show Cause
Retailer CT - ANC 1B            : Hearing
License No. 110702              :
Case #22-CMP-00014              :
                                   :
(Substantial Change in           :
Operation Without Board         :
Approval, Trade Name           :
Change Without Board           :
Approval)                       :

```

Wednesday  
July 20, 2022

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

**PRESENT :**

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

**ALSO PRESENT:**

**SARAH FASHBAUGH, DC ABRA Staff**

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

(1:48 p.m.)

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

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

Yohannes Bayou, your rights have been elevated. Dan Orlaskey, your rights have been elevated. Pearson Stoecklein, your rights have been elevated. Rhoda Glasgow, your rights have been elevated.

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

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

CHAIRPERSON ANDERSON: Is Keayon

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

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

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

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

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

13 MR. NIGUSSIE: This is Mr. Nigussie.

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

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

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

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

1       Bianco?

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

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

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

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

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

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

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

1 so we can all get it right.

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

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

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

13 MR. NIGUSSIE: Let me see.

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

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

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

1 of the ANC?

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

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

7 MR. ORLASKEY: Yes.

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

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

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

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

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

25 INVESTIGATOR GLASGOW: I'm an



1 investigator for the Alcoholic Beverage  
2 Regulation Administration.

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

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

12 MR. STOECKLEIN: That is correct.

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

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

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

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

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

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

6 MR. ORLASKEY: Chairman --

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

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

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

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

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

25 CHAIRPERSON ANDERSON: All right.

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

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

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

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

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

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

1 opportunity.

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

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

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

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

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

25 If the parties will stipulate to that,

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

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

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

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

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

1 omissions. And so we just added labels.

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

9 MR. BIANCO: I have no objection.

10 CHAIRPERSON ANDERSON: Overruled. Any  
11 other --

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

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

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

1 CHAIRPERSON ANDERSON: Mr. Bianco?

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

21 CHAIRPERSON ANDERSON: Mr. Bianco?

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

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

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

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

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

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

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

3 CHAIRPERSON ANDERSON: Mr. --

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

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

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

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

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

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

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

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

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

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

25 And if documents and witnesses are not

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

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

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

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

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

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

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

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

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

1 vote. Mr. Short?

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

4 CHAIRPERSON ANDERSON: Ms. Crockett?

5 MEMBER CROCKETT: I agree.

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

8 INVESTIGATOR GLASGOW: Your motion to  
9 deny.

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

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

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: (No verbal response.)

16 CHAIRPERSON ANDERSON: And, Mr.

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

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



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

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

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

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

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

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

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

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

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

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

1 establishment.

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

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

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

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

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

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

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

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

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

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

1 present any evidence.

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

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

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

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

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

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

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

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

10 MR. STOECKLEIN: Okay.

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

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

18 MR. ORLASKEY: Okay.

19 CHAIRPERSON ANDERSON: Go ahead.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

1 expansion of operation and expansion of amplified  
2 music.

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

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

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

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

23 MR. STOECKLEIN: I agree.

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

1 MR. STOECKLEIN: I just recommended --

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

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

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

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

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

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

20 CHAIRPERSON ANDERSON: Go ahead, sir.

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

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

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

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

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

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

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

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

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

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

14 MR. STOECKLEIN: Thank you, sir.

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

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

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

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

4 MR. PADRO: I do swear.

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

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

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

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

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

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

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

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

4 MR. PADRO: I am.

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

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

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

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

20 MR. BIANCO: Okay.

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

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

4 MR. PADRO: It is indeed.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MR. STOECKLEIN: Until roughly what  
8 time?

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

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

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

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

25 I'm just trying to understand how it

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

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

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

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

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

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

1 information memorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

9 CHAIRPERSON ANDERSON: You have any  
10 more --

11 MR. STOECKLEIN: -- continue on.

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

14 MR. STOECKLEIN: I don't.

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

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

20 MR. PADRO: Thank you. Same here.

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

1       that block.

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

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

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

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

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

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

1 police about them?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (No verbal response.)

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

19 MR. PADRO: Thank you.

20 CHAIRPERSON ANDERSON: Have a great  
21 day.

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

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

1                   CHAIRPERSON ANDERSON: Sergeant  
2 Vernick?

3                   MR. STOECKLEIN: Sergeant --

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

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

11                  SERGEANT VERNICK: There we go.

12                  CHAIRPERSON ANDERSON: Okay.

13                  SERGEANT VERNICK: Can you hear me?

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

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

19                  CHAIRPERSON ANDERSON: Are you  
20 driving?

21                  SERGEANT VERNICK: at stationary sir.

22                  CHAIRPERSON ANDERSON: All right.

23 Thank you. Can you raise your right hand, sir,  
24 please.

25                  SERGEANT VERNICK: Yes, sir.

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

4 SERGEANT VERNICK: Yes, sir, I do.

5 CHAIRPERSON ANDERSON: Thank you.

6 Mr. Stoecklein, your witness.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

25 SERGEANT VERNICK: Yes. What I find

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

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

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

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

24 MR. STOECKLEIN: And what --

25 SERGEANT VERNICK: Go ahead.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4               SERGEANT VERNICK:  Yes, sir.

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

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

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

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

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

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

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

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

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

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

25 I have seen subsequent video of a

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1                   CHAIRPERSON ANDERSON: Response, Mr.  
2 Stoecklein?

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

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

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

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

1 MR. BIANCO: Mr. Anderson --

2 CHAIRPERSON ANDERSON: Let me just --

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

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

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

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

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

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

18 MR. STOECKLEIN: Sure.

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

22 MR. STOECKLEIN: I'll move on.

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

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

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

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

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

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

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

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

25 So if a firearm's discharged and the

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

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

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

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

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

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

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

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

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

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

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

14                  MR. BIANCO: Objection. Speculation.

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

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

25                  MR. STOECKLEIN: So can I repeat the

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

3 SERGEANT VERNICK: Yes, sir.

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

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

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

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



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

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

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

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

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

22 CHAIRPERSON ANDERSON: Go ahead Mr.  
23 Bianco.

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

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

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

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

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

12 MR. BIANCO: Okay.

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

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

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

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

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

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

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

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

25                  SERGEANT VERNICK: I honestly feel

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

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

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

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

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

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

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

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

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

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

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

25                   MR. BIANCO: Okay. Would you agree

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

25 Good afternoon, Sergeant Vernick.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5                   SERGEANT VERNICK: That is accurate,  
6 sir.

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

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

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

21                  MR. BIANCO: Objection. Foundation.

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

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

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

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

11 SERGEANT VERNICK: I --

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

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

25 I know they've changed hands a couple

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

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

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

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

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

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

1       staffed.

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

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

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

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

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

18                   MEMBER CROCKETT: Two quick questions.

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

21                   MEMBER CROCKETT: I do.

22                   CHAIRPERSON ANDERSON: Go ahead.

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



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

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

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

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

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

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

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

3 Mr. Short, can you please mute?

4 SERGEANT VERNICK: If we --

5 MEMBER SHORT: Excuse me?

6 MEMBER CROCKETT: Can you please mute?  
7 There's feedback.

8 MEMBER SHORT: Oh, not a problem.

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

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

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

22 SERGEANT VERNICK: That is correct.

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

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

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

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

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

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

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

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

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

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

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

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

1 at.

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

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

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

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

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

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

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

1 officer. May I?

2 CHAIRPERSON ANDERSON: Go ahead, sir.

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

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

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

13 CHAIRPERSON ANDERSON: That's much  
14 better.

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

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

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

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

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

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

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

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

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

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

19 MR. BIANCO: No, sir.

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

23 MR. STOECKLEIN: Yes, Mr. Chairman.

24 CHAIRPERSON ANDERSON: Go ahead.

25 MR. STOECKLEIN: Sergeant Vernick,

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

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

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

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

21 Mr. Chairman --

22 CHAIRPERSON ANDERSON: Go ahead.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

25 MR. BIANCO: Objection. This is now

1 the same question the fourth time.

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

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

6 CHAIRPERSON ANDERSON: I'm sorry?

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

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

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

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

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

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

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

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

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

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

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

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

25 All right. We've been at this hearing

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

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

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

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

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

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

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

18 CAPTAIN KIM: Yes, I'm here.

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

23 CAPTAIN KIM: I swear.

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

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

3 CHAIRPERSON ANDERSON: Yes, Mr.  
4 Bianco?

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

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

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

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

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

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

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

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

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

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

5 MR. STOECKLEIN: Yes.

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

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

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

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



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

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

6               CHAIRPERSON ANDERSON: -- as --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 CAPTAIN KIM: Sure.

17 MR. STOECKLEIN: -- in the area?

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

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

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

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

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

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

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

1 directly observed?

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

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

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

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

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

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

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

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

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

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

1       volatility in the area.

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

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

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

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

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

1 Empire Lounge on March 12th?

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

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

14 CAPTAIN KIM: I am aware of it.

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

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

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

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



1 identification.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 MR. STOECKLEIN: Mr. Chair --

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

1 -- helpful.

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

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

18 CHAIRPERSON ANDERSON: We --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1       So it's that sort of thing.

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

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

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

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

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

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

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

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

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

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

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

6                   CHAIRPERSON ANDERSON: Mr. Bianco?

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

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

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

17                  CAPTAIN KIM: I did not.

18                  MR. BIANCO: And --

19                  CAPTAIN KIM: There were no  
20 eyewitnesses.

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

24                  CAPTAIN KIM: There was not.

25                  MR. BIANCO: And you have no reason to

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

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

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

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

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

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

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

3 MR. BIANCO: Unruly behavior --

4 CAPTAIN KIM: Excuse me?

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

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

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

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

25 CAPTAIN KIM: Yes, sir.

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

4 CAPTAIN KIM: I did.

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

8 CAPTAIN KIM: I can't recall.

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

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

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

21 CAPTAIN KIM: Yes.

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

24 CAPTAIN KIM: Yes.

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

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

3 CAPTAIN KIM: I do not know that.

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

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

10 MEMBER SHORT: Question.

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

13 MEMBER SHORT: Good afternoon,  
14 Commander.

15 CAPTAIN KIM: Good afternoon, sir.

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

18 CAPTAIN KIM: Thank you.

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

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

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

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

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

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

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



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

3 CAPTAIN KIM: I'm sorry?

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

6 CAPTAIN KIM: Yes, sir.

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

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

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

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

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

23 CAPTAIN KIM: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

17 CHAIRPERSON ANDERSON: I --

18 MR. STOECKLEIN: -- some additional --

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

25 But I prefer that all Board members

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

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

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

10 CHAIRPERSON ANDERSON: Yes, I --

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

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

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

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

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

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

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

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

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

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

19 MEMBER SHORT: Can you hear me now?

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

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

1 asked was about security accountability.

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

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

10 MEMBER SHORT: Yes, sir.

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

13 MEMBER SHORT: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

12                  MR. STOECKLEIN: No, Mr. Chair?

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

17                  CAPTAIN KIM: Thank you. You too.

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

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



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

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

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

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

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

19 INVESTIGATOR GLASGOW: Yes, I do.

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

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

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

1                   INVESTIGATOR GLASGOW: The Alcoholic  
2 Beverage Regulation Administration.

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

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

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

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

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

15                  INVESTIGATOR GLASGOW: Yes, I am.

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

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

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

25                  INVESTIGATOR GLASGOW: It was for the

1 expanded space that is named Sound Bar.

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

6 INVESTIGATOR GLASGOW: Yes, I did.

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

9 INVESTIGATOR GLASGOW: Yes.

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

14 INVESTIGATOR GLASGOW: Can you see my  
15 screen?

16 CHAIRPERSON ANDERSON: No, ma'am.

17 INVESTIGATOR GLASGOW: Can you see it  
18 now?

19 CHAIRPERSON ANDERSON: Nope.

20 INVESTIGATOR GLASGOW: Share.

21 CHAIRPERSON ANDERSON: Yes, we can.

22 INVESTIGATOR GLASGOW: Okay.

23 CHAIRPERSON ANDERSON: Why don't you  
24 go back to the first case then -- all right. The  
25 first page of your report. So can you identify

1 this document, please?

2 INVESTIGATOR GLASGOW: Yes, this is my  
3 protest report, my investigative report for the  
4 substantial change of Empire Lounge's  
5 application.

6 CHAIRPERSON ANDERSON: Now, did you  
7 get a chance to speak to the protestants in this  
8 case?

9 INVESTIGATOR GLASGOW: Yes, I did.

10 CHAIRPERSON ANDERSON: And who did you  
11 speak to?

12 INVESTIGATOR GLASGOW: I spoke with,  
13 specifically, Mr. Pearson Stoecklein.

14 CHAIRPERSON ANDERSON: And what  
15 information were you able to gather as a result  
16 of your conversation with him?

17 INVESTIGATOR GLASGOW: Well, Mr.  
18 Stoecklein's complaint is, basically, Empire  
19 Lounge has been violating DC laws and playing  
20 loud music at an amplified level. He expressed  
21 the establishment is operating Sound Bar as a  
22 separate entity.

23 He said that there were a lot of  
24 establishments already on the block and because  
25 of him operating it as a separate entity, it

1 seems that it's going to add more ABC license to  
2 the block, which is not conducive to the  
3 neighborhood.

4 He said that the establishment has  
5 been violating your essay for a lot of -- on a  
6 lot of occasions and there are a lot of crimes  
7 outside of the establishment. And this is  
8 unacceptable for the neighborhood.

9 CHAIRPERSON ANDERSON: Now, who else  
10 did you test -- who else did you identify -- I'm  
11 sorry. Who else did you interview as part of  
12 your report?

13 INVESTIGATOR GLASGOW: I did not  
14 specifically interview anyone else. He actually  
15 compiled a bunch of statements from neighbors who  
16 lived adjacent to the establishment. So that is  
17 what is documented on my report.

18 CHAIRPERSON ANDERSON: So these were  
19 just his -- this is basically Mr. Stoecklein's  
20 conversation that he recorded too off a  
21 individual; is that correct?

22 INVESTIGATOR GLASGOW: Yes.

23 CHAIRPERSON ANDERSON: Can you  
24 describe for us this -- the -- briefly, the  
25 neighborhood?

1 INVESTIGATOR GLASGOW: So 9th Street  
2 between T and U is a very busy area. It has a  
3 lot of licensed establishment there. It has  
4 approximately 18 licensed establishment on that  
5 block alone.

6 At night the street is actually --  
7 recently the street is actually blocked off by  
8 MPD, so there's no traffic going in any direction  
9 on that block after a certain time at night.

10 Well, during the summertime, there's  
11 a lot of people on the streets, patrons, I guess,  
12 going from one establishment to the next. But  
13 when it comes to licensed establishment, there's  
14 a lot of activities out there.

15 Recently, there's a lot of MPD  
16 presence, because there is a lot of RDO. So if  
17 the street is -- I guess, has a lot more people  
18 there than, you know, usual.

19 CHAIRPERSON ANDERSON: And I guess  
20 that you're stating that this is a very busy --  
21 this is a very, very busy area with a significant  
22 amount of establishment; is that correct?

23 INVESTIGATOR GLASGOW: Yes.

24 CHAIRPERSON ANDERSON: Now, I'm  
25 hearing conversations regarding Sound Bar. Are

1       you familiar with Sound Bar?

2                   INVESTIGATOR GLASGOW:   So my first  
3       interaction with the establishment, I was  
4       actually monitoring an establishment on 9th  
5       Street. And I saw it and I was like, I never --  
6       this is the first I was seeing of it. I think it  
7       was a couple of months ago. And I went in and  
8       the place was extremely packed.

9                   And I approached the owner of the  
10      establishment and I asked him, Did you apply for  
11      -- because I did not see any postings for a  
12      substantial change or anything at the time, so I  
13      contacted my supervisor.

14                  And he said that there is actually a  
15      report that is being written as we speak by  
16      another investigator because he was -- he  
17      operated the establishment without approval from  
18      the Board, so --

19                  But the -- inside Sound Bar, that  
20      particular area on the first floor was extremely  
21      packed. And I also noticed that there was a DJ  
22      on the floor, but on his essay -- his -- I'm  
23      sorry, his -- not security plan, his settlement  
24      agreement.

25                  He -- the DJ is supposed to only be on

1 the second floor, not adjacent -- not facing the  
2 wall of patrons -- I mean, I'm sorry, of  
3 residents in the neighborhood.

4 CHAIRPERSON ANDERSON: So are --  
5 you're saying this -- the reason I'm asking --  
6 and I see that it's off in your report. So was  
7 Sound Bar a licensed establishment?

8 INVESTIGATOR GLASGOW: At the time?

9 CHAIRPERSON ANDERSON: -- after that  
10 -- okay --

11 INVESTIGATOR GLASGOW: Oh no.

12 CHAIRPERSON ANDERSON: Is it currently  
13 a licensed establishment?

14 INVESTIGATOR GLASGOW: Sound Bar, no.

15 CHAIRPERSON ANDERSON: Now, did you  
16 have an opportunity to specifically visit Empire  
17 Lounge as a part of the investigation of this  
18 case?

19 INVESTIGATOR GLASGOW: Yes.

20 CHAIRPERSON ANDERSON: And when did  
21 you visit this establishment?

22 INVESTIGATOR GLASGOW: I visited the  
23 establishment on -- where's my report? I'll tell  
24 you exactly the date. I visited the  
25 establishment on Friday, July 1st.



1 CHAIRPERSON ANDERSON: Now, when you  
2 say you visited the establishment, explain what  
3 you meant by you visited the establishment,  
4 please.

5 INVESTIGATOR GLASGOW: I visited the  
6 establishment. I spoke with the owner regarding  
7 my protest report. I took pictures of the area  
8 of Sound Bar to document in my report.

9 CHAIRPERSON ANDERSON: Now, as at the  
10 time of the -- at the times that you visited, was  
11 there -- was Sound Bar -- so -- I'm sorry where  
12 is Sound Bar or where was Sound Bar?

13 INVESTIGATOR GLASGOW: Sound Bar is  
14 adjacent. It's basically practically part of the  
15 building of Empire Lounge, but it has a separate  
16 entrance. So it looks like an additional ABC  
17 license establishment on the block.

18 CHAIRPERSON ANDERSON: Yes, but is --

19 INVESTIGATOR GLASGOW: But it -- I'm  
20 sorry.

21 CHAIRPERSON ANDERSON: No, it's okay.  
22 Go ahead. Now --

23 INVESTIGATOR GLASGOW: But it is next  
24 to -- it is part of the building of where Empire  
25 Lounge is.

1                   CHAIRPERSON ANDERSON: Now, is this a  
2 space that would -- is this the same space that  
3 would be the -- that would be classified the  
4 first floor?

5                   INVESTIGATOR GLASGOW: Yes.

6                   CHAIRPERSON ANDERSON: So was -- when  
7 you -- at the time you spoke to the owner, was  
8 there any activities on the first floor?

9                   INVESTIGATOR GLASGOW: No.

10                  CHAIRPERSON ANDERSON: And what time  
11 is it that you went to visit this establishment?

12                  INVESTIGATOR GLASGOW: I would say  
13 around 11:00,11:15.

14                  CHAIRPERSON ANDERSON: Now, you said  
15 you -- so you only went to visit this  
16 establishment one time; is that correct?

17                  INVESTIGATOR GLASGOW: No, I visited  
18 three other times. Actually, I was just  
19 monitoring the establishment to make sure there  
20 was nothing -- no activity going on while the  
21 protest is -- while we wait for a decision from  
22 the Board.

23                  But the one time that I went in there,  
24 and that is documented in my report, is to get  
25 the photos and speak with the owner regarding the

1 protest.

2 CHAIRPERSON ANDERSON: So what other  
3 occasions did you actually monitor the  
4 establishment?

5 INVESTIGATOR GLASGOW: So I monitored  
6 the establishment on June 27th around 12:00 a.m.  
7 to, like, 12:15, July 1st, as I explained before.  
8 July 3rd at around 1:30 in the morning and July  
9 4th at around 11:30 p.m.

10 CHAIRPERSON ANDERSON: So were there  
11 any -- were you able to identify any ABRA  
12 violation during the period of your monitoring?

13 INVESTIGATOR GLASGOW: No, there were  
14 no violations.

15 CHAIRPERSON ANDERSON: Now, what about  
16 -- did you -- did there -- did you do a record  
17 search regarding whether or not they were calls  
18 for service for -- from this particular address?

19 INVESTIGATOR GLASGOW: Yes. So  
20 according to the record search, there were 68  
21 calls for service between March 16, 2019 to June  
22 21, 2022. It was regarding noise, assault,  
23 theft, et cetera.

24 I also did a noise complaint and there  
25 were approximately eight noise complaint between

1 2021 and 2022.

2 CHAIRPERSON ANDERSON: And I see --  
3 all right. I see you -- there's an investigative  
4 history for this establishment, I guess, covering  
5 the period. So I see that there is some -- there  
6 is an investigative history for this  
7 establishment.

8 Can you tell us what period is  
9 documented in your report?

10 INVESTIGATOR GLASGOW: Okay. So I'm  
11 sorry, the noise complaint was from 2019 to 2022  
12 --

13 CHAIRPERSON ANDERSON: No, I'm saying,  
14 generally, the investigative history. What  
15 period was it documented in your report?

16 INVESTIGATOR GLASGOW: According to  
17 investigative history here, I have from January  
18 20, 2019 to June 7th of 2022.

19 CHAIRPERSON ANDERSON: You have some  
20 exhibits attached to your report. Can you  
21 identify the exhibits that are attached to your  
22 report, please?

23 INVESTIGATOR GLASGOW: Sure. So the  
24 first exhibit is a letter from the ANC outlining  
25 exactly their concerns from the establishment

1 based -- their protest is based on the effect of  
2 real property values.

3 And it explains the effect the  
4 establishment has on peace, order, and quiet and  
5 litter provisions and parking needs, and  
6 pedestrian safety. That's Exhibit 1.

7 Exhibit 2 is also a letter from the  
8 WNA Association explaining -- outlining their  
9 concerns as well. And it's basically the same  
10 concerns as the ANC.

11 Exhibit 2. It's -- I -- as I  
12 explained before, letters from resident -- former  
13 and current resident in a nearby establishments  
14 that Mr. Stoecklein obtained and sent to me.

15 We have one -- we have -- from Exhibit  
16 5, we have another letter that explains --  
17 outlines their reason for leaving, moving out of  
18 their homes because Empire Lounge music is  
19 extremely loud and it's hard to, basically. live  
20 in the neighborhood next to that establishment.

21 I have Exhibit 6 and 7 that outlines  
22 that as well. And I have here an Exhibit 8, a  
23 letter from Mr. Nigussie explaining that he was  
24 harassed and -- verbally and physically by Mr.  
25 Stoecklein.

1                   He attached the videos, but there was  
2 no audio in the video, so I could not  
3 substantiate exactly if his argument -- his  
4 statement was accurate or not.

5                   I have here the next exhibit, Exhibit  
6 9. I have -- it's the zoning map of Empire  
7 Lounge, which is located in the ARTS-2 zoning  
8 area.

9                   I have the GIS map which shows there  
10 are 60 establishment in Exhibit 10 within 1,200  
11 feet of the establishment. I have Exhibit number  
12 11, which outlines that there are no public  
13 libraries within 400 feet, but there is a school  
14 around -- within 400 feet.

15                  Exhibit number -- what exhibit number  
16 is this? Exhibit number 12 shows the front area  
17 of Empire Lounge, which is Empire and Sound Bar  
18 next to it. As you can see, it's the same  
19 building, but separate entrances. They're are  
20 both 1909.

21                  Exhibit 13 shows the back of the  
22 establishment. There is one exit to the back of  
23 the establishment at the top that facilitates the  
24 exit for the second floor and the third floor.  
25 And we have, if you can see -- okay.

1                   So then exhibit -- the other exhibit,  
2 Exhibit 14, is the door for the first floor, the  
3 exit for the first floor. And it all leads out  
4 into an alleyway.

5                   And as Officer Vernick explained,  
6 there is a barrier that blocks it off, where,  
7 like -- so you don't go out directly into the  
8 alleyway. There is, like, a gate that -- or  
9 something that closes so you don't go directly  
10 out.

11                  Exhibit number 15 shows inside of the  
12 establishment. He was doing construction, little  
13 work in there, so it was a bit of a mess.  
14 Exhibit 16 shows the bar area.

15                  Exhibit number 17 is that the one  
16 bathroom area. Exhibit number 18 shows the DJ  
17 booth, which I explained to you before that their  
18 essay only allows them to have a DJ on the second  
19 floor and this is on the first floor.

20                  Exhibit 19 shows more pictures of  
21 inside of the establishment. Exhibit number 20,  
22 same, inside of the establishment.

23                  Exhibit number 21, this is a door that  
24 leads to what's the staircase to go up to the  
25 second floor. It's between the first -- it's a

1 way to go from Sound Bar area, that space,  
2 towards the -- going up to the first floor and  
3 the second floor --

4 CHAIRPERSON ANDERSON: I'm sorry.  
5 Let's go back to Exhibit 21.

6 INVESTIGATOR GLASGOW: Yes.

7 CHAIRPERSON ANDERSON: So there is --  
8 so when you enter -- so there's an entrance on  
9 9th Street for -- there's an entrance on 9th  
10 Street for Empire Lounge and there's an entrance  
11 on -- a separate entrance on 9th Street for Sound  
12 Bar; is that correct?

13 INVESTIGATOR GLASGOW: Yes.

14 CHAIRPERSON ANDERSON: And so you're  
15 saying, once you're in either Sound Bar or Empire  
16 Lounge, there is a door that allows you just one  
17 -- there's just one door that allows you inside  
18 to get from Sound Bar to Empire Lounge to go  
19 upstairs or --

20 INVESTIGATOR GLASGOW: Yes.

21 CHAIRPERSON ANDERSON: -- and vice  
22 versa?

23 INVESTIGATOR GLASGOW: Yes.

24 MEMBER SHORT: Okay. Okay. Go ahead,  
25 please.



1                   INVESTIGATOR GLASGOW: Exhibit 21 is  
2                   their license. Yes, ABC license hours. Exhibit  
3                   number 22 is the parking. There is no main  
4                   parking in the area because --

5                   These signs recently went up because  
6                   they were doing a lot of construction in the  
7                   area. So these are newly placed signs. So  
8                   there's no real parking on the block.

9                   Exhibit 21 -- I mean, sorry, Exhibit  
10                  24 is the record search of their calls for  
11                  service. As you can see, it started from March  
12                  of 2019 through June of 2022. Exhibit 25 is  
13                  their settlement agreement.

14                 MEMBER SHORT: And what's the date of  
15                  the settlement agreement?

16                 INVESTIGATOR GLASGOW: The date of the  
17                  settlement agreement is -- just a second.  
18                  October 1, 2018. That was the roll call hearing  
19                  of -- one second. It says, Order by October 17,  
20                  2018.

21                 MEMBER SHORT: All right. Go ahead.

22                 INVESTIGATOR GLASGOW: Okay. And we  
23                  have here their security plan.

24                 MEMBER SHORT: And what's the date of  
25                  the security plan?

1 INVESTIGATOR GLASGOW: October 12,  
2 2018.

3 CHAIRPERSON ANDERSON: That's the date  
4 of security plan?

5 INVESTIGATOR GLASGOW: No, that is the  
6 date of the agreement for the settlement  
7 agreement.

8 CHAIRPERSON ANDERSON: So what's the  
9 date of security plan? Do you --

10 INVESTIGATOR GLASGOW: I'm sorry the  
11 security plan. June 17, 2022.

12 CHAIRPERSON ANDERSON: Okay. Thank  
13 you.

14 INVESTIGATOR GLASGOW: And that was  
15 Exhibit 26. And that, I believe, is all my  
16 exhibits.

17 CHAIRPERSON ANDERSON: Okay. Thank  
18 you. All right. I don't have any further  
19 questions to ask you Ms. Glasgow. Close this  
20 screen, please.

21 INVESTIGATOR GLASGOW: Sure.

22 CHAIRPERSON ANDERSON: Any of -- any  
23 questions by the Board members?

24 MEMBER SHORT: Yes. Mr. Short would  
25 like to ask the investigator a question.

1 CHAIRPERSON ANDERSON: Go ahead, Mr.  
2 Short.

3 MEMBER SHORT: Good afternoon still,  
4 Investigator --

5 CHAIRPERSON ANDERSON: Glasgow.

6 MEMBER SHORT: Glasgow, okay.  
7 Investigator --

8 INVESTIGATOR GLASGOW: Good afternoon

9 MEMBER SHORT: -- Glasgow. Thank you  
10 for the action report and I think a lot of your  
11 exhibits were quite helpful. Regarding your time  
12 and service with the -- as an investigator with  
13 ABRA, at anytime since you've been in on board  
14 with ABRA as an investigator, have you had any  
15 training regarding public safety whatsoever?

16 INVESTIGATOR GLASGOW: Yes.

17 MEMBER SHORT: And can you explain to  
18 us just very briefly what that training incurred?

19 INVESTIGATOR GLASGOW: Well,  
20 basically, when we enter an establishment or if  
21 we're referring to the establishment and public  
22 safety, we have to make sure that the  
23 establishment is complying with the rules that  
24 allows -- would allow safety practices.

25 So there's no overcrowding, no

1 overoccupancy. We have to make sure that the  
2 security is checking, doing their searches so the  
3 public can remain safe inside of the  
4 establishment.

5 As you see here, we -- some  
6 establishments come into an agreement with this  
7 security plan to allow for public safety within  
8 the establishment.

9 So basically, the establishment -- we  
10 have to make sure that the establishment is  
11 following the rules so the public can be safe  
12 inside of the establishment.

13 MEMBER SHORT: Okay. Based on your  
14 answer, since the security agreement was signed  
15 October 2018, I believe --

16 INVESTIGATOR GLASGOW: Yes.

17 MEMBER SHORT: -- have there been any  
18 violations of the security plan or security  
19 agreement?

20 MR. BIANCO: I'm going to object to  
21 the characterization of the testimony. I think  
22 the testimony was that the security plan was not  
23 in place until 2022 and not 2018.

24 CHAIRPERSON ANDERSON: Go ahead, Mr.  
25 Short.

1                   MEMBER SHORT: Thank you. Based on  
2 that -- and thank you very much, Mr. Bianco.  
3 Based on that, was there a security agreement  
4 signed October of 2018?

5                   INVESTIGATOR GLASGOW: The agreement  
6 that was signed in 2018 was their settlement --

7                   MEMBER SHORT: Settlement agreement.  
8 Okay.

9                   INVESTIGATOR GLASGOW: -- agreement,  
10 not the security plan.

11                  MEMBER SHORT: All right. Thank you  
12 for the correction. Now, with the security, have  
13 there been any violations of that security  
14 agreement since it was signed in 2018?

15                  INVESTIGATOR GLASGOW: The only thing  
16 that I could remember -- well, I can explain from  
17 their investigative history is that there was an  
18 incident for a firearm on June 7th of 2022.  
19 There was an incident where there was a gun  
20 inside of the establishment.

21                  MEMBER SHORT: That violate the  
22 agreement?

23                  INVESTIGATOR GLASGOW: Well, according  
24 to the report, I do not believe that the -- well,  
25 I guess if -- it will bring up the question as

1 the -- is -- was this individual searched before  
2 entering the establishment? So that is a  
3 security issue.

4 MR. BIANCO: Again, Mr. Anderson, I  
5 renew my objection to the testimony on a June 7th  
6 apparent incident where the security plan is  
7 dated June 17th.

8 CHAIRPERSON ANDERSON: So remember, so  
9 we can -- this -- the security plan is dated June  
10 17, 2022, so we can't have testimony on a plan  
11 that was not -- on a violation of a possible plan  
12 that was not in existence.

13 So if we're going to have testimony,  
14 it has to be on the security plan. It would be  
15 for are there any incidents after June 17, 2022,  
16 not prior to June 17, 2022.

17 MEMBER SHORT: Thank you very much,  
18 Mr. Chair. Now, Investigator Glasgow, the space  
19 that there -- that this business is asking to use  
20 on the first floor, was any violations -- or let  
21 me take that back. Was anybody using that space  
22 prior to getting permissions from this Board?

23 INVESTIGATOR GLASGOW: Yes. There  
24 were a couple of cases that were written because  
25 he was using his space without approval.

1 MR. BIANCO: Mr. Chair, I would -- not  
2 objecting to this particular question, but I  
3 would note that the questions are referring to  
4 unadjudicated violations and I would ask that we  
5 exclude such questions until my client has the  
6 opportunity to defend himself.

7 CHAIRPERSON ANDERSON: I will have  
8 clients -- I'll have our Board member is to  
9 carefully tread along this area. But I was shown  
10 a picture and I'm showing Sound Bar and the --  
11 I'm sorry, the -- our witness did testify about a  
12 Sound Bar and there's activity in the Sound Bar.

13 So I think it's somewhat relevant, but  
14 when I don't -- I'm not -- I'm just asking Board  
15 members not to go into specifics. But if you  
16 have general questions about this space, so be  
17 it.

18 All right. So I will just -- all  
19 right. But you can go ahead, Mr. Short, but if  
20 it's for --

21 MEMBER SHORT: I'll take that question  
22 back.

23 CHAIRPERSON ANDERSON: All right.

24 MEMBER SHORT: I don't want that  
25 question. Thank you very much. But now, you did

1 your walkthroughs or your inspections for the  
2 space, you testified in what hours -- what -- the  
3 question, I guess, I really want to ask you is:  
4 What hours does the 1900 block of 9th Street  
5 normally get busy? What hours are -- what are  
6 their busiest hours?

7 INVESTIGATOR GLASGOW: I would say  
8 from, like, 10:00 p.m. to, like, 3:00 or 2:30,  
9 between those hours.

10 MEMBER SHORT: So it's the same  
11 process is the same process at 10:00 that it is  
12 at 3:00?

13 INVESTIGATOR GLASGOW: Sometimes, yes.  
14 Yes.

15 MEMBER SHORT: Okay. Very fair.  
16 Again -- so how many inspections did you do of  
17 this space? And what -- and again, I know this  
18 is repetitive, but again, just refresh me as a  
19 Board member, how many times did you, and what  
20 hours did you go for the -- to do your report?

21 INVESTIGATOR GLASGOW: For my report,  
22 I specifically only went there into the  
23 establishment, into the expanded space one time.

24 MEMBER SHORT: Okay. Thank you very  
25 much, Mr. Chairman. That's all I have at this



1 time. I thank you and -- Investigator Glasgow,

2 CHAIRPERSON ANDERSON: Thank you, Mr.  
3 Short, any other questions from any of the Board  
4 members? Go ahead, Mr. Grandis.

5 MEMBER GRANDIS: Thank you,  
6 Investigator. That one time you went in, if I  
7 remember, it was, like, midnight or 12:30 a.m.?  
8 Am I recollecting that --

9 INVESTIGATOR GLASGOW: It was about  
10 11:00 -- between 11:00 and 11:30.

11 MEMBER GRANDIS: And you went there  
12 precisely because of the assignment to deal with  
13 the request to expand the premises to the first  
14 floor, correct?

15 INVESTIGATOR GLASGOW: Yes.

16 MEMBER GRANDIS: And I think you  
17 already stated, but just to remind me, when you  
18 went in, you went into the Sound Bar area first  
19 or to the Empire area first?

20 INVESTIGATOR GLASGOW: Well, when I  
21 got there, the Sound Bar area door was locked.  
22 So the owner came out and he escorted me into the  
23 Empire area, which he led me to the side door  
24 going into Sound Bar area.

25 MEMBER GRANDIS: And when you went

1 into the Sound Bar area, I'm assuming now from  
2 the picture you went in from that door that was  
3 closed, but that could be opened to go from the  
4 first floor to the second floor?

5 INVESTIGATOR GLASGOW: That is  
6 correct.

7 MEMBER GRANDIS: And were patrons  
8 using that same door as you were escorted into?

9 INVESTIGATOR GLASGOW: At the time,  
10 no. There was no patrons on the first floor.

11 MEMBER GRANDIS: Oh, there were no  
12 patrons on the first floor, so -- and you also --  
13 for your records, you said that there was a bar  
14 that you could see on the first floor?

15 INVESTIGATOR GLASGOW: Yes.

16 MEMBER GRANDIS: And you could see a  
17 DJ booth on the first floor?

18 INVESTIGATOR GLASGOW: Yes.

19 MEMBER GRANDIS: When you went to the  
20 second floor, did you see a DJ booth?

21 INVESTIGATOR GLASGOW: There is one up  
22 there too, yes.

23 MEMBER GRANDIS: Was there a DJ that  
24 evening?

25 INVESTIGATOR GLASGOW: At the time of

1 my visit, I did not go up to the second floor.  
2 My main focus was the expanded space at that  
3 time.

4 MEMBER GRANDIS: Have you been to that  
5 second or third floor other than regarding this  
6 particular matter?

7 INVESTIGATOR GLASGOW: Yes, multiple  
8 times.

9 MEMBER GRANDIS: And there's a DJ  
10 booth on the second floor, as well as a DJ has  
11 been there?

12 INVESTIGATOR GLASGOW: Yes.

13 MEMBER GRANDIS: And we've had  
14 testimony today that the second and third floor,  
15 at least in layman's terms, was overcrowded.

16 Did you have a sense that there was a  
17 150 people on both floors, or did you have a  
18 sense that it was more or less?

19 INVESTIGATOR GLASGOW: So I had  
20 written a case that they were over their  
21 occupancy on one occasion. That was during the  
22 mayor's emergency order. They were -- they had a  
23 couple of other mayor's order violation at that  
24 time and occupancy was one of them.

25 MEMBER GRANDIS: And at that time, did

1 you, at all, observe the first floor when you  
2 made that observation regarding the overcrowding?

3 INVESTIGATOR GLASGOW: Well, at that  
4 time, no. The first floor was not operating at  
5 all.

6 MEMBER GRANDIS: Talking about the  
7 incident where it was overcrowded on the second  
8 and third floor, again, when you went to look at  
9 the first floor, there was no occupancy? There  
10 was nothing going on on the first floor?

11 INVESTIGATOR GLASGOW: Yes. At that  
12 time, around 2020, yes, there was no one on the  
13 first floor.

14 MEMBER GRANDIS: And if the Board were  
15 to grant this and keep the occupancy, I think  
16 it's a 150 currently?

17 INVESTIGATOR GLASGOW: Well, 125.

18 CHAIRPERSON ANDERSON: 125.

19 MEMBER GRANDIS: 125. Thank you.  
20 Thank you for the correction. If the occupancy  
21 is not increased, then there would be less  
22 crowding on the three floors than there are  
23 currently on the two floors, even if it's a 125?

24 INVESTIGATOR GLASGOW: I can't -- I  
25 don't know how he will, you know, navigate the

1 traffic of the patrons. But the one time that I  
2 did see the Sound Bar operating, where he had the  
3 first and -- the second and the third floor  
4 operating as well, it was extremely overcrowded  
5 on the first floor.

6 MEMBER GRANDIS: And were they cited  
7 a violation of being overcrowded at that  
8 incident?

9 INVESTIGATOR GLASGOW: Well, as I  
10 explained before, my supervisor advised me that  
11 another investigator was writing the exact same  
12 case for overcrowding because they came across  
13 the incident a couple of days ago where he was  
14 operating the first floor and it was completely  
15 packed.

16 Like, there was -- I -- when I went in  
17 there, well, there was barely any way for me to  
18 walk through to get to the back of the  
19 establishment.

20 MEMBER GRANDIS: But that wasn't part  
21 of -- that visit was not part of this process?

22 INVESTIGATOR GLASGOW: No.

23 MEMBER GRANDIS: Okay. And when you  
24 went in the first floor, I know you used that  
25 stairwell that does connect interior second floor

1 to first. Did you go to the back of that first  
2 floor to determine if there was an exit?

3 INVESTIGATOR GLASGOW: The back of the  
4 first floor, no. I don't think there's a exit.  
5 The exit is on the third floor.

6 MEMBER GRANDIS: And if I understood  
7 your testimony, if I were to use that exit  
8 because of via fire emergency and I came from the  
9 third floor down to the ground level, that's in  
10 the back of the building, but there was a fence  
11 with a gate. And is that gate with a lock? Or  
12 is that gate as an emergency type of thing where  
13 you could push it and get into the alley?

14 INVESTIGATOR GLASGOW: It's like -- I  
15 think it's like a wooden gate, so there's no  
16 electronic mechanism to open or close.

17 MEMBER GRANDIS: So you're -- just  
18 from your knowledge, there's no way to use that  
19 wood gate to get to the alley?

20 INVESTIGATOR GLASGOW: No, I think  
21 someone would actually has to -- have to  
22 physically move it to get, you know, everyone to  
23 --

24 MEMBER GRANDIS: Thank you. Thank  
25 you. And I want to thank you for your

1 presentation. And, Mr. Chairman, thank you.

2 CHAIRPERSON ANDERSON: Sure. So any  
3 other questions by any of the Board members?

4 MR. ORLASKEY: Ms. Glasgow, I want to  
5 ask you another question because I'm now  
6 confused. It's correct that there -- that -- as  
7 far as ABRA is concerned, there is no Sound Bar;  
8 is that correct?

9 INVESTIGATOR GLASGOW: That's correct.

10 MR. ORLASKEY: And so how then are you  
11 stating that Sound Bar is overcrowded? You can  
12 state that it's packed, but how can you state  
13 that Sound Bar is overcrowded if you don't know -  
14 - if it's not an ABRA license establishment and  
15 you don't know what the occupancy is for that  
16 space.

17 INVESTIGATOR GLASGOW: Well, when I  
18 went in there, the name outside of that area was  
19 Sound Bar. I did not go into the side with  
20 Empire Lounge entrance. I went into the entrance  
21 where the names Sound Bar was.

22 So when I -- and this when I went in  
23 there the first time, where they were over their  
24 occupancy, I thought, at that time, there, they  
25 were a licensed establishment until the reports

1       were written, then we realized it's not a  
2       licensed establishment.

3               CHAIRPERSON ANDERSON:   But I'm saying  
4       that, but you don't know what the occupancy of  
5       that space is; isn't that correct?

6               INVESTIGATOR GLASGOW:   No, I do not  
7       know.

8               CHAIRPERSON ANDERSON:   To you the  
9       space was overcrowded?

10              INVESTIGATOR GLASGOW:   Yes.

11              CHAIRPERSON ANDERSON:   But you don't  
12       know what the actual occupancy -- the space --  
13       there was a lot of people in a small space.   But  
14       you don't know what the occupancy of it because  
15       it wasn't a licensed establishment; isn't that  
16       correct?

17              INVESTIGATOR GLASGOW:   Exactly.

18              CHAIRPERSON ANDERSON:   All right.   I  
19       just want to -- I want to clear the record when  
20       we're talking about something being overcrowded.  
21       If we don't what they -- we don't have a  
22       Certificate of Occupancy for that space to state  
23       what the occupancy load for that space is.   All  
24       right.

25              MEMBER SHORT:   Mr. Chairman, can I ask



1 a question based on your question?

2 CHAIRPERSON ANDERSON: Yes, Mr. Short.

3 MEMBER SHORT: Thank you.

4 Investigator Glasgow, when people are using  
5 spaces illegally or without permission from ABRA,  
6 are there normally any signs up posted of how  
7 many people can be in a space when it's Illegally  
8 being used?

9 INVESTIGATOR GLASGOW: No. No.

10 Normally, when a place is requesting expansion or  
11 anything, there -- they have to apply and then  
12 they'll placard it.

13 So there's no way for me to know, you  
14 know, what the occupancy or anything about that  
15 space if they don't bring it to us -- to our  
16 attention.

17 MEMBER SHORT: Thank you for your  
18 answer. And that's all I have, Mr. Chair. Thank  
19 you very much.

20 CHAIRPERSON ANDERSON: Any questions  
21 by any of the Board -- all right. Any other  
22 questions by any other Board members? Mr.  
23 Bianco?

24 MR. BIANCO: Good afternoon,  
25 Investigator Glasgow. I think I would like to

1 start where the Board stopped, which is this this  
2 notion of overcrowding.

3 And I think your testimony was, you  
4 would have no way of knowing what the occupancy  
5 limits are if a place does not have a license.  
6 Am I recalling in your testimony accurately?

7 INVESTIGATOR GLASGOW: Yes. I mean,  
8 if the place -- if they don't -- I mean, he was  
9 operating the space without approval. So any  
10 information on that space, I would not know --

11 MR. BIANCO: Yes, I understand.

12 INVESTIGATOR GLASGOW: -- for the  
13 occupancy.

14 MR. BIANCO: Yes, that part I  
15 understand. But a building can have a  
16 Certificate of Occupancy without an alcohol  
17 license, right?

18 INVESTIGATOR GLASGOW: Yeah.

19 MR. BIANCO: Okay. And do you know  
20 whether or not there's a Certificate of Occupancy  
21 for that building at that time?

22 INVESTIGATOR GLASGOW: Well, I'm  
23 assuming -- well, no.

24 MEMBER SHORT: I did this -- I can  
25 pull it up.

1 CHAIRPERSON ANDERSON: Ms. Glasgow, I  
2 need you to answer questions on knowledge, ma'am,  
3 okay?

4 INVESTIGATOR GLASGOW: Okay.

5 CHAIRPERSON ANDERSON: I don't know,  
6 you don't know. Please do not assume.

7 INVESTIGATOR GLASGOW: No, I don't  
8 know.

9 MR. BIANCO: Okay. So I want to now  
10 go back to this notion of the -- this write-up  
11 for overcrowding. And again, I -- and please  
12 correct me if I'm wrong.

13 My understanding of your testimony is  
14 that when you visited the establishment and you  
15 testified that it was packed, when you went back  
16 to the office, you were informed that somebody  
17 was writing up the same case, correct?

18 INVESTIGATOR GLASGOW: That is  
19 correct.

20 MR. BIANCO: Okay. And I'm going to  
21 tread very carefully here because of my earlier  
22 objection as to unadjudicated violations.

23 But in looking at the investigative  
24 history, dealing with the expansion to the first  
25 floor without approval, I don't see any

1 allegation of overcrowding in that allegation; is  
2 that accurate?

3 INVESTIGATOR GLASGOW: In which  
4 allegation?

5 MR. BIANCO: Investigative History  
6 Item number 3. It reads, Expanded its operations  
7 to the first floor without approval, operated  
8 under an unapproved trade name, and then it goes  
9 on to state the procedural history of the Board,  
10 referring to OAG, status hearing, show cause  
11 hearing. And as of -- as we sit here today, no  
12 adjudication of those claims?

13 INVESTIGATOR GLASGOW: So yes, there  
14 were no occupancy referenced here.

15 MR. BIANCO: Okay. And in reviewing  
16 your report and the photos that go along with  
17 your report, when you went inside of the first  
18 floor establishment, it appears that it was under  
19 construction at that time, right?

20 INVESTIGATOR GLASGOW: Yes. He was  
21 doing repairs there. yes.

22 MR. BIANCO: Okay. Now, I have a few  
23 more things that I want to cover with respect to  
24 your report. So you've been an investigator for  
25 a few years now, right?

1 INVESTIGATOR GLASGOW: Yes.

2 MR. BIANCO: And I've always found you  
3 to be very, very thorough. And what I would -- I  
4 suppose what I would ask is, in your experience,  
5 have you encountered an establishment that has  
6 different trade names on different floors?

7 INVESTIGATOR GLASGOW: I mean, I can  
8 reference a -- like, a hotel that I've been to  
9 that has the bar area named something different  
10 from the hotel itself, but the hotel does have  
11 the ABRA license.

12 MR. BIANCO: Okay. But you're not  
13 aware of other situations where upper floors can  
14 be called one thing and lower floor's called  
15 something else?

16 INVESTIGATOR GLASGOW: No.

17 MR. BIANCO: Okay. So the next thing  
18 that you talk about in your report are the  
19 protest issues. And I'm not going to go through  
20 each one of these individual statements one at a  
21 time and sort of ask you individual questions  
22 about them. But they come in two parts.

23 So we have in your narrative a  
24 recitation of the supposed residence comments  
25 about this particular establishment, correct?

1 INVESTIGATOR GLASGOW: Yes.

2 MR. BIANCO: Okay. And if I  
3 understood your testimony correctly, you didn't  
4 actually speak with these residents, correct?

5 INVESTIGATOR GLASGOW: Correct.

6 MR. BIANCO: Okay. And if we go to  
7 the exhibits, starting with Exhibit 4, which  
8 purports to be the written complaints from these  
9 residents. And I'm specifically referencing  
10 Exhibits 4, 5, 6 -- 4, 5, and 6, those are e-  
11 mails sent by Mr. Stoecklein; is that correct?

12 INVESTIGATOR GLASGOW: That is  
13 correct.

14 MR. BIANCO: And there's nothing in  
15 those e-mails indicating that the actual resident  
16 who these statements are attributed to sent those  
17 statements to Mr. Stoecklein, correct?

18 INVESTIGATOR GLASGOW: Yes, that is  
19 correct. I don't see a to or from or forwarded  
20 on these e-mails.

21 MR. BIANCO: Exactly. Right, yes,  
22 that was my next question. There's no e-mail  
23 header or a forwarding documentation, right?

24 INVESTIGATOR GLASGOW: That is  
25 correct.

1 MR. BIANCO: So the only information  
2 about what these people supposedly said comes  
3 directly from Mr. Stoecklein, right?

4 INVESTIGATOR GLASGOW: According to  
5 the e-mail, it was sent from Mr. Stoecklein to  
6 me.

7 MR. BIANCO: Okay. And we don't know  
8 what, if anything, those people actually said to  
9 Mr. Stoecklein?

10 INVESTIGATOR GLASGOW: I can't say.

11 MR. BIANCO: Okay. I'm just trying to  
12 streamline some of the questions, so please bear  
13 with me as I scroll through. Okay. So if we go  
14 back to Section 2 of your report, which is  
15 entitled, Nearby establishments -- I'm sorry.

16 Section 2, it says, Characteristics of  
17 the neighborhood, and then the first subheading  
18 is, Zoning. And then the second subheading is,  
19 Nearby establishments, correct?

20 INVESTIGATOR GLASGOW: Yes.

21 MR. BIANCO: Okay. And in, Nearby  
22 establishments, it looks like you state there are  
23 55 licensed establishments within 1,200 feet and  
24 37 of those have entertainment endorsements,  
25 correct?

1 INVESTIGATOR GLASGOW: That is  
2 correct.

3 MR. BIANCO: All right. Now, I want  
4 to look at -- I want to zoom in a little bit,  
5 right? So that's the bigger picture. That's the  
6 1,200-foot view. But I want to look at the  
7 establishments in the immediate vicinity of  
8 Empire Lounge.

9 So if we scroll down your list of  
10 licensed establishments to number 20, that's  
11 where we'll see Empire Lounge in 1909 9th Street,  
12 Northwest, correct?

13 INVESTIGATOR GLASGOW: Yes. Yes.

14 MR. BIANCO: Okay. So if we look at  
15 Items number 18, which is Cloud Lounge and  
16 Restaurant --

17 INVESTIGATOR GLASGOW: Yes.

18 MR. BIANCO: -- at 1919 9th Street --

19 INVESTIGATOR GLASGOW: Yes.

20 CHAIRPERSON ANDERSON: -- and then  
21 looked down to Cortez which is 1905 9th Street,  
22 so that's moving north to the south, it looks to  
23 me like there are five establishments within a  
24 couple 100 feet of one another all with  
25 entertainment endorsements. Is that an accurate



1 view of your report?

2 INVESTIGATOR GLASGOW: Yes.

3 MR. BIANCO: Okay. And then I see  
4 that one of those establishments, number 23,  
5 which is two doors down from Empire Lounge is  
6 Cortez.

7 INVESTIGATOR GLASGOW: Yes.

8 MR. BIANCO: And they have a summer  
9 garden endorsement as well. Are you familiar  
10 with their summer garden?

11 INVESTIGATOR GLASGOW: Yes, I am.

12 MR. BIANCO: Okay. And do you know  
13 whether it is on the front of the building or the  
14 back of the building?

15 INVESTIGATOR GLASGOW: The back.

16 MR. BIANCO: Okay. And is it open, or  
17 is it enclosed?

18 INVESTIGATOR GLASGOW: It's opened.

19 I don't want -- I will say I don't know.

20 MR. BIANCO: Okay. Yes.

21 INVESTIGATOR GLASGOW: I'm not sure.

22 MR. BIANCO: I was just going to say  
23 if you're not sure, please say you're not sure.  
24 I don't want --

25 INVESTIGATOR GLASGOW: I'm not sure.

1 MR. BIANCO: -- you to guess. Okay.  
2 And do you know if they have music on their  
3 summer garden?

4 INVESTIGATOR GLASGOW: Yes. They have  
5 overhead music.

6 MR. BIANCO: All right. So now I want  
7 to scroll down to page 8 of your report where you  
8 talk about their hours of operations. So you  
9 have a chart in there with the hours of operation  
10 of Empire Lounge, correct?

11 INVESTIGATOR GLASGOW: Correct.

12 MR. BIANCO: Okay. And it looks like  
13 hours of operation and hours of sales are 10:00  
14 a.m. to 2:00 a.m. during the week and 10:00 a.m.  
15 to 3:00 a.m. on the weekends, correct?

16 INVESTIGATOR GLASGOW: Correct.

17 MR. BIANCO: Do you know if they  
18 actually operate for all of those hours or just  
19 some of them?

20 INVESTIGATOR GLASGOW: I can't say.  
21 I am not there every day to know exactly what  
22 time they actually close.

23 MR. BIANCO: Okay. When you did your  
24 four visits to monitor the establishment, were  
25 any of them in the morning, or were they all than

1 the at night?

2 INVESTIGATOR GLASGOW: The latest one,  
3 the latest time I was there was up until 1:40 in  
4 the morning and they were operating.

5 MR. BIANCO: Okay. And were they  
6 operating on all four occasions that you visited?

7 INVESTIGATOR GLASGOW: Oh, yes.

8 MR. BIANCO: Okay. So I don't want to  
9 go into too much granular detail on this, but in  
10 terms of the layout, okay, 1909 9th Street  
11 contains both Empire and the establishment  
12 labeled Sound Bar, correct?

13 INVESTIGATOR GLASGOW: Correct.

14 MR. BIANCO: And there is a door -- an  
15 interior door between them, correct?

16 INVESTIGATOR GLASGOW: Correct.

17 MR. BIANCO: And there are also  
18 separate exterior doors to enter each of those  
19 parts of the establishment, correct?

20 INVESTIGATOR GLASGOW: Correct.

21 MR. BIANCO: Okay. And I'm sorry,  
22 when I say exterior door, I mean, on the 9th  
23 Street side, there are two exterior doors?

24 INVESTIGATOR GLASGOW: That is  
25 correct.

1                   MEMBER SHORT: And according to page  
2                   8 and 9 of your report, during the four visits to  
3                   the property, there were no violations, right?

4                   INVESTIGATOR GLASGOW: That is  
5                   correct.

6                   MR. BIANCO: And there were no -- you  
7                   state that there were no issues with peace, order  
8                   and quiet. Is that also correct?

9                   INVESTIGATOR GLASGOW: That is  
10                  correct. At the time of my visit, yes.

11                  MR. BIANCO: Right. Okay. Now, I  
12                  want to talk about this record search for a  
13                  moment, which is on page 9 of the narrative  
14                  portion of your report. And then we're going to  
15                  go to the grid thereafter.

16                  Now, this is -- I just want to  
17                  understand what this chart represents. Okay. So  
18                  you say according to the DC Office of Unified  
19                  Communications, there were 68 calls for service  
20                  in the three-year period from March 16, 2019  
21                  through June 21, 2022, correct?

22                  INVESTIGATOR GLASGOW: Correct.

23                  MR. BIANCO: And that is the chart  
24                  that you have as Exhibit 24, right?

25                  INVESTIGATOR GLASGOW: Yes.

1 MR. BIANCO: Okay. And that chart  
2 represents calls referencing 1909 9th Street,  
3 right?

4 INVESTIGATOR GLASGOW: Yes.

5 MR. BIANCO: Does it give any  
6 information about whether the reason for the call  
7 was substantiated in any way?

8 INVESTIGATOR GLASGOW: No. The  
9 acronyms here -- I can't really determine exactly  
10 what the calls were. There are abbreviations  
11 that can be noticeable, like on page 2 of that  
12 report, there was noise -- a noise complaint on  
13 October 6, 2019. But the acronyms are very --  
14 the terminology, I can't -- I don't know.

15 MR. BIANCO: Yes. Now, you're very on  
16 top of things because I was just going to ask you  
17 about that actually. So let's go to the chart  
18 that is Exhibit 24 and there's a couple of  
19 questions that I have for you about that chart,  
20 okay? I'm just getting it arranged on my screen  
21 because it's sideways.

22 Okay. So the first thing is the one,  
23 two, three, four, fifth column says, Time, which  
24 I assume means the time of the call, right?

25 INVESTIGATOR GLASGOW: I would think

1 it would be that, yes.

2 MR. BIANCO: Okay. And so this is the  
3 report as it was given to you by the Office of  
4 Unified Communications, right?

5 INVESTIGATOR GLASGOW: That is  
6 correct.

7 MR. BIANCO: So you didn't, like, call  
8 through this report to see if the call was at a  
9 time that the establishment was actually  
10 operating? Is that fair to say?

11 INVESTIGATOR GLASGOW: Yes.

12 MR. BIANCO: Okay. And in the  
13 narrative portion of your report, you  
14 specifically mention a couple of types of calls,  
15 specifically, theft, noise, and assault, right?

16 INVESTIGATOR GLASGOW: Yes.

17 MR. BIANCO: Can you tell me if those  
18 are ones that you're particularly concerned with?

19 INVESTIGATOR GLASGOW: Repeat that.

20 MR. BIANCO: Are those the ones that  
21 you are most concerned with? Is that why you  
22 mentioned them?

23 INVESTIGATOR GLASGOW: Well, it  
24 addresses the concerns of the protestants  
25 actually. That is why it is referenced like

1       that, yes.

2                   MR. BIANCO:   Okay.   And there's a  
3       number -- but that's not the entirety of this  
4       report.   It's not all theft, noise, and assault,  
5       right?

6                   INVESTIGATOR GLASGOW:   As I said, I  
7       don't know the acronyms for -- or I don't know  
8       the terminology for some of these -- the types of  
9       calls, so I can't really say what some of them  
10      are.   The ones that I noted was the noise and the  
11      theft that was clearly -- easily -- it was -- is  
12      that it's easy to translate.

13                  MR. BIANCO:   Yes.   I agree with you.  
14      And noise and theft are among the ones that are  
15      easy to translate.   And there are others that I  
16      think are fairly easy to translate, like property  
17      loss, parking, DUI.

18                  And would you agree that some of those  
19      other types of calls may not be directly related  
20      to the operations of this establishment?

21                  INVESTIGATOR GLASGOW:   The call  
22      basically came in at the location of 1909 9th  
23      Street.   So anything that is referenced in this  
24      report that was given to me is referenced to 1909  
25      9th Street.   So I can't determine if it -- I

1 can't say that maybe they had -- they called it -  
2 - they said 1909, but it was not exactly at 1909.

3 The report specifically says 1909 9th  
4 Street, which is Empire Lounge. So whatever is  
5 there is related to the address of the  
6 establishment.

7 MR. BIANCO: Right. But it doesn't  
8 say whether whatever the call was about happened  
9 inside the establishment or outside, right?

10 INVESTIGATOR GLASGOW: It does not  
11 detail that, no.

12 MR. BIANCO: Right. And let me just  
13 check to see if I have any more on this report.  
14 And then there's a number of them that are marked  
15 miscellaneous and obviously we don't have any  
16 idea what those are.

17 INVESTIGATOR GLASGOW: That's correct.  
18 I do not know.

19 MR. BIANCO: And then there's a number  
20 of other ones that neither you or I have any idea  
21 what they are, like DISU and ACCM, correct?

22 INVESTIGATOR GLASGOW: Correct. I do  
23 not know what that is.

24 MR. BIANCO: Yes, me neither. Okay.  
25 So I want to go back to this notion about the



1 time when you went to the establishment and  
2 testify that it was -- that Sound Bar was packed.  
3 I understand your testimony correctly that you  
4 did not count the people in there, right?

5 INVESTIGATOR GLASGOW: At that time,  
6 no.

7 MR. BIANCO: Okay. And you also  
8 reported in your narrative that there were eight  
9 noise complaints between 2019 and 2022, correct?

10 INVESTIGATOR GLASGOW: Correct.

11 MR. BIANCO: And do you know whether  
12 or not any of those eight noise complaints  
13 resulted in a finding of violation by the Board?

14 INVESTIGATOR GLASGOW: I cannot say.

15 MR. BIANCO: And you testified some  
16 about the settlement agreement only allowing a DJ  
17 on the second floor, right?

18 INVESTIGATOR GLASGOW: Yes.

19 MR. BIANCO: Okay. And I think we had  
20 a lot of back-and-forth on the date of the  
21 settlement agreement, but we settled on the fact  
22 that it was in 2018, right?

23 INVESTIGATOR GLASGOW: Right.

24 MR. BIANCO: Okay. And in 2018, there  
25 was no operating first floor of the

1 establishment, correct?

2 INVESTIGATOR GLASGOW: No, not to my  
3 knowledge.

4 MR. BIANCO: Okay. So the settlement  
5 agreement, fair to say, only addresses the second  
6 and third floor of the establishment?

7 INVESTIGATOR GLASGOW: That is  
8 correct.

9 MR. BIANCO: Investigator, thank you  
10 very much as always for a thorough job. I don't  
11 have any more questions at this time.

12 CHAIRPERSON ANDERSON: Mr. Stoecklein,  
13 it's your opportunity -- so one of the questions,  
14 since I can't see your sir, I don't know. But  
15 this is your opportunity to -- do you have any  
16 questions of the investigator, sir?

17 MR. STOECKLEIN: Yes, I do.

18 Inspector Glasgow, I'm going to ask  
19 you about a variety of things. So first off, are  
20 you aware that the -- is it your belief that the  
21 statements provided by me on behalf of WNA are  
22 verbatim reflections of the statements that were  
23 provided to me or to us?

24 MR. BIANCO: Objection. Foundation.  
25 Hearsay. Relevance. Anything else I can think

1 of?

2 MR. STOECKLEIN: There have been  
3 multiple applications by opposing counsel and  
4 others questioning the validity of these e-mails.

5 And so I'm trying to lay the  
6 foundation so that, if needed, I can provide the  
7 e-mails because would you believe it, I actually  
8 have copies?

9 CHAIRPERSON ANDERSON: Well, I think  
10 the -- Mr. Stoecklein, the e-mails that are in  
11 the record that are in her -- the report, they're  
12 are e-mails without --

13 MR. STOECKLEIN: I understand Mr.  
14 Chairman. I understand that. And I'm actually  
15 trying to lay the foundation and have Ms. Glasgow  
16 testify to the conversation we had about why it  
17 is that is the case and why the originals weren't  
18 sent. It relates to --

19 CHAIRPERSON ANDERSON: Well, then you  
20 need to ask her that. I mean --

21 MR. STOECKLEIN: What I'm trying to  
22 do, but Mr. Bianco objected. And so I'm trying  
23 to defend myself so that I can at least get off  
24 the ground here.

25 CHAIRPERSON ANDERSON: You don't need

1 -- sir, you don't need to defend yourself. You  
2 need to ask questions. I mean, Mr. Bianco asked  
3 objective questions about the e-mail, about --

4 MR. STOECKLEIN: Mr. Bianco objected,  
5 so -- I'm asking Ms. Glasgow if she is -- if she  
6 recalls the manner in which the statements were  
7 requested, meaning can she recount her requests  
8 of me in providing the statements that I did?

9 CHAIRPERSON ANDERSON: So why don't  
10 you ask her that question? So I think if you ask  
11 her that question, I don't believe that Mr.  
12 Bianco will object.

13 So you can ask her the question.  
14 These are your statement that's in her report.  
15 So you can ask her about -- ask her those  
16 specific questions.

17 MR. STOECKLEIN: I'm desperately  
18 trying, Mr. Chairman. I'm sorry if I'm missing  
19 something here.

20 CHAIRPERSON ANDERSON: You need to  
21 start there first. So that's why Mr. Bianco said  
22 that lack of foundation. So you need to go back  
23 to the beginning, sir.

24 MR. STOECKLEIN: Ms. Glasgow, do you  
25 recall the request that you made of me -- Ms.

1 Glasgow, could you please describe the process or  
2 instructions that you gave to me in requesting  
3 the statements that I forwarded?

4 INVESTIGATOR GLASGOW: We had -- you  
5 explained to me that -- you stated that there are  
6 a lot of people who live within the -- within  
7 range of the establishment that had issues with  
8 their -- the operation.

9 And you said you can get -- you can  
10 provide me with that information. And I  
11 specifically said, That will be great if you can  
12 get more information or at least get their  
13 testimony on paper so I can document it in my  
14 report

15 MR. STOECKLEIN: Yes. Thank you. And  
16 is it accurate to say that when we had that  
17 conversation, that you asked me to compile those  
18 statements and send them along to you?

19 INVESTIGATOR GLASGOW: Yes.

20 MR. STOECKLEIN: And do you also  
21 recall my raising with you at the time that  
22 several of the witnesses, particularly those who  
23 are mothers with children, were concerned about  
24 the disclosure of their identities?

25 INVESTIGATOR GLASGOW: Yes.

1 MR. STOECKLEIN: And is it also  
2 accurate that, as a result of that, when we  
3 discussed it, this is -- this was the reason for  
4 -- in your report, the reductions to the names of  
5 those individuals?

6 INVESTIGATOR GLASGOW: That is  
7 correct.

8 MR. STOECKLEIN: Do you have any  
9 reason to believe that any of the content of the  
10 statements that I forward to you is in any way  
11 fabricated, modified, or other way -- otherwise,  
12 in any way, shape, or form, not a verbatim  
13 reflection of the statements that were provided  
14 to me.

15 MR. BIANCO: Objection. Relevance.  
16 Her belief about the statements are not before  
17 this court.

18 MR. STOECKLEIN: She can testify to  
19 her opinion about the authenticity and veracity  
20 of the evidence that she's requested to be  
21 provided.

22 MR. BIANCO: Her opinion is  
23 irrelevant.

24 MR. STOECKLEIN: I disagree.

25 CHAIRPERSON ANDERSON: This is --

1 MR. STOECKLEIN: All right. Well, we  
2 -- I can make this easy, Mr. Chairman, but it's  
3 going to -- in order to do this, I need to be  
4 able to -- I need the --

5 I have the e-mails on my screen. I  
6 can produce them so that we can get over this  
7 question about, you know, the veracity of witness  
8 statements, including my own, apparently.

9 MR. BIANCO: I object. They were not  
10 produced seven days in advance as they're  
11 required to. I'm concerned that they were held  
12 back from both the report as well as the PIF if  
13 he intended to use them.

14 MR. STOECKLEIN: I did not intend to  
15 use them because it never occurred to me that  
16 opposing counsel would question the authenticity  
17 or veracity of the statements made and imply that  
18 I have fabricated evidence, which seems to be the  
19 case, so --

20 CHAIRPERSON ANDERSON: Hold on, hold  
21 on there, sir. I believe if we were in the -- if  
22 we're in a courthouse, Mr. Stoecklein, and you  
23 produced anonymous statements and no one knows  
24 who they're attributable to, the Court would not  
25 allow the allowance in evidence of these

1 documents because one would have stated that we  
2 don't know who they're from.

3 And so -- I believe that counsel is  
4 making objections -- I mean, we didn't -- we  
5 don't necessarily follow the rules of evidence  
6 here. I'm not quite sure if Ms. Glasgow can  
7 testify on the -- whether or not how authentic  
8 these e-mails are.

9 I think she can testify that you have  
10 -- she requested the e-mails from you. They were  
11 submitted. You also -- it was placed in the  
12 record that it appears that some of these  
13 individuals were concerned about their personal  
14 safety, so that's one of the reasons why they did  
15 not -- that their e-mails were not attached to  
16 it, so I --

17 Their e-mails -- and I believe that  
18 the Board can consider the e-mails for what  
19 they're worth, but I don't think that Ms. Glasgow  
20 herself can say that -- can testify that these  
21 are authentic e-mails received from the --

22 MEMBER SHORT: I agree.

23 CHAIRPERSON ANDERSON: -- from the  
24 individuals unless you had sent the e-mails to  
25 her and she was the one based on -- and she was



1 the one based on your statement --

2 I'm sorry, can someone -- Mr. Short,  
3 please -- mute your phone, please. So I don't --  
4 yes. So I don't believe that --

5 MR. STOECKLEIN: I understand, Mr.  
6 Chairman.

7 CHAIRPERSON ANDERSON: Yes.

8 MR. STOECKLEIN: So what I'm trying to  
9 -- there's a couple of, I guess, issues here to  
10 try to address. So what I was trying to  
11 establish, and I think we did, was that the  
12 information was provided in the fashion that it  
13 was provided because that was responsive to  
14 Inspector Glasgow's request.

15 CHAIRPERSON ANDERSON: Did --

16 MR. STOECKLEIN: So --

17 CHAIRPERSON ANDERSON: What is the --  
18 sir, hold on. Hold on. What's established. She  
19 requested e-mail from you?

20 MR. STOECKLEIN: She requested -- I  
21 believe we'd have to ask for the reporter to pull  
22 the transcript back. But when we were just  
23 speaking, I believe it was established that that  
24 Ms. Glasgow requested that I compile the  
25 statements of the witnesses that I received and

1 provide the relevant portions thereof.

2 CHAIRPERSON ANDERSON: I'm not quite  
3 sure if that's what the testimony is. I think  
4 what -- this is what I'm taking from this. Ms.  
5 Glasgow asked you for -- you stated that there  
6 are other witnesses. There are other residents  
7 who had concerns.

8 Ms. Glasgow asked you to provide those  
9 statements from those witnesses. And you  
10 compiled them -- you compiled e-mails, then you  
11 provide them to her.

12 I don't think she -- I don't -- I --  
13 the record doesn't establish that she told you  
14 how to provide them to her. You elected to  
15 provide these documents, for whatever reason, in  
16 the way that they were provided. So that's what  
17 the rest --

18 MR. STOECKLEIN: I understand. And  
19 it's --

20 CHAIRPERSON ANDERSON: And so we can  
21 move on from there, sir. I don't think that she  
22 can testify --

23 MR. STOECKLEIN: Okay.

24 CHAIRPERSON ANDERSON: -- that these  
25 are authentic, but I don't -- there were provided

1 --

2 MR. STOECKLEIN: I understand.

3 CHAIRPERSON ANDERSON: She asked for  
4 information, they were provided. And so here  
5 they are.

6 MR. STOECKLEIN: I understand, Mr.  
7 Chair. And so responsive to Mr. Bianco's  
8 objection, these are being offered as rebuttal  
9 evidence, right?

10 Rebuttal evidence is always  
11 permissible in order to address claims that have  
12 been made in the course of argument by opposing  
13 parties. So there --

14 CHAIRPERSON ANDERSON: That's --

15 MR. STOECKLEIN: It's not possible --

16 CHAIRPERSON ANDERSON: You're -- hold  
17 on, sir. Hold on, sir. You're cross-examining  
18 the witness. Mr. Bianco --

19 MR. STOECKLEIN: Mr. Bianco objected  
20 to me actually showing this Board.

21 CHAIRPERSON ANDERSON: That's -- that  
22 -- no, sir. No, sir. That's not what you --  
23 this -- you asked Ms. Glasgow whether or not  
24 these were authentic e-mails. That's what you  
25 asked. Ms. Glasgow, she is not in a position to

1 testify to that fact.

2 MR. STOECKLEIN: No, I asked --

3 CHAIRPERSON ANDERSON: She can't  
4 testify to that fact. But she can testify, which  
5 she has testified, that she requested for you to  
6 provide these e-mails from other individuals who  
7 were -- who had concerns. You provided that to  
8 her.

9 But she can't say that any specific  
10 person that because you -- because -- who the e-  
11 mail came from, that information was not provided  
12 to her.

13 She just got e-mails from you and that  
14 reported to that come from separate individuals.  
15 But she can't say this particular e-mail came  
16 from Tom, who lived in apartment --

17 MR. STOECKLEIN: Mr. Chairman, I  
18 really do understand. With all due respect, sir,  
19 I grasp everything that you're saying fully.

20 So if there is a way in which I could  
21 -- without offending you or the other members, if  
22 there's a way that we could if maybe I can  
23 readdress the witness and then provide sufficient  
24 foundation to try to introduce this rebuttal  
25 evidence merely so that we can confirm that --

1 CHAIRPERSON ANDERSON: This is not  
2 rebuttal evidence, Mr. Stoecklein. You are  
3 cross-examining the witness. This is not  
4 rebuttal. This is not rebuttal. You're cross-  
5 examining the witness about her report, so just.

6 She wrote a report. She testified  
7 about her report. You are cross-examining her  
8 about her report. This is our witness. She  
9 cannot -- she's not your rebuttal witness.

10 She is the Board's witness that now  
11 you have an opportunity to question her about the  
12 report.

13 This is what we're going to establish  
14 today. What we're establishing today is that you  
15 -- she asked you for e-mails -- she asked you for  
16 e-mails because --

17 MR. STOECKLEIN: Statements, Mr.  
18 Chairman. It's important that we be clear. She  
19 asked me for statements. If she had asked me for  
20 the e-mails, I would've produced the original e-  
21 mails, but she did not. I produced what I was  
22 asked to produce.

23 CHAIRPERSON ANDERSON: Ms. Glasgow,  
24 what did you ask him for?

25 INVESTIGATOR GLASGOW: I asked that --

1       because he -- on the letter here, he stated -- it  
2       stated that he was a representative for the  
3       association. So I asked him -- he said he had a  
4       lot of people who had issues with the  
5       establishment. He can provide that for me.

6               And I specifically said, Please. Any  
7       statement, anything that you can send to me, I  
8       will add it to the report to properly document  
9       it.

10              MR. STOECKLEIN: And, Ms. Glasgow, for  
11       what it's worth, I appreciate that. And I'm --  
12       this is not intended to be directed at your  
13       credibility or anything like that.

14              I'm just trying to establish that  
15       everything that was -- that we've all looked at  
16       now is accurate and a verbatim reflection of the  
17       statements that I have in my possession.

18              And if there was some way for me to  
19       demonstrate that to the Board so that we can move  
20       on, I would be thrilled --

21              CHAIRPERSON ANDERSON: Let me remind  
22       him something, Mr. Mr. Stoecklein. Okay. I need  
23       to remind you that this is the appropriateness of  
24       the request of the substantial change, okay?

25              I don't -- it's not helpful for the

1 Board that we're spending a significant amount of  
2 time on hearsay in the sense that -- this is  
3 hearsay regarding these e-mails.

4 I mean, this is tangential to the  
5 issue that is at hand. Let's spend our time on  
6 whether or not it is -- whether or not the Board  
7 should or should deny the substantial change,  
8 okay?

9 You have established that there are  
10 other residents who are concerned about the  
11 operation of this business. Fine. I don't think  
12 -- I don't -- counsels not objecting to that. So  
13 that's fine.

14 You have stated that -- you have  
15 provided some e-mails. I think what you cannot  
16 get this witness to testify that -- who sent  
17 these e-mails because she does not know. So  
18 let's move on from there.

19 Let's focus this hearing on the  
20 appropriateness of whether or not the Board can  
21 grant the substantial change, okay?

22 MR. STOECKLEIN: Okay, Mr. Chair.

23 Ms. Glasgow, based on your  
24 investigation, report that you've created, how  
25 many documented violations of the settlement

1 agreement appear in your report?

2 INVESTIGATOR GLASGOW: How many -- I'm  
3 sorry?

4 MR. STOECKLEIN: How many documented  
5 violations of the settlement agreement did you  
6 identify in your report? And if you need a  
7 minute to look at the synopsis, that's fine.

8 INVESTIGATOR GLASGOW: I can't say  
9 specifically because -- as what I can see so far  
10 on their investigative history, they have  
11 violated their settlement agreement on two  
12 occasions, 29 -- March, 2019 and April, 2019.

13 MR. STOECKLEIN: And if you proceed to  
14 the next page, Ms. Glasgow, on page 12 of your  
15 report. Are Items 19 and 20 reflective of the  
16 same violations, or -- actually 18, 19, and 20.

17 Is that all related to the same two  
18 violations, or are those in fact separate  
19 violations? Because I count four, I'm just --  
20 I'm not sure.

21 INVESTIGATOR GLASGOW: Yes, you're  
22 right. It is four. I did not have this page in  
23 front of me, so there is four.

24 MR. STOECKLEIN: No problem.

25 MR. BIANCO: Mr. Chair, I -- again,



1 for the record, I just note that any alleged  
2 violations that resulted in either the OAG  
3 declining to prosecute or that are unadjudicated  
4 or did not result in a violation, should be not  
5 considered by the Board.

6 CHAIRPERSON ANDERSON: I guess what  
7 I'm saying, are -- so are we going through the  
8 investigative history? Is that where -- that's  
9 where we are?

10 MR. STOECKLEIN: That's not where  
11 we're going.

12 CHAIRPERSON ANDERSON: All right. If  
13 we're -- unless they're -- unless the matters are  
14 adjudicated on the investigative history, then we  
15 can -- we cannot talk about violations.

16 So I -- Ms. Glasgow, in your -- within  
17 our reports, and I briefly mentioned that there's  
18 an investigative history that ran from, I think,  
19 January 20, 2019 to June 7, 2022.

20 So if they're adjudicated in fractions  
21 there, we can talk about that. But if it's not  
22 listed there, then it's not really relevant  
23 because they have not been adjudicated to say  
24 that, I mean, any infraction occurred.

25 MR. STOECKLEIN: Sir, I'm just reading

1 from what is listed, Mr. Chair. So I -- the --  
2 you know, the neighborhood is only able to speak  
3 to what's been made available.

4 And so I'm just speaking to the  
5 investigative history to try to establish the  
6 frequency with which this establishment readily  
7 violates the -- freely violates the settlement  
8 agreement. But we can move on.

9 Ms. Glasgow, you mentioned that the  
10 overcrowding -- that the crowding of the bar -- I  
11 believe you mentioned that the crowding situation  
12 at Empire was being covered by another inspector;  
13 is that accurate?

14 INVESTIGATOR GLASGOW: At the time,  
15 yes, that is what I was told that the incident  
16 was -- did happen prior and an investigative  
17 report is being drafted as -- at that moment.

18 MR. STOECKLEIN: And do you know the  
19 status of that report and/or can you provide an  
20 indication of why that's not included because I  
21 don't see it anywhere. But --

22 INVESTIGATOR GLASGOW: According to  
23 the investigative report, December 16, 2021 was  
24 the first incident of the expanded space. And  
25 the Board requested a warning for that first

1 violation.

2 MR. STOECKLEIN: Sorry -- right. No,  
3 I was speaking to the fact that the -- just to  
4 the crowding issue. I'm about to jump to where  
5 you just went, but I just want to understand if  
6 another inspector was covering the crowding  
7 issue.

8 Do you know anything about the status  
9 report because I don't see it included in your  
10 investigative document?

11 INVESTIGATOR GLASGOW: So I said that,  
12 I -- when I went in there, the area was crowded  
13 and also I referenced that Sound Bar, at that  
14 time when I visited that area, it was new to me.

15 So when I contacted my supervisor that  
16 I believe Sound Bar is not a licensed  
17 establishment, he said -- he stated that another  
18 investigator came across the -- there -- the  
19 space that is being used and realized that it is  
20 not an approved area to be used and a report is  
21 being written. So --

22 MR. STOECKLEIN: Okay.

23 INVESTIGATOR GLASGOW: -- it covers --

24 MR. STOECKLEIN: I see. I understand.  
25 Okay. Okay. Thank you. So then moving on to

1        what you were just describing. So related to the  
2        unlawful operation of Sound Bar, the operation of  
3        Sound Bar without a license, what is the date  
4        upon which ABRA first identified that operation  
5        was occurring without a license?

6                    INVESTIGATOR GLASGOW: I'm sorry,  
7        December 16, 2021.

8                    MR. STOECKLEIN: Okay. And when was  
9        the warning actually issued? When would the  
10       recipient have received -- when would the  
11       establishment have received the warning that  
12       seems to have been issued?

13                   INVESTIGATOR GLASGOW: According to  
14       the investigative history, January 26, 2022.

15                   MR. STOECKLEIN: Okay. And then am I  
16       stating correctly that there was -- that the  
17       establishment continued to operate for some  
18       period of time --

19                   MR. BIANCO: I'm going to object as  
20       he's referencing an unadjudicated violation.  
21       Most of this are -- that we're dealing with  
22       unadjudicated violations or otherwise dismissed.  
23       But I'm trying to give some latitude to get  
24       through it. But at this point, I have to object.

25                   CHAIRPERSON ANDERSON: I'm going to

1       overrule the objection in that sense that I -- we  
2       can look at the -- we can we can look at the  
3       investigative history and would state what it is.  
4       It has not been adjudicated, so we can state what  
5       the investigator history is and one can state  
6       that it's not adjudicated.

7               So therefore, whether or not it's  
8       factual or not, we don't know because the Board  
9       hasn't addressed it. It states that there was a  
10      violation. It states -- on the investigative  
11      history, it states that there was another  
12      violation on February 19, 2022.

13             And I -- it has said that a show cause  
14      hearing was scheduled for July 13, 2022, which  
15      was supposed to have been last week. I don't  
16      recall whether or not this -- we had a hearing  
17      last week, so I don't know. Okay. But let's  
18      move on from there.

19             MR. STOECKLEIN: Okay.

20             CHAIRPERSON ANDERSON: So that's what  
21      the history states.

22             MR. STOECKLEIN: Ms. Glasgow, did you  
23      -- in speaking with Mr. Nigussie, did you inquire  
24      as to whether he was aware of Sound Bar, which is  
25      the first floor that we're discussing here.

1                   Was -- he was aware that Sound Bar was  
2                   being was in operation without a license?

3                   INVESTIGATOR GLASGOW:   The  
4                   conversation Mr. Nigussie and I -- he explained  
5                   that it is not a separate establishment. It is a  
6                   -- basically an expanded space to -- of Empire  
7                   Lounge.

8                   He addressed that he is not seeking an  
9                   additional occupancy or a expansion of the  
10                  occupancy.

11                  He explained that patrons can move  
12                  around from the first floor -- from the second  
13                  floor, the third floor, down to the new expanded  
14                  space that he has there, Sound Bar, so it's --

15                  I can't say how he was thinking, what  
16                  he -- what his line of thinking was regarding  
17                  Sound Bar, but his explanation is that it's just  
18                  an additional space that is --

19                  MR. STOECKLEIN:   Sure. Yes, but  
20                  nonetheless, I'm just asking about whether he was  
21                  aware that there were people, patrons, on the  
22                  first floor drinking and doing whatever the  
23                  patrons do there, whether he was aware of that  
24                  occurring on the first floor?

25                  MR. BIANCO:   I'm going to object as to

1 speculation. The original question is about  
2 their conversation, which I suppose is arguably  
3 an admission, but her speculating as to what he  
4 knew or didn't know and when is not appropriate  
5 testimony.

6 CHAIRPERSON ANDERSON: I'm going to  
7 end on this, okay? I'm going by the  
8 investigative history and so we can move on from  
9 there. In reviewed on -- in review of the  
10 investigative history, there was, as of January  
11 26, 2022, as per the investigative history, Mr.  
12 Nigussie was issued a warning regarding the use  
13 of the first floor area.

14 A warning was issued January 26, 2022.  
15 Outside of that, if you want to ask -- if you  
16 want to ask questions of Ms. Glasgow or whether  
17 or not he was aware after January 26, 2022, fine.

18 But the investigative history states  
19 that on January 26, 2022, he was issued a warning  
20 about the use of the expanded space. So he was  
21 aware as of January 26, 2022. Let's move on.

22 MR. STOECKLEIN: Okay. So, Ms.  
23 Glasgow, based on your investigative history, is  
24 it fair to say that -- I'm approximating here  
25 doing the math -- but that from roughly mid-

1 December -- at least mid-December through-mid  
2 February, the first floor was being operated? So  
3 three months, at least?

4 INVESTIGATOR GLASGOW: According to  
5 the investigative history, the first time on  
6 document that we have, they were operating the  
7 establishment that we documented was December 16,  
8 2021.

9 MR. STOECKLEIN: Okay. And are you  
10 aware of whether the floor was being operated  
11 anytime before that?

12 INVESTIGATOR GLASGOW: No. I'm not  
13 aware.

14 MR. STOECKLEIN: Okay. In the course  
15 of your investigation, do you recall our  
16 discussion about the concentration of bars, in  
17 particular, tavern licenses, that occurs on the  
18 1900 block on 9th Street?

19 INVESTIGATOR GLASGOW: Yes, you stated  
20 that there were way too many taverns, or I should  
21 say, license establishment on 9th Street, that  
22 there should not be allowed to have another  
23 establishment on the street.

24 But you were, I -- you were referring  
25 to that as they were operating the establishment



1 as a separate entity from Empire Lounge and not  
2 just a additional space of Empire Lounge.

3 MR. STOECKLEIN: Right. I'm speaking  
4 to the question of whether you -- did you, per  
5 our conversation, investigate the specific number  
6 of tavern licenses held by establishments on the  
7 1900 block of 9th Street at this time?

8 INVESTIGATOR GLASGOW: There are 18  
9 establishment on 9th Street between T street and  
10 U Street.

11 MR. STOECKLEIN: And are you aware of  
12 any other part of the city that has a higher  
13 concentration of tavern license issued within  
14 sensibly a single block?

15 INVESTIGATOR GLASGOW: I can't put a  
16 number for any other populated area of the  
17 district. But 9th Street is very populated with  
18 bars. U Street is very -- has a lot of bars as  
19 well. But I can't actually put a number on what  
20 I have to, you know, reference in this protest  
21 hearing.

22 MR. STOECKLEIN: Fair enough. So to  
23 -- but to the best of your knowledge, is it --  
24 would it be accurate to say that this block  
25 represents one of the most highly concentrated

1       tavern license or ABRA -- concentration of ABRA  
2       licensed facilities in the district.

3               INVESTIGATOR GLASGOW: I can't --

4               MR. STOECKLEIN: To the best of your  
5       knowledge.

6               INVESTIGATOR GLASGOW: I guess, Golden  
7       Triangle. It's quite, populated with bars and  
8       restaurants. As I said, U Street is as well.

9               MR. STOECKLEIN: And are you aware of  
10      similar incidences of violence in either of the  
11      areas that you just referenced? Crime of any  
12      type, whether it's non-violent, violent, of just  
13      -- are you aware of?

14              INVESTIGATOR GLASGOW: I --

15              MR. BIANCO: I'm going to object on  
16      relevance, foundation, and scope. None of this  
17      has really anything to do with this base  
18      expansion.

19              We're talking now about violence in  
20      other neighborhoods and concentration in other  
21      neighborhoods. There's just no straight line  
22      here.

23              MR. STOECKLEIN: I'm simply trying to  
24      find out whether Ms. Glasgow, based on the  
25      research that she did, can tell us whether or not

1 this particular little block, in fact, has the  
2 highest number of tavern license holders in the  
3 entire District of Columbia. That's what I'd  
4 like to know. And I think that's highly  
5 relevant.

6 CHAIRPERSON ANDERSON: I'm going to --

7 MR. BIANCO: She talked --

8 CHAIRPERSON ANDERSON: I'm going to  
9 sustain the objection. She has answered the  
10 question. She has stated that she wasn't -- she  
11 couldn't state for sure. She gave example of U  
12 Street and she also gave example of Golden  
13 Triangle.

14 This is -- we're not -- we are -- this  
15 hearing is not about overconcentration. All this  
16 hearing is, is whether or not it's appropriate  
17 for the ABC Board to approve the utilization of  
18 the first floor to add this to this license.

19 The Board has not been -- the Board is  
20 not asked -- has not been requested to add  
21 another establishment on the street. Whether or  
22 not we add this second space or not, the first  
23 floor space, it will have -- at least on paper,  
24 it should not have any impact on what's going on  
25 on the overconcentration because the occupancy

1 will still remain 125 individuals for the Empire  
2 Lounge.

3 So we're not adding -- at least as far  
4 as I'm concerned today, this Board is not asking  
5 to increase the expansion. Whether or not the  
6 Board agrees to this expansion, it's not going to  
7 have any impact on the over concentration of  
8 establishments on 9th Street because this Empire  
9 Lounge currently has a license.

10 So it's whether or not we will allow  
11 them to utilize an additional space without  
12 expanding their occupancy. So having sustained  
13 conversation about overconcentration of license  
14 on U Street, that is not a relevant concern for  
15 this hearing.

16 If we're deciding to do a renewal  
17 hearing -- if this was a hearing on whether or  
18 not we should renew their license, well, then  
19 that's an appropriate issue. But this is not --  
20 it's not relevant right now for the purpose of  
21 this hearing. So it's not -- so let's move on  
22 from this, sir. And I think --

23 MR. STOECKLEIN: I have no further  
24 questions, Mr. Chair.

25 CHAIRPERSON ANDERSON: Thank you, sir.

1 Any other questions by any of the Board members?  
2 Any questions by -- any follow-up questions by  
3 any Board members?

4 Okay. All right. So the Board has  
5 presented its case. Now, where we are right now,  
6 we're now going to have the licensee ready.  
7 We're going to take a break, but I just need to  
8 get some clarification moving forward.

9 Mr. Bianco has already -- so we now  
10 need a licensee to put forward with -- to move  
11 forward with this case. Once the licensee has  
12 moved forward with his case and we have the court  
13 testing good to move forward. How many witnesses  
14 do you have, Mr. Bianco?

15 MR. BIANCO: So I have three, but  
16 during the break, I am going to speak with my  
17 client and see if we can cut through some of this  
18 and reduce it to two. And hopefully with my  
19 encouragement, we'll get there.

20 CHAIRPERSON ANDERSON: But you believe  
21 that you have two witnesses.

22 MR. BIANCO: At least two, maybe  
23 three, yes.

24 CHAIRPERSON ANDERSON: And, Mr.  
25 Stoecklein, how many additional? You have

1 already had two witnesses. How many additional  
2 witnesses do you have, sir?

3 MR. STOECKLEIN: Four.

4 CHAIRPERSON ANDERSON: Four additional  
5 witnesses, sir?

6 MR. STOECKLEIN: That's correct.

7 CHAIRPERSON ANDERSON: But during the  
8 protest hearing status, I informed all parties  
9 that they cannot have more than five witnesses.  
10 So you've had -- you've never -- you have not  
11 asked permission for six witnesses.

12 Well, how do we have six witnesses if  
13 it was now clearly told you that you can only  
14 have five witnesses? And neither party requested  
15 from the Board that they want to have more  
16 witnesses than five.

17 MR. STOECKLEIN: Mr. Chairman, both  
18 parties, on their PIF forms and pre-trial  
19 submissions, identified more than five witnesses.  
20 I was not aware of a procedural requirement that  
21 --

22 CHAIRPERSON ANDERSON: No, no, Mr. --

23 MR. STOECKLEIN: -- my ability to put  
24 on five witnesses and only five witnesses, but I  
25 --

1 CHAIRPERSON ANDERSON: Mr. Stoecklein,  
2 I'm sorry.

3 MR. STOECKLEIN: Yes?

4 CHAIRPERSON ANDERSON: Did you  
5 participate in the protest hearing status  
6 hearing? Yes, you did.

7 MR. STOECKLEIN: To be quite candid  
8 with you, I don't recall because there are three  
9 designated co-representatives for the Westminster  
10 Neighborhood Association.

11 And I'm not sure if I or another one  
12 of the representatives was on that status call.

13 CHAIRPERSON ANDERSON: We are now, in  
14 two years, off -- we start with COVID, since we  
15 have been doing virtual hearings. The  
16 instruction that were -- that's what has been  
17 given to all parties, is that you're limited to -  
18 - you only have one hour to move on with your  
19 case and you only have five witnesses.

20 That has been the established  
21 procedure for our protests here since we have  
22 been on -- we've virtual. Now, if I want to go  
23 by the clock, since you've had two witnesses, I  
24 could easily say to you that you have exceeded  
25 probably 30 to 40 minutes in the two witnesses

1 that you've had.

2 But I'm going to move forward to say  
3 that you have an hour to present your case, sir.  
4 You have had two witnesses. You can only call  
5 three more witnesses moving forward, sir. You  
6 have had two --

7 MR. STOECKLEIN: Okay. Mr. Chairman,  
8 then I'm prepared to do that and I'm also, just  
9 for a little bit of foreshadow, and I could share  
10 with you that three of the four that I had  
11 intended to put on are providing what I expect to  
12 be fairly limited, you know, testimony.

13 That will be similar, albeit, from  
14 their own perspectives, but -- so I think we can  
15 move through it quickly. The fourth, would only  
16 need to be offered as an impeachment witness, if  
17 it comes to that.

18 CHAIRPERSON ANDERSON: All right.  
19 Fine. So if it comes to that, three witnesses.  
20 You're going to have an hour and I'm going to  
21 time it moving forward. And I'm also informing  
22 parties, moving forward, the time that you spend  
23 on cross-examination can be used against you.

24 You have an hour to present your case,  
25 then we move forward. It is now 6:26 and I've



1       been taking an -- I've been taken a break every  
2       two hours to be mindful of everyone, the court  
3       reporter, the Board, the witnesses, the  
4       attorneys, myself, who have to be on camera the  
5       entire time.

6               So every two hours -- that's why I've  
7       been trying to take a break every two hours. So  
8       it's 6:26 We're going to be back -- we'll be back  
9       on the record at -- we're going to take 13  
10      minutes this time, at 6:40 -- at 6:00 -- at 6:40  
11      we'll be back in the record and Mr. Bianco will  
12      present his case. He has an hour to present his  
13      case.

14             Once Mr. Bianco is presenting his  
15      case, the protestant will have an hour to present  
16      their case. And I will allow the ANC -- they can  
17      do a closing.

18             All right. So 6:27. We're off the  
19      record until 6:40. All right. We're off the  
20      record until 6:40. Thank you.

21             All right. We're back on the record.  
22      You have a witness you wish to call, sir?

23             MR. BIANCO: Yes, Mr. Anderson. I'm  
24      going to call Dess Nigussie, the applicant/owner.

25             CHAIRPERSON ANDERSON: Mr. Nigussie,

1       where are you, sir?

2                   MR. BIANCO: He may not be elevated.

3       I don't see him in the panel.

4                   CHAIRPERSON ANDERSON: He shouldn't  
5       have left. He was on.

6                   Ms. Fashbaugh, have you -- do you see  
7       Mr. Nigussie? I don't know what would've  
8       happened to him.

9                   MR. BIANCO: He just texted me.

10                  CHAIRPERSON ANDERSON: Great. Thank  
11       you.

12                  MR. NIGUSSIE: I just got unmuted.

13                  CHAIRPERSON ANDERSON: Can you go back  
14       on cameras, sir?

15                  MR. NIGUSSIE: Yes.

16                  CHAIRPERSON ANDERSON: Pull your  
17       camera down a little bit further so we can see  
18       your face. Perfect.

19                  MR. NIGUSSIE: Okay.

20                  CHAIRPERSON ANDERSON: Can you raise  
21       your right hand, sir? Do you swear or affirm to  
22       tell the truth and nothing but the truth? Hello,  
23       sir?

24                  MR. NIGUSSIE: I didn't hear you, I'm  
25       sorry.

1 CHAIRPERSON ANDERSON: Do you swear or  
2 affirm to tell the truth and nothing but the  
3 truth?

4 MR. NIGUSSIE: I do.

5 CHAIRPERSON ANDERSON: Thank you.  
6 Your witness, sir.

7 MR. BIANCO: Thank you. Mr. Anderson.

8 Dess, I'm going to try and go through  
9 this early part quickly because it's late in the  
10 day and we've heard a lot of this already.  
11 You're the owner of Empire Lounge, correct?

12 MR. NIGUSSIE: That is correct.

13 MR. BIANCO: And it's been an  
14 operations in 2019, correct?

15 CHAIRPERSON ANDERSON: Hold on, hold  
16 on. Mr. Bianco, hold on one minute, please.

17 MR. BIANCO: Yes?

18 CHAIRPERSON ANDERSON: Mr. Nigussie,  
19 I need you to be -- I need you to be stationary.

20 MR. NIGUSSIE: Okay. That's what I'm  
21 trying to do.

22 CHAIRPERSON ANDERSON: All right. So  
23 hold on.

24 MR. NIGUSSIE: Okay.

25 CHAIRPERSON ANDERSON: Pull the camera

1 down so we can see a good -- your face.

2 MR. NIGUSSIE: There?

3 CHAIRPERSON ANDERSON: Perfect.

4 Please don't move.

5 MR. NIGUSSIE: Okay.

6 CHAIRPERSON ANDERSON: Okay. Thank  
7 you. Go ahead.

8 MR. BIANCO: Mr. Nigussie, do you have  
9 any co-owners, or is it just you?

10 MR. NIGUSSIE: It's just me.

11 MR. BIANCO: And we're here for a  
12 substantial change to your license, correct?

13 MR. NIGUSSIE: That is correct.

14 MR. BIANCO: And the change -- what's  
15 the change to your license? Please describe it.

16 MR. NIGUSSIE: Just to use the first  
17 floor of the building.

18 MR. BIANCO: Okay. And presently, you  
19 use the second and third floor, correct?

20 MR. NIGUSSIE: That is correct.

21 MR. BIANCO: And you're expanding to  
22 the first floor?

23 MR. NIGUSSIE: That is correct.

24 MR. BIANCO: Okay. But you're not  
25 adding any occupancy; is that correct?

1 MR. NIGUSSIE: That is correct.

2 MR. BIANCO: And your current  
3 occupancy is 125?

4 MR. NIGUSSIE: That is correct.

5 MR. BIANCO: Okay. Now, can you  
6 describe before the Board how the first floor is  
7 going to operate?

8 MR. NIGUSSIE: Basically, it's the  
9 same business. I want people to freely move  
10 within first floor, second floor, and third  
11 floor.

12 MR. BIANCO: Okay.

13 MR. NIGUSSIE: There's an inside door  
14 that goes from first floor to the second floor  
15 and third floor.

16 MR. BIANCO: Okay. Are you going to  
17 be using the trade name Sound Bar?

18 MR. NIGUSSIE: That is my intention,  
19 yes.

20 MR. BIANCO: Okay. And what portion  
21 of the premises will be called Sound Bar?

22 MR. NIGUSSIE: The first floor.

23 MR. BIANCO: Okay. And are the second  
24 and third floor are still going to be called  
25 Empire?

1 MR. NIGUSSIE: That is correct.

2 MR. BIANCO: And you're -- are you  
3 going to be able to get from the upper floors to  
4 the first floor from inside the establishment?

5 MR. NIGUSSIE: Yes.

6 MR. BIANCO: Okay. When you walk in  
7 the front door on the Empire side, can you  
8 describe how you would get to the Empire portion  
9 of the establishment.

10 MR. NIGUSSIE: As you open the door,  
11 you will see a stair. That leads up to second  
12 floor.

13 MR. BIANCO: Okay. And is that where  
14 Empire is?

15 MR. NIGUSSIE: That is correct.

16 MR. BIANCO: Okay. And from that  
17 door, are you also able to access Sound Bar?

18 MR. NIGUSSIE: That is correct. The  
19 door to the right is first floor, yes.

20 MR. BIANCO: Okay. And is there  
21 another -- does Sound Bar have another 9th Street  
22 entrance?

23 MR. NIGUSSIE: Yes.

24 MR. BIANCO: Okay. And where's that  
25 located?

1 MR. NIGUSSIE: That one located facing  
2 9th Street up front.

3 MR. BIANCO: Okay. So there will be  
4 two doors to enter the Empire Sound Bar  
5 establishment; is that true?

6 MR. NIGUSSIE: That is correct.

7 MR. BIANCO: Okay. And how many doors  
8 are there presently with just Empire?

9 MR. NIGUSSIE: Just one.

10 MR. BIANCO: Now, if I could ask, Mr.  
11 Chair, that I be given the ability to share my  
12 screen. There's some exhibits I'd like to go  
13 through.

14 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
15 can you please give Mr. Bianco the ability to  
16 share his screen, please.

17 MS. FASHBAUGH: This has been  
18 accomplished. Thank you.

19 CHAIRPERSON ANDERSON: Thank you.

20 MR. BIANCO: All right. Mr. Nigussie,  
21 are you able to see my screen?

22 MR. NIGUSSIE: Yes.

23 MR. BIANCO: Okay. Now, I'm also  
24 going to ask, are you able to see my pointer as  
25 well because I may point to some things.

1 MR. NIGUSSIE: Yes.

2 MR. BIANCO: Okay. So can you tell  
3 the Board, please, what that photograph shows?

4 MR. NIGUSSIE: That is the back door  
5 from the first floor and the parking area for two  
6 cars.

7 MR. BIANCO: Okay. So directing your  
8 attention to the door behind this red car here in  
9 the lower part of the photo, where does that door  
10 lead?

11 MR. NIGUSSIE: That door leads to the  
12 first floor.

13 MR. BIANCO: Okay. And then I see on  
14 the upper right-hand side of this photograph, a  
15 set of stairs and a door next to some trash cans.  
16 Do you see that as well?

17 MR. NIGUSSIE: Yes, I can.

18 MR. BIANCO: And where does that go?

19 MR. NIGUSSIE: That goes to second  
20 floor.

21 MR. BIANCO: Okay. And is this how  
22 the rear of the building looks today?

23 MR. NIGUSSIE: That is correct.

24 MR. BIANCO: Okay. Mr. Chair, I would  
25 move admission of Applicant number 1.



1 CHAIRPERSON ANDERSON: Mr. Stoecklein?  
2 Mr. Stoecklein?

3 MR. STOECKLEIN: No objections.

4 CHAIRPERSON ANDERSON: I'll move  
5 exhibit -- so this is Exhibit 1?

6 (Whereupon, the above-referred to  
7 document was marked as Applicant Exhibit 1 for  
8 identification.)

9 MR. BIANCO: Exhibit 1, correct.  
10 Okay. Mr. Nigussie, I'm now going to show you  
11 what we have marked as Applicant Exhibit number  
12 2. Do you see that?

13 (Whereupon, the above-referred to  
14 document was marked as Applicant Exhibit 2 for  
15 identification.)

16 MR. NIGUSSIE: Yes, I can see now.

17 MR. BIANCO: Okay. And could you  
18 describe what that is?

19 MR. NIGUSSIE: That is the first floor  
20 facing 9th Street. That's a picture taken --

21 MR. BIANCO: Okay.

22 MR. NIGUSSIE: -- to --

23 MR. BIANCO: So that was my next  
24 question. Where is this picture taken from?

25 MR. NIGUSSIE: Yes, from the back door

1 to -- facing 9th Street.

2 MR. BIANCO: Okay. So these windows  
3 in the upper middle portion of the photograph,  
4 those are the windows out to 9th Street?

5 MR. NIGUSSIE: That is correct.

6 MR. BIANCO: Okay. And is there a  
7 dance floor on the first floor of the  
8 establishment?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: Okay. Is there going to  
11 be a dance floor on the first floor of the  
12 establishment?

13 MR. NIGUSSIE: No.

14 MR. BIANCO: Okay. Bear with me while  
15 I bring up the next item that I'd like to talk  
16 about. So in the investigative report, we're  
17 going to go to page 5. Okay.

18 And it says here on page 5, under,  
19 Nearby establishments, that there are 55 licensed  
20 ABC establishments within 1,200 feet, correct?

21 MR. NIGUSSIE: That is correct.

22 MR. BIANCO: Okay. And 37 of them  
23 have entertainment endorsements; is that correct?

24 MR. NIGUSSIE: That is correct.

25 MR. BIANCO: Okay. And we had some

1 testimony on this from the investigator, so I  
2 want to go through it very, very briefly. There  
3 are five within a few 100 feet of your  
4 establishment, correct?

5 MR. NIGUSSIE: That is correct also.

6 MR. BIANCO: Okay. I'm going to show  
7 you a document that we are going to mark as  
8 Exhibit number 3, which is a printout from the DC  
9 GIS system. And I'm going to zoom in on your  
10 building.

11 It is suddenly not cooperating with  
12 me. Okay. Okay. So I'm going to zoom in on  
13 your building there at 1909 9th Street. Do you  
14 see where I'm -- do you see where I'm looking?

15 MR. NIGUSSIE: Yes.

16 MR. BIANCO: Okay. And does that  
17 truly and accurately represent the number of ABC  
18 license establishments in proximity to yours?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: Okay. And at the back of  
21 your building -- I'm sorry. What is at the back  
22 of your building?

23 MR. NIGUSSIE: There is an alley and  
24 after that, there is the building.

25 MR. BIANCO: Okay. And does Mr.

1 Stoecklein live in that building?

2 MR. NIGUSSIE: I'm not sure.

3 MR. BIANCO: Okay. And do the other  
4 ABC establishments also back up to the alley, or  
5 do they lead somewhere else?

6 MR. NIGUSSIE: They do. All of them.

7 MR. BIANCO: Move admission of  
8 Applicant's Exhibit 3.

9 CHAIRPERSON ANDERSON: Mr. Stoecklein?

10 MR. STOECKLEIN: No objection.

11 CHAIRPERSON ANDERSON: So moved.

12 (Whereupon, the above-referred to  
13 document was marked as Applicant Exhibit 3 for  
14 identification.)

15 MR. BIANCO: So I'd like to move on to  
16 Applicant's Exhibit number 4.

17 (Whereupon, the above-referred to  
18 document was marked as Applicant Exhibit 4 for  
19 identification.)

20 MR. BIANCO: Do you -- this is a Board  
21 order in 20-PRO-2015. Do you recall having a  
22 protest over the renewal of your license?

23 MR. NIGUSSIE: Yes.

24 MR. BIANCO: Okay. And specifically  
25 what I want to look at in the Board's findings of

1 fact, conclusions of law and order is paragraph  
2 number 3 of the findings of fact, which states  
3 that there are 69 licensed establishments located  
4 within 1,200 feet of the proposed location. Do  
5 you see that?

6 MR. NIGUSSIE: Yes. Yes, right there.

7 MR. BIANCO: Okay. Do you know why  
8 there are now 14 fewer in the same area?

9 MR. NIGUSSIE: I imagine because of  
10 COVID and neighborhood complaining, they're out  
11 of business.

12 MR. BIANCO: Okay.

13 MR. NIGUSSIE: It's in grace of God we  
14 are still here.

15 MR. BIANCO: And in the investigative  
16 report, you heard Investigator Glasgow testify  
17 that your hours -- your approved hours are 10:00  
18 a.m. to 2:00 a.m. and 3:00 a.m. on the weekends;  
19 is that accurate?

20 MR. NIGUSSIE: That is accurate.

21 MR. BIANCO: Okay. Now, what hours do  
22 you actually operate?

23 MR. NIGUSSIE: We open every day at  
24 6:00 p.m..

25 MR. BIANCO: And when do you close?

1 MR. NIGUSSIE: And then we close at  
2 2:00 a.m. during the week, except Friday. We  
3 close at 3:00 am., Friday and Saturday. And  
4 Sunday, we close at 2:00 a.m. as well.

5 MR. BIANCO: Okay. So I -- you were  
6 here for Investigator Glasgow's testimony --  
7 excuse me -- about the calls to MPD for 1909 9th  
8 Street, correct?

9 MR. NIGUSSIE: That's correct.

10 MR. BIANCO: Okay. So I want to look  
11 at her Exhibit 24 to her report, but I've  
12 highlighted some specific entries, okay?  
13 Starting with the first page I filed, there are  
14 four that I want to look at. Are you open at  
15 12:27 p.m.?

16 MR. NIGUSSIE: I'm not.

17 MR. BIANCO: 1:30 --

18 MR. NIGUSSIE: No.

19 MR. BIANCO: -- a.m.? 10:45 a.m.?

20 MR. NIGUSSIE: No.

21 MR. BIANCO: 12:24 p.m.?

22 MR. NIGUSSIE: No. We don't open  
23 until 6:00 p.m. every day.

24 MR. BIANCO: Okay. On Thursday, are  
25 you open at 2:35 a.m.?

1 MR. NIGUSSIE: No, we not.

2 MR. BIANCO: Okay. Are you open at  
3 2:35 p.m.

4 MR. NIGUSSIE: No.

5 CHAIRPERSON ANDERSON: 11:48 a.m.?

6 MR. NIGUSSIE: No.

7 MR. BIANCO: Okay. And then I see  
8 11:25 a.m.?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: 3:30 a.m.?

11 MR. NIGUSSIE: No.

12 MR. BIANCO: 10:28 a.m.?

13 MR. NIGUSSIE: No.

14 MR. BIANCO: Okay. And then there I  
15 see three more entries on this page -- I'm sorry,  
16 two more entries on this page that are before  
17 6:00 p.m. and you're closed, correct?

18 MR. NIGUSSIE: That is correct.

19 MR. BIANCO: And then another one at  
20 3:44 a.m. and you're closed, correct?

21 MR. NIGUSSIE: That's correct.

22 MR. BIANCO: Okay. You were here for  
23 the testimony about some of the codes, under,  
24 Type, that very used in this report, correct?

25 MR. NIGUSSIE: That is correct.

1 MR. BIANCO: Okay. So there's one  
2 here that I am looking at that is highlighted on  
3 330 of 2019 and the code used is mental. Do you  
4 know if that has anything to do with your  
5 operations?

6 MR. NIGUSSIE: No.

7 MR. BIANCO: Okay. And then there are  
8 some highlighted items labeled, Miscellaneous.  
9 Do you have any idea what those are indicating?

10 MR. NIGUSSIE: It could be anything.  
11 I'm not sure.

12 MR. BIANCO: Okay. And at the bottom  
13 of the first page, there is an entry for a DUI.  
14 Do you see that?

15 MR. NIGUSSIE: Yes.

16 MR. BIANCO: Okay. Do you have any  
17 information that that is in any way related to  
18 your establishment?

19 MR. NIGUSSIE: No.

20 MR. BIANCO: Moving on from there.  
21 Now, Mr. Nigussie, one of the concerns that the  
22 neighbors have raised in their protest is  
23 disturbance of the peace, order, and quiet.

24 Have you done anything to address --  
25 I'm sorry, strike that. Have you done anything



1 to evaluate the noise emanating from the  
2 establishment?

3 MR. NIGUSSIE: Yes. We have  
4 rearranged the location of the speaker and  
5 basically, we sealed every suspected way of  
6 emitting voice -- noise from our -- from the  
7 establishment.

8 MR. BIANCO: Okay. And how did you  
9 seal it?

10 MR. NIGUSSIE: Well, the technicians  
11 did it with the foreman.

12 MR. BIANCO: Okay. And did you do  
13 anything to verify or test the effectiveness of  
14 the measures that were taken?

15 MR. NIGUSSIE: Yes, we did.

16 MR. BIANCO: Okay. So if you'll bear  
17 with me for just a moment, I am now going to  
18 bring up a video. Okay. Are you able to see  
19 that, Mr. Nigussie?

20 MR. NIGUSSIE: Yes.

21 MR. BIANCO: Okay. So I'm going to  
22 press play and then I may stop the 1-minute-and-  
23 22-second video as it runs to ask you questions.  
24 Is that all right?

25 MR. NIGUSSIE: That's okay.

1 MR. BIANCO: Okay. So -- okay. So  
2 what portion of the premises is that?

3 MR. NIGUSSIE: That is the first  
4 floor.

5 MR. BIANCO: Okay. And were you  
6 personally present while this was going on?

7 MR. NIGUSSIE: Yes.

8 MR. BIANCO: Okay. And can you tell  
9 me what volume the music is set at in this video?

10 MR. NIGUSSIE: That we set it up to  
11 the maximum volume possible.

12 MR. BIANCO: Okay. So I just want to  
13 make sure I understand. Is that the maximum  
14 volume that the sound system will play, or the  
15 maximum volume that you intend to use?

16 MR. NIGUSSIE: The maximum volume the  
17 sound system can play.

18 MR. BIANCO: Okay. And who else was  
19 present on the first floor of the establishment  
20 at the time this video was made?

21 MR. NIGUSSIE: My contractor was there  
22 as well.

23 MR. BIANCO: Okay. And what is his  
24 name?

25 MR. NIGUSSIE: His name is John

1 Yohannes.

2 MR. BIANCO: Okay. So is Mr. Yohannes  
3 the one that is taking the video, or are you  
4 taking the video?

5 MR. NIGUSSIE: Mr. Yohannes is the one  
6 who's taking the video.

7 MR. BIANCO: Okay. So now I'm going  
8 to let it play. And is that you on the left-hand  
9 side of the video there?

10 MR. NIGUSSIE: Yes, that's me.

11 MR. BIANCO: And where are you going?

12 MR. NIGUSSIE: Opening the door to the  
13 alley.

14 MR. BIANCO: Okay.

15 MR. NIGUSSIE: The backdoor.

16 CHAIRPERSON ANDERSON: I just -- I got  
17 a question, Mr. Bianco. Is there supposed to be  
18 some volume to this? I'm not hearing anything.  
19 Am I missing something?

20 MR. BIANCO: There is volume. Yes,  
21 that's actually the entire point.

22 MR. STOECKLEIN: Yes, we can't -- I  
23 can't hear anything either.

24 CHAIRPERSON ANDERSON: There wasn't  
25 volume inside, so I'm just saying was your volume

1 configured, that's what I'm saying?

2 MR. BIANCO: Yes, I was definitely  
3 getting volume on my end and I had the --

4 CHAIRPERSON ANDERSON: You're the only  
5 one who's getting -- I didn't get any volume,  
6 sir, so I didn't hear anything --

7 MR. BIANCO: I certainly --

8 CHAIRPERSON ANDERSON: -- from the  
9 video.

10 MR. BIANCO: I certainly understand  
11 the confusion as it would be pretty pointless  
12 without the volume. Okay. So let me see on my  
13 end what I can do to address this.

14 MR. STOECKLEIN: Now, we can -- now  
15 you're able to hear it?

16 MR. BIANCO: Okay. Great. So  
17 hopefully you're still able to hear me as well.

18 CHAIRPERSON ANDERSON: But I would  
19 ask, Mr. Bianco, why don't you start the video  
20 back over? Because we heard no volume when you  
21 started. So why don't you start the video back  
22 over, please, sir?

23 MR. BIANCO: Absolutely. Glad to do  
24 that. Was just trying to save time. Here we go.

25 MR. STOECKLEIN: Mr. Chair, I'd like

1 to gently object because I take it that Mr.  
2 Bianco is trying to give us some indication of  
3 what the decibel level is.

4 But without any kind of quantitative  
5 measure here, it seems impossible to really  
6 appreciate what's being asserted here.

7 CHAIRPERSON ANDERSON: Mr. Stoecklein,  
8 that is -- you will have an opportunity on cross-  
9 examination to cross-examine the witness on what  
10 you're trying to prove. So I'm going to -- I'm  
11 overruling the objection.

12 You will have cross-examination to  
13 make that point, sir, if you need to make a  
14 point. So let's move on -- let's go on.

15 MR. BIANCO: Okay. No doubt as I'm  
16 going to stop the video there. At this point in  
17 the video, where are you?

18 MR. NIGUSSIE: I'm inside, but from --  
19 I don't know if it was just my phone or everybody  
20 heard it like that, but the volume of the sound  
21 is way louder than what I heard on the video,  
22 when you going to get it from inside. But  
23 there's just no loud when -- from what you are  
24 showing me right now, It was way louder.

25 MR. BIANCO: Okay. Dess, I'm just

1 going to need you to answer the questions that I  
2 ask, okay?

3 MR. NIGUSSIE: All right.

4 MR. BIANCO: So at this point in the  
5 video, where are you standing?

6 MR. NIGUSSIE: I'm inside.

7 MR. BIANCO: Okay. And are you --  
8 where are you in relation to the backdoor?

9 MR. NIGUSSIE: Right next to the  
10 backdoor.

11 MR. BIANCO: Okay. And as Mr.  
12 Yohannes's went outside, did you adjust the  
13 volume in any way?

14 MR. NIGUSSIE: I did not.

15 MR. BIANCO: Okay. And where -- if  
16 someone were to adjust the volume, where is the  
17 sound system located?

18 MR. NIGUSSIE: The sound system is  
19 further to -- well, right -- it's in front of the  
20 other side of the wall.

21 MR. BIANCO: Okay. So is it on --  
22 near the 9th Street windows, the middle of the  
23 establishment, or the rear of the establishment?

24 MR. NIGUSSIE: I would say toward the  
25 middle.

1 MR. BIANCO: The middle. Okay. Now,  
2 I'm going to play the video for a few more  
3 seconds here and then I'll ask you another  
4 question.

5 MR. NIGUSSIE: It's 10 feet.

6 MR. BIANCO: Okay. Now, at this point  
7 in the video, are you able to hear any music  
8 emanating from the establishment?

9 MR. NIGUSSIE: No.

10 MR. BIANCO: Okay. And I hear a white  
11 noise in the background. Do you know what's  
12 making that noise?

13 MR. NIGUSSIE: That is the noise that  
14 comes out of the AC unit. You would see it on  
15 the left side.

16 MR. BIANCO: Okay.

17 MR. NIGUSSIE: You can see it.

18 MR. BIANCO: Okay. Mr. Nigussie, does  
19 that truly and accurately depict the video that  
20 was taken on the day of the sound test?

21 MR. NIGUSSIE: No, that is correct.

22 MR. BIANCO: Okay. And move admission  
23 of Applicant's Exhibit number 5?

24 CHAIRPERSON ANDERSON: Mr. Stoecklein?

25 MR. STOECKLEIN: No objection.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-referred to  
3 document was marked as Applicant Exhibit 5 for  
4 identification.)

5 MR. BIANCO: Okay. And, Mr. Nigussie,  
6 did you -- in addition to this video, did you do  
7 any other sound testing?

8 MR. NIGUSSIE: We tested the volume  
9 from the -- behind the alley, but we didn't hear  
10 anything. And this a formal video we did.

11 MR. BIANCO: Okay. So I'm sorry. I  
12 heard was having trouble hearing you there. What  
13 other sound tests did you do?

14 MR. NIGUSSIE: Basically, we tested  
15 just like this for behind the building, if there  
16 is a noise that comes out of the building. But  
17 we approved that. There's no music sound you can  
18 hear right standing where the car is parked. It  
19 actually not even going any farther from the back  
20 of the building.

21 MR. BIANCO: Okay. And how did you  
22 test that?

23 MR. NIGUSSIE: Basically, we turn the  
24 volume up to the level you could call it, like,  
25 really loud inside and we shut down the door and



1 make sure that door is closed and, basically, we  
2 measure with decimeter. What is it called? The  
3 noise measurement.

4 MR. BIANCO: And what --

5 MR. NIGUSSIE: And --

6 MR. BIANCO: Go ahead.

7 MR. NIGUSSIE: And it shows it's  
8 really -- well, it would say, like, quiet, very  
9 quiet, office loud. So what we find out from the  
10 major month was, like, really quiet of his quiet  
11 -- it says, Office quiet, actually.

12 MR. BIANCO: Okay. So what did you  
13 use to measure that level?

14 MR. NIGUSSIE: That's a noise  
15 measuring app we have on iPhone app.

16 MR. BIANCO: Okay. So you have an  
17 iPhone noise measuring app? Is that what your  
18 testimony is?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: Okay. I'm going to show  
21 you what we've marked as Applicant Exhibit number  
22 6. Can you describe for me what that is?

23 MR. NIGUSSIE: That is the --  
24 basically that's a noise measuring app standing  
25 outside the building. Not inside, but outside.

1 MR. BIANCO: Outside of the building.  
2 And outside in the front or the rear?

3 MR. NIGUSSIE: At the rear.

4 MR. BIANCO: Okay. And does that  
5 truly and accurately depict what your phone app  
6 showed on the day that you did that test?

7 MR. NIGUSSIE: That is correct.

8 MR. BIANCO: Okay. Move admission of  
9 Applicant's number 6.

10 CHAIRPERSON ANDERSON: Mr. Stoecklein?

11 MR. STOECKLEIN: I would object. We  
12 -- there's no way of determining whether this  
13 image is actually a screenshot of Mr. Nigussie's  
14 phone, that it reflects what he says that it  
15 reflects, whether it, in fact, is tied to any  
16 measurement taken in reality anywhere near his  
17 property, et cetera.

18 CHAIRPERSON ANDERSON: And you are  
19 submitting this exhibit for what purpose, Mr.  
20 Bianco?

21 MR. BIANCO: The purpose is to show  
22 the results of the test that Mr. Nigussie  
23 performed. His testimony is that this was taken  
24 from a phone app to support the evidence and the  
25 objections that are being made go to weight and

1 not admissibility.

2 If the Board decides in its judgment  
3 that a phone app decibel measurement is not great  
4 evidence, well, then that's the decision the  
5 Board gets to make. But his testimony supports  
6 that, for whatever it's worth, this is the  
7 measurement taken.

8 CHAIRPERSON ANDERSON: I mean, I would  
9 admit it for what's worth. Mr. Stoecklein, you  
10 have the ability to cross-examine him on this --  
11 on the weight that the Board -- what weight, if  
12 any, the Board would give this docket -- this --  
13 whatever this is.

14 But so -- but I'll admit it, but  
15 you'll have an opportunity to cross-examine him  
16 on this document and the Board will -- based on  
17 that information, will give it whatever weight,  
18 if any. So this is Exhibit 6.

19 (Whereupon, the above-referred to  
20 document was marked as Applicant Exhibit 6 for  
21 identification.)

22 MR. BIANCO: That's number 6, correct.

23 Okay. Mr. Nigussie, now, in the  
24 course of this substantial change application,  
25 did you have any communications with Mr.

1 Stoecklein?

2 MR. NIGUSSIE: Yes.

3 MR. BIANCO: Okay. And can you  
4 describe the communications that you had with him  
5 in connection with this substantial change  
6 application?

7 MR. NIGUSSIE: So when we start this  
8 process for substantial change of, there was the  
9 -- it was the Neighborhood Association. First of  
10 all, they didn't give us any platform when they  
11 decided to protest.

12 They didn't offer me, basically, a  
13 platform to hear what I had to say. Literally,  
14 they voted to protest and they didn't hear what I  
15 had to say. They didn't give me any platform  
16 when the application was protested.

17 After that, I've tried to work out a  
18 resolution through the representative, Mr.  
19 Stoecklein, but the responsible guy has denied I  
20 had pending negotiation with the business.

21 MR. BIANCO: Okay.

22 MR. NIGUSSIE: Then after that, a few  
23 months down the road, on 5/21/22, Mr. Stoecklein  
24 himself showed up to our business around, I would  
25 say, 12:00 midnight.

1 I actually I was happy to see him  
2 because he was ready for -- to come to an  
3 agreement, but instead I was met by a trade that  
4 I've never encountered before.

5 MR. BIANCO: Okay. And can you  
6 describe the specific facts and circumstances  
7 surrounding that interaction on 5/21?

8 MR. NIGUSSIE: Yes. Basically Mr.  
9 Stoecklein came in. He ordered a drink at the  
10 bar and the bartender helped him out. And she  
11 gave him a receipt for him to sign. And he wrote  
12 on the receipt to the bartender, saying that, If  
13 you don't get all your tips, call me. And there  
14 is a phone number for it.

15 MR. BIANCO: Okay. And how do you  
16 know that that was written on the receipt?

17 MR. NIGUSSIE: I have the receipt.

18 MR. BIANCO: Okay. And after this  
19 interaction with the bartender, what happened  
20 next?

21 MR. NIGUSSIE: I didn't realize --  
22 when he wrote this, I didn't make any sense of  
23 it. But after that, I realized he wanted to  
24 start, like, wage complaint by employees against  
25 me. That's what he was trying to do at that

1 point, I guess.

2 MR. BIANCO: Well, hang on, Mr.  
3 Nigussie. That's not what I'm asking. I'm  
4 asking, after he had the interaction with the  
5 bartender on 5/21, what happened next that night?

6 MR. NIGUSSIE: Okay. Then he tried to  
7 go to the third floor. There is security guard  
8 up to the stairs, going to the third floor, he  
9 was trying to bypass security floor and going to  
10 third floor. But the security guy stopped him  
11 and told him that the third floor is not open  
12 yet.

13 MR. BIANCO: Okay. And where were you  
14 at this time?

15 MR. NIGUSSIE: I was on third floor by  
16 myself.

17 MR. BIANCO: Okay. And after Mr.  
18 Stoecklein tried to get to the third floor and  
19 was stopped by security, what is the next thing  
20 that happened?

21 MR. NIGUSSIE: Then one of my security  
22 guys notified me that there is this white guy  
23 downstairs, he want to talk to you. That's when  
24 I came down the stairs and let him know that is  
25 too loud in inside of -- and invite him to go at

1 the back where it's quieter so that -- we hoping  
2 we can have a productive conversation.

3 MR. BIANCO: Okay. So when you got --  
4 which floor did you walk out on when you walked  
5 out of the establishment?

6 MR. NIGUSSIE: Second floor.

7 MR. BIANCO: Second floor. Okay. And  
8 when you got out of the second floor door, where  
9 did you go?

10 MR. NIGUSSIE: Out the back door of  
11 the second floor.

12 MR. BIANCO: Okay. And could you tell  
13 me what was discussed in that conversation?

14 MR. NIGUSSIE: Well, to start to the  
15 conversation, I tried to explain to him that -- I  
16 tried to work with the ANC on resolution and I  
17 told him basically my intentions to work with the  
18 Westminster Neighborhood Association as well.

19 After I said that, he was, like -- you  
20 can tell he's -- right off the bat, like he  
21 wasn't in conversation. He was like, Then what?  
22 I was like, What do you mean, then what? But at  
23 -- that's why you can see, like, he is angry. I  
24 don't know why he was angry to start the  
25 conversation.

1                   And he said, Do you know who I am? I  
2                   didn't say anything to that. And then he said,  
3                   I'm an FBI agent. I want you to be gone. Then  
4                   there's not going to be any negotiation here. I  
5                   said, Good for you, but that's not up to you to  
6                   decide.

7                   After that he -- I didn't know what to  
8                   say and then at this point he -- you can see the  
9                   anger and the confrontational face. You can  
10                  observe that. He was pointing fingers to my face  
11                  as he was speaking and then he goes off, How many  
12                  employees did you claim for SBA loan?

13                 MR. BIANCO: And what did --

14                 MR. NIGUSSIE: I said, That is none of  
15                 your concern, sir.

16                 MR. BIANCO: Then what happened?

17                 MR. NIGUSSIE: And then he keep on  
18                 saying, Do you know that guy across the street?  
19                 He has you, he said. And they said he always  
20                 invited me to his meetings, so why don't you  
21                 invite me too?

22                 And I realized I didn't know at that  
23                 point who he's talking about. I told him, I  
24                 don't have any personal meeting to invite you to.  
25                 And he say, The guy has second lounge. All I



1 told him, I don't know the guy. And at this  
2 point in time -- really afraid at this point, so  
3 I ask him to leave.

4 MR. BIANCO: And did he?

5 MR. NIGUSSIE: He slowly, still  
6 talking, got down the stairs from second floor to  
7 the first floor. And I let him out through the  
8 back door of the fence.

9 MR. BIANCO: Okay. So I'm going to  
10 share video that does not have any volume to it.  
11 Can you describe what we are looking at here?

12 MR. NIGUSSIE: Yes. You can see the  
13 guy standing on the left side of -- it looks  
14 like, white shirt -- white short sleeved shirt,  
15 but actually, that's blue shirt.

16 MR. BIANCO: Okay.

17 MR. NIGUSSIE: And then the left  
18 camera that there is a white shirt, that was Mr.  
19 Stoecklein standing at the bar.

20 MR. BIANCO: So this is Mr. Stoecklein  
21 standing at the bar?

22 MR. NIGUSSIE: Right.

23 MR. BIANCO: And which bar is that  
24 within your establishment?

25 MR. NIGUSSIE: That is the second

1 floor bar.

2 MR. BIANCO: Okay. So I'm not going  
3 to play this video all the way through because  
4 it's 2 minutes and 48 seconds. But I am going to  
5 stop and ask you questions and go to different  
6 parts of the video. Is that okay?

7 MR. NIGUSSIE: That is okay.

8 MR. BIANCO: Okay. So do you know  
9 what's going on at that part of the video?

10 MR. NIGUSSIE: Yes. That is -- my  
11 bartender tried to help Mr. Stoecklein.

12 MR. BIANCO: Okay.

13 MR. STOECKLEIN: Objection.  
14 Relevance. I don't know what this has -- I mean,  
15 what, if anything, this has to do with whether or  
16 not the -- Empire should be allowed to expand to  
17 the first floor.

18 CHAIRPERSON ANDERSON: So I don't know  
19 why -- I don't -- I really don't know why we're  
20 watching this video. So I think that we had some  
21 conversation regarding your interaction with him  
22 in this particular day, so I'm not quite sure.

23 I think at this juncture, this is just  
24 Mr. -- the licensee testified that he had an  
25 interaction with you on this specific occasion

1 and I guess he's just showing the video to say,  
2 Here is the -- this is the video of interaction  
3 that we have. I don't know why it's being --

4 MR. STOECKLEIN: Mr. Nigussie is not  
5 present in this video. He can't speak to the  
6 nature of this interaction. He has no idea  
7 what's being said. There's no volume. I can  
8 stipulate to the fact that that is me on the  
9 video. I have good cause for being there, just  
10 like any other patron.

11 But that's not what's at issue here  
12 and that's not what we're talking about. So far,  
13 I've heard nothing that suggest any shred of  
14 relevance to the issue in question. I do look  
15 forward to getting to the bottom of this and  
16 discussing it at some point, but this is --

17 CHAIRPERSON ANDERSON: Why are we --  
18 all right. We had testimony about a video about  
19 -- Mr. Nigussie talk about he had a conversation.  
20 So you're showing us a video without any volume.  
21 Why are we watching this video?

22 MR. BIANCO: Sure. We were watching  
23 the video -- well, the -- first of all, the  
24 relevance of the video is because, 1, these  
25 representations have been testified to in a court

1 and in the investigative report. Mr. Nigussie  
2 testified to them. They bolster his testimony.

3 Number 3, it goes to witness bias,  
4 witness credibility, the underlying modus  
5 operandi of this particular protest, and that it  
6 is something other than the purpose for which it  
7 is purported.

8 And this particular video that doesn't  
9 show the conversation does show Mr. Stoecklein  
10 writing on this receipt in the manner that Mr.  
11 Nigussie testified to in an effort to harm his  
12 business in some way other than through this  
13 protest process.

14 CHAIRPERSON ANDERSON: Mr. -- but, Mr.  
15 Bianco -- all right.

16 MR. STOECKLEIN: It doesn't show that.

17 CHAIRPERSON ANDERSON: Mr. Stoecklein,  
18 can you give me -- can you give me an  
19 opportunity, sir, please?

20 MR. STOECKLEIN: Of course. I  
21 apologize, Mr. Chair.

22 CHAIRPERSON ANDERSON: You've showing  
23 us the video. Your -- the applicant testified.

24 MR. BIANCO: Correct.

25 CHAIRPERSON ANDERSON: You're showing

1 a video to say that Mr. Stoecklein -- and I don't  
2 believe that Mr. Stoecklein is going to deny that  
3 he was in the establishment.

4 Now, are you going to show us -- I  
5 don't know what it is that he wrote on the  
6 receipt. Are you going to -- are you showing us  
7 the receipt that basically -- so we can read the  
8 receipt to see what's written on it?

9 MR. BIANCO: Possibly. I am going to  
10 ask Mr. Stoecklein what was written on the  
11 receipt. And if Mr. Stoecklein either doesn't  
12 recall or denies writing that on the receipt that  
13 we will show the receipt for impeachment  
14 purposes.

15 CHAIRPERSON ANDERSON: But I don't  
16 think he's denying that. I mean, I think the  
17 bottom line, we don't know why he wrote that. I  
18 mean, I guess the bottom line is that I don't see  
19 why we're seeing -- we have the testimony.

20 Okay. There's a video to say that he  
21 was in establishment, but I don't see why we need  
22 to look at this video.

23 MR. BIANCO: Okay. Well, I mean, if  
24 Mr. Stoecklein is willing to stipulate that he  
25 wrote on the receipt, Are you not getting your

1 tips? Call me, then I'm fine with that. We  
2 don't need to look at the video any further.

3 CHAIRPERSON ANDERSON: No. But what  
4 I'm trying to say, Mr. -- what I'm saying, Mr.  
5 Bianco, does this video clearly show what your --  
6 does this video clearly shows the receipt and  
7 that he wrote this -- what you're saying on the  
8 receipt?

9 MR. BIANCO: No, it only shows him  
10 writing on the receipt.

11 CHAIRPERSON ANDERSON: Okay. Then I  
12 don't need to see this video. I mean, I think  
13 that -- I mean, if -- because -- unless you're  
14 going to show me a close up of the receipt in the  
15 video to say this is what he wrote and the video  
16 is going to document it -- I still don't  
17 understand why that's even relevant.

18 I mean, yes, you have the video has  
19 established that on the day in question that Mr.  
20 Stoecklein was -- okay. He was there. Your  
21 client testified that he was there and the nature  
22 of his conversation.

23 And so therefore, let's move on from  
24 there. So we don't need to -- we don't need this  
25 video unless Mr. Stoecklein was going to state

1       that he has never been to the establishment, and  
2       he --- and this never occurred, at least the  
3       conversation never occurred. That has been  
4       testified to.

5               MR. BIANCO: Okay. Yes, I'm fine with  
6       that. We can just move on from there. Thank you  
7       very much, Mr. Chair. I appreciate that.

8               CHAIRPERSON ANDERSON: Thank you.

9               MR. STOECKLEIN: So, Chair, is -- I --  
10      is the objection sustained or overruled, Mr.  
11      Chair? I'm not sure because --

12              CHAIRPERSON ANDERSON: We're not  
13      watching the video, sir. You're objecting to the  
14      showing of the video. I mean -- so we're not  
15      going to watch the video, but the video  
16      established that you were in the establishment.

17              I assume this is -- that was the  
18      purpose of it. He stated that you're in the  
19      establishment. You had an interaction with --

20              MR. STOECKLEIN: That's right. I'm  
21      certainly willing to stipulate to that. But  
22      beyond that, I -- again, I renew my objection on  
23      relevance. I would ask for certain -- from --  
24      some discretion from the Court because this is a  
25      pretty unusual attempt to actually discredit the

1 credibility of opposing counsel, which I find  
2 pretty exceptional --

3 CHAIRPERSON ANDERSON: Mr. Stoecklein  
4 --

5 MR. STOECKLEIN: -- so --

6 CHAIRPERSON ANDERSON: -- the witness  
7 testified. We have direct testimony. The  
8 witness testified about, you were there, what you  
9 said, what you did, you can cross-examine him on  
10 that. And the video has established that you  
11 were there.

12 MR. STOECKLEIN: Yes. I just don't  
13 understand how any of this is relevant. Mr.  
14 Chair, you've pointed out on multiple occasions  
15 over the course of this many-hour proceeding that  
16 we're here to focus on the very narrow question  
17 of whether there's an adverse impact on the  
18 community if the first floor is allowed to go  
19 into operation or to continue to be operated, as  
20 Mr. Nigussie's been operating. So we're so far  
21 afield for -- from that right now.

22 MR. BIANCO: I completely agree that  
23 the proceeding Mr. -- that Mr. Stoecklein's put  
24 on is completely out of control, but here we are.  
25 And the other thing I would say is this testimony



1 is on the record and the exhibits withdrawn.

2 What are we arguing about?

3 CHAIRPERSON ANDERSON: And that's what  
4 I'm saying. If we are --

5 MR. STOECKLEIN: Well, that's great.  
6 I just was asking what the status exhibit was.  
7 That if I missed, Mr. Bianco indicated that he  
8 withdrawn exhibit, then I apologize because we  
9 could have dispensed with all this conversation.  
10 But I just was asking for clarification, so --

11 CHAIRPERSON ANDERSON: I don't have a  
12 problem with the video being shown, if -- because  
13 the video established that you, sir, you're in  
14 the establishment, as was testified by the  
15 witness, that you were there, you had an  
16 interaction with his -- with one of his servers.

17 MR. STOECKLEIN: But it doesn't  
18 support the truth of the facts being asserted,  
19 right?

20 CHAIRPERSON ANDERSON: I don't know.  
21 Sir, sir, sir, where we are, the witness  
22 testified and the witness showed a video to say  
23 you were there. Okay. And he gave his  
24 testimony. You will have an opportunity to  
25 cross-examine him about the truth of what his

1 testimony --

2 MR. STOECKLEIN: I understand, Chair.  
3 I'll just still --

4 CHAIRPERSON ANDERSON: Okay. Let's  
5 move on. We don't need to see any further off a  
6 video that have no -- that has -- now, if there  
7 was a video that recorded the conversation, then  
8 that's different. But here's a video that have  
9 no volume. All that is video establishes is that  
10 you were there.

11 MR. BIANCO: And I think we have a  
12 stipulation to that fact, so we don't need the  
13 video, correct?

14 CHAIRPERSON ANDERSON: Fine. So let's  
15 move on.

16 MR. BIANCO: Okay. Fine. Mr.  
17 Nigussie, do you have a security plan for your  
18 establishment?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: And I believe the  
21 security plan was attached to the investigative  
22 report, which I will pull up momentarily.

23 Okay. And this -- so I'm showing you  
24 what is attached to the investigative report as  
25 your security plan. Is this your current

1 security plan?

2 MR. NIGUSSIE: Yes, it is.

3 MR. BIANCO: And it's dated June 17,  
4 2022. Is that when this was approved?

5 MR. NIGUSSIE: That is about right,  
6 yes.

7 MR. BIANCO: Okay. And have you  
8 adopted a new security plan to include use of the  
9 first floor?

10 MR. NIGUSSIE: Yes.

11 MR. BIANCO: And does that security  
12 plan -- well, let me just ask you this: On the  
13 new first floor, if allowed, what is your plan  
14 with respect to cameras?

15 MR. NIGUSSIE: I'm sorry. I didn't --  
16 can you repeat the question?

17 MR. BIANCO: Sure. If you're allowed  
18 to operate on the first floor, do you have a plan  
19 with respect to cameras?

20 MR. NIGUSSIE: Yes. We have installed  
21 a separate camera just for first floor, front and  
22 the back of the building.

23 MR. BIANCO: Okay. And have you  
24 installed those cameras yet?

25 MR. NIGUSSIE: Yes.

1 MR. BIANCO: Okay. And as -- I'm  
2 going to show you a document that should be up on  
3 your screen right now that is marked as Applicant  
4 Exhibit number 9. Do you see that?

5 MR. NIGUSSIE: What am I looking at?

6 MR. BIANCO: This is Applicant Exhibit  
7 number 9. Do you see that?

8 MR. NIGUSSIE: Yes, yes, yes.

9 MR. BIANCO: Okay. And have you done  
10 a diagram for the first floor cameras as they  
11 have been installed?

12 MR. NIGUSSIE: Yes.

13 MR. BIANCO: And is that -- does that  
14 diagram appear anywhere in your security?

15 MR. NIGUSSIE: A camera diagram?

16 MR. BIANCO: Correct?

17 MR. NIGUSSIE: I don't see, no.

18 MR. BIANCO: I am scrolling down to  
19 what is marked as --

20 MR. NIGUSSIE: Exhibit B is -- yes.

21 MR. BIANCO: And what does that show?

22 MR. NIGUSSIE: That shows, basically,  
23 the front, the back, and the inside cameras. It  
24 shows that you have one camera at the back, two  
25 cameras up -- one, two, three, four, five, six,

1 six cameras inside, on the first floor. That's  
2 on the first floor.

3 MR. BIANCO: Okay. So this is all the  
4 first floor shown on this exhibit?

5 MR. NIGUSSIE: That is correct.

6 MR. BIANCO: Okay. And this diagram  
7 here that says, Exhibit A, what does that show?

8 MR. NIGUSSIE: That is the camera  
9 locations for second floor and third floor.

10 MR. BIANCO: Second floor and third  
11 floor. Okay. So, Mr. Nigussie, is this a true  
12 and accurate copy of your amended security plan?

13 MR. NIGUSSIE: That is correct.

14 MR. BIANCO: And with respect to entry  
15 procedures, how are you going to handle people  
16 entering the establishment once Sound Bar is  
17 allowed to operate?

18 MR. NIGUSSIE: Our plan is to have  
19 more security, obviously. And I hope it's more  
20 convenient and safe when we have two securities  
21 and the two doors versus one security gate.

22 MR. BIANCO: Okay. So are you going  
23 to have -- how are you going to have security  
24 stationed at each store?

25 MR. NIGUSSIE: There is going to be

1 security right in front of the Empire door and  
2 the first floor door as well.

3 MR. BIANCO: Okay. So what are those  
4 security guards going to do when patrons enter  
5 the property?

6 MR. NIGUSSIE: They properly ID them.  
7 Pat down, search them, and we have a wand as  
8 well, according the security plan. So pretty  
9 much they will make sure that everybody that  
10 comes through the door is properly ID'd and  
11 searched.

12 MR. BIANCO: And are those procedures  
13 laid out in your amended security plan?

14 MR. NIGUSSIE: Yes, it.

15 MR. BIANCO: And I would move  
16 admission of Applicant number 9, the amended  
17 security plan.

18 MR. STOECKLEIN: No objection.

19 CHAIRPERSON ANDERSON: So moved.

20 (Whereupon, the above-referred to  
21 document was marked as Applicant Exhibit 9 for  
22 identification.)

23 MR. BIANCO: So, Mr. Nigussie, you  
24 testified that -- about your interactions with  
25 the WNA. Did you make any efforts to work with

1 the ANC on this particular application?

2 MR. NIGUSSIE: Yes.

3 MR. BIANCO: What did you do?

4 MR. NIGUSSIE: We -- actually after we  
5 attended the meeting, I reached out to the ANC,  
6 e-mailed them actually, and try to work out a  
7 resolution. Further promised to give us a  
8 settlement agreement and --

9 MR. BIANCO: Now, Mr. Nigussie, let me  
10 stop you right there. I do not -- I am not  
11 asking you, and I don't want you to talk about,  
12 any specifics of any negotiations. I just want  
13 to get a sense of the communications between the  
14 parties, okay?

15 MR. NIGUSSIE: Okay.

16 MR. BIANCO: So after the meeting and  
17 after you reached out to them, what happened?

18 MR. NIGUSSIE: Pretty much no response  
19 for a long time.

20 MR. BIANCO: Okay. And were there  
21 ever any substantive discussions about  
22 settlement?

23 MR. NIGUSSIE: No.

24 MR. BIANCO: Were you willing to have  
25 those discussions?

1 MR. NIGUSSIE: Absolutely.

2 MR. BIANCO: I don't have anything  
3 further at this time, Mr. Anderson.

4 CHAIRPERSON ANDERSON: Thank you.

5 Mr. Stoecklein, do you have any  
6 questions?

7 MR. STOECKLEIN: Yes, Mr. Anderson.  
8 So -- I'm trying to get to where to start.

9 I believe that you indicated in your  
10 testimony that you, and please correct me if I'm  
11 not phrasing this exactly as you've stated it,  
12 that you were not given the opportunity to  
13 interact with the Westminster Neighborhood  
14 Association?

15 MR. NIGUSSIE: I did not say no  
16 opportunity. I said I didn't given a platform to  
17 present what I have to say.

18 MR. STOECKLEIN: So is it your  
19 testimony that you were not given notice of the  
20 WNA meeting at which the protest was discussed?

21 MR. NIGUSSIE: They did. That's not  
22 what I said. I was invited to the video  
23 conference. But you remember when you guys  
24 voted? The procedure is supposed to have -- to  
25 hear what the owner have to say.



1 MR. STOECKLEIN: Mr. Nigussie, I just  
2 -- I asked you a yes or no question. So I would  
3 appreciate if you could just stick to the yes or  
4 no answer. So is it your testimony that you were  
5 not given notice of the WNA meeting at which the  
6 protest was discussed?

7 MR. NIGUSSIE: I did not say that. I  
8 did not say that.

9 MR. STOECKLEIN: Okay. So you were  
10 given notice; is that correct?

11 MR. NIGUSSIE: That's correct.

12 MR. STOECKLEIN: Okay. And you did  
13 participate in that call; did you not?

14 MR. NIGUSSIE: I did.

15 MR. STOECKLEIN: Okay. Thank you.  
16 You indicated that the -- can you tell us -- and  
17 it's clear that you've done construction with  
18 Sound Bar. It was -- we saw extensive video that  
19 -- did the construction include the installation  
20 of additional speakers?

21 MR. NIGUSSIE: Everything, yes.

22 MR. STOECKLEIN: Okay. And how many  
23 additional speakers?

24 MR. NIGUSSIE: On the first floor, I  
25 believe, but I could be wrong, three.

1 MR. STOECKLEIN: Three speakers. You  
2 only have three speakers on the first floor?

3 MR. NIGUSSIE: That's correct.

4 MR. STOECKLEIN: Okay. Mr. Nigussie,  
5 do you have a DJ booth on the first floor or any  
6 other kind of sound equipment?

7 MR. NIGUSSIE: Yes.

8 MR. STOECKLEIN: Okay. With respect  
9 to the speakers that you indicated you installed,  
10 do you have any idea what their maximum sound  
11 levels are on -- specifically in terms of  
12 decibels or wattage? Do you get any -- can you  
13 provide us with any specifics about their maximum  
14 possible output?

15 MR. NIGUSSIE: I can't say.

16 MR. STOECKLEIN: Okay. So you have no  
17 idea how loud they can actually get from a  
18 decibel and a wattage standpoint; is that  
19 accurate?

20 MR. NIGUSSIE: The volume is set --  
21 basically, the speakers are set --

22 MR. STOECKLEIN: Mr. Nigussie, I'm  
23 asking whether you know, based on a quantitative  
24 reading, what the maximum output of the speakers  
25 are?

1                   Speakers output are measured in  
2 wattage and decibels. I'm wondering if you can  
3 tell us what the maximum limits are on those  
4 speakers.

5                   MR. NIGUSSIE: I don't remember off  
6 the top of my head, but I --

7                   MR. STOECKLEIN: Okay. Thank you.  
8 That's good. Thank you. And can you tell me  
9 what equipment you installed on the DJ booth to  
10 ensure that the sound levels are kept within the  
11 allowable parameters specified under the code --  
12 under the DC Code?

13                  MR. BIANCO: Objection.

14                  MR. STOECKLEIN: Can you tell me what  
15 equipment?

16                  MR. BIANCO: Objection. Calls for a  
17 legal conclusion. Assumes facts not in evidence.

18                  CHAIRPERSON ANDERSON: Right, sir.  
19 What were you saying?

20                  MR. STOECKLEIN: Mr. Nigussie just  
21 spent at least five minutes testifying about the  
22 permissible decibel levels. We saw his purported  
23 iPhone screenshot of what is and is not allowable  
24 decibel level. So I think it's -- I'm simply  
25 following the thread established by counsel and -

1 -

2 MR. BIANCO: He did no such thing. He  
3 showed a photograph of a decibel meter that he  
4 read while he was doing a sound test. He made no  
5 testimony about what the law said, doesn't say,  
6 allows, doesn't allow, that was the legal  
7 compliance or not. We played a video based on a  
8 sound test that he himself attended.

9 CHAIRPERSON ANDERSON: All right. I'm  
10 going to rule -- overrule the objection. If he  
11 can answer it, he can answer. If he doesn't have  
12 an answer, he doesn't have an answer. You can  
13 answer the question, Mr. Nigussie.

14 MR. NIGUSSIE: Can you repeat the  
15 question again? I'm sorry.

16 MR. STOECKLEIN: Yes. Mr. Nigussie,  
17 are you -- can you please indicate what equipment  
18 exists specifically on the DJ -- I'll call it, to  
19 set up, the DJ booth. That's what we're speaking  
20 about it as before. Can you indicate what  
21 equipment exists to maintain sound levels at or  
22 beneath the level mandated by the district's  
23 ordinance?

24 MR. NIGUSSIE: There is some --

25 CHAIRPERSON ANDERSON: All right. I'm

1 not --

2 MR. STOECKLEIN: Okay. I'll rephrase  
3 the question. I'll withdraw the question.

4 CHAIRPERSON ANDERSON: All right.

5 MR. STOECKLEIN: Are you aware that --  
6 are you aware of the Noise Control Act in the  
7 District of Columbia?

8 MR. NIGUSSIE: Well, I don't.  
9 Specifically no.

10 MR. STOECKLEIN: Specifically, no.  
11 Okay. Are you aware that the Noise Control Act,  
12 that's the proper name for this provision of law,  
13 prohibits establishments like yours from  
14 exceeding the maximum limit of 60 decibels within  
15 exterior walls? Are you aware of that?

16 MR. NIGUSSIE: You have --

17 CHAIRPERSON ANDERSON: All right.  
18 Hold on. Hold on. All right. Let me go back to  
19 the settlement agreement. Can you -- can -- I --  
20 what controls the noise in this establishment,  
21 sir, is the settlement agreement, okay?

22 I think -- so I'm going to -- so I --  
23 if you're going to talk about noise, I need you  
24 to go to the settlement agreement. Not because -  
25 - that's not -- I don't -- that is not relevant,

1 at least for this hearing because --

2 MR. STOECKLEIN: Mr. Chairman --

3 CHAIRPERSON ANDERSON: -- I believe --

4 MR. STOECKLEIN: I'm sorry. I'm not  
5 sure I understand. So the Noise Control Act,  
6 which pertains to all ABRA licensed  
7 establishments, doesn't apply in this case to Mr.  
8 Nigussie's establishment for some reason? Is  
9 that what I'm understanding?

10 CHAIRPERSON ANDERSON: I'm --

11 MR. STOECKLEIN: That I cannot speak  
12 to him about the Noise Control Act?

13 CHAIRPERSON ANDERSON: I'm not sure  
14 what Noise Control Act you're talking about, sir,  
15 but I can only go back to the settlement  
16 agreement and this settlement agreement controls  
17 the noise in this establishment.

18 And if you review the settlement  
19 agreement, which specific says what can -- that  
20 noise should not be.

21 MR. STOECKLEIN: Mr. Chairman, I'm  
22 citing to DC Code provision 25-725, the Noise  
23 Control Act.

24 MR. BIANCO: Mr. Chairman --

25 MR. STOECKLEIN: I think that it's

1 applicable in --

2 MR. BIANCO: -- the specifics of my  
3 objection is he's asking my lay witness about the  
4 specifics of the DC Code.

5 MR. STOECKLEIN: Well, what I'd like  
6 to know --

7 MR. BIANCO: And then -- Mr.  
8 Stoecklein, I sat here and listened to your  
9 objection, I will ask for the same courtesy.  
10 Thank you.

11 My specific objection is that Mr.  
12 Stoecklein continues to pursue a legal conclusion  
13 from my client or lay witness. This is argument.  
14 He's free to present argument in his closing  
15 statement when he testifies. He's free to put  
16 facts on the record.

17 What he should not be permitted to do  
18 is to continually badger my client about his  
19 knowledge of the law. It's not relevant.

20 MR. STOECKLEIN: Ignorance of the law  
21 is never a defense, Mr. Bianco. I think we both  
22 learned that in law school. I'm asking whether  
23 Mr. -- I'm not asking Mr. Nigussie to opine on  
24 whether 60 decibels, for example, is appropriate  
25 or what levels might be, or what equipment will

1 achieve that.

2 I'm asking whether he is aware of the  
3 laws that he is obliged to adhere to as an  
4 operator of an establishment.

5 CHAIRPERSON ANDERSON: All right.  
6 Okay. I'm going to -- all right. Hold on. Hold  
7 on. I'm going to overrule the objection. If the  
8 owner's aware, he can answer the question. If  
9 he's not aware, let's move on. Are you able to  
10 answer the question, sir?

11 MR. STOECKLEIN: Understood. Thank  
12 you, Mr. Chair.

13 Mr. Nigussie, are you aware of the  
14 Noise Control Act in the District of Columbia  
15 which restricts the national allowable decibel  
16 level in a club like yours to 60 decibels?

17 MR. NIGUSSIE: I can't say --

18 MR. STOECKLEIN: It's a yes or no  
19 question, sir.

20 MR. NIGUSSIE: I'm not aware of this  
21 law.

22 MR. STOECKLEIN: Okay. So if you're  
23 not aware of this law, then how can we possibly  
24 believe that you know whether or not the sound  
25 being emitted by any of the speakers at any part



1 of your club, Sound Bar or otherwise, are  
2 actually kept under the allowable limit specified  
3 in the law?

4 MR. BIANCO: Objection --

5 MR. STOECKLEIN: If you don't even  
6 know what the limit is how can we -- how can you  
7 --

8 MR. BIANCO: Hang on. There's, like,  
9 six questions here. Can we ask just one question  
10 at a time?

11 CHAIRPERSON ANDERSON: What's the  
12 nature of the objection? What's the nature of  
13 the objection, Mr. Bianco?

14 MR. BIANCO: Multiply compound. I  
15 would ask that he ask one question and get an  
16 answer.

17 CHAIRPERSON ANDERSON: Fine. Mr.  
18 Stoecklein, can you please ask the witness one  
19 question at a time?

20 MR. STOECKLEIN: Absolutely.

21 CHAIRPERSON ANDERSON: Let's move on.

22 MR. STOECKLEIN: Mr. Nigussie, how can  
23 you be sure that your sound system is operating  
24 in compliance with the law that we just discussed  
25 if you don't know what law -- what limits the law

1       prescribes?

2                   MR. NIGUSSIE:   You want me to answer?

3                   MR. STOECKLEIN:   Please, yes.

4                   MR. BIANCO:   If you can answer the  
5       question, sir.

6                   MR. NIGUSSIE:   Okay.   So the volume  
7       control is not on the speakers.   The volume  
8       control is on the DJ mixer.   So what we did is  
9       that we turn up the volume all the way on the DJ  
10      mixer, not on the speaker.

11                   But by even listening to the music,  
12      the music is too loud because I've been running  
13      this business for almost three years and up to  
14      right now, I know when the music is too loud.  
15      And we --

16                   MR. STOECKLEIN:   When is that, Mr.  
17      Nigussie?   When --

18                   CHAIRPERSON ANDERSON:   Mr. Stoecklein,  
19      can you let -- can you allow him to finish answer  
20      the question, sir?   He's not done.   Just allow  
21      him to answer the question.   When he's done, you  
22      can ask your other question, sir.

23                   Go ahead, sir.

24                   MR. NIGUSSIE:   Then when we set the  
25      volume all the way up on that mixer and it was

1 really loud, loud than usual. And we tested  
2 outside the building after we closed the door.  
3 That's what we did, sir.

4 MR. STOECKLEIN: Okay. So you know,  
5 based on your ear, what is in compliance with the  
6 law and what is not with respect to the sound  
7 level? Is that what you're -- is that your  
8 testimony?

9 MR. NIGUSSIE: Are you talking about  
10 the DC Code provision you're --

11 MR. STOECKLEIN: Well, I just want --  
12 I mean, I think I heard you testify that you have  
13 -- you just -- you have an ear, you've developed  
14 an ear for what is or not -- is not a legally  
15 compliant noise level; is that correct?

16 MR. NIGUSSIE: They --

17 MR. STOECKLEIN: It's a yes or no, Mr.  
18 Nigussie. Is that your testimony that you have  
19 developed that sense with your own ear? I'll  
20 withdraw the question. Mr. -- it's okay. Mr.  
21 Nigussie, I'm --

22 MR. NIGUSSIE: If you can answer the  
23 question, go ahead.

24 MR. STOECKLEIN: I'm withdrawing the  
25 question, Mr. Nigussie. I'll move on. You

1 indicated that you did sound testing. Can you  
2 tell me who specifically conducted that sound  
3 testing?

4 MR. NIGUSSIE: It's myself and my  
5 contractor.

6 MR. STOECKLEIN: Okay. And are you a  
7 licensed sound engineer?

8 MR. NIGUSSIE: Am I?

9 MR. STOECKLEIN: Yes. Are you?

10 MR. NIGUSSIE: No, no.

11 MR. STOECKLEIN: Okay. And is your  
12 contractor a licensed sound engineer?

13 MR. NIGUSSIE: He's not.

14 MR. STOECKLEIN: Okay. Do you have  
15 any technical credentials related to noise  
16 mitigation, acoustic engineering, or something  
17 else that would be relevant to your technical  
18 ability to measure sound levels?

19 MR. NIGUSSIE: No.

20 MR. STOECKLEIN: Okay. You indicated  
21 that you used a phone app to measure sounds --  
22 sound levels at your establishment. Can you tell  
23 me how that phone app is calibrated?

24 MR. NIGUSSIE: That wasn't my phone  
25 app, actually. That was my contractor's phone

1 app.

2 MR. STOECKLEIN: Interesting. Okay.  
3 Can you tell me how your contractor's phone app -  
4 - I would move to -- in light of Mr. Nigussie's  
5 testimony, I would move to strike the previously  
6 admitted exhibit which he purported to display a  
7 screenshot of the sound app that he used from his  
8 phone.

9 MR. BIANCO: The contractor's my next  
10 witness.

11 MR. STOECKLEIN: My motion stands.

12 CHAIRPERSON ANDERSON: You have a  
13 witness. Why don't you -- once the witness  
14 testifies, I will reserve judgment --

15 MR. STOECKLEIN: Understood.  
16 Understood, Mr. Chair. Okay. That's fine. Mr.  
17 Nigussie, did you attend the February 16, 2022  
18 ANC ABR committee meeting?

19 MR. NIGUSSIE: I don't know which  
20 meeting you referring to.

21 MR. STOECKLEIN: So you indicated that  
22 you attended -- I believe you indicated in your  
23 testimony that you attended an ABR committee --  
24 the ANC 1B, you know, ABRA committee, ABR  
25 committee meeting.

1 MR. NIGUSSIE: Yes. Over video  
2 conference, yes.

3 MR. STOECKLEIN: Yes. And my  
4 understanding is that's the February -- that  
5 there's one meeting a month, right? So my  
6 understanding is that that was the February 16,  
7 2022 meeting. Does that sound right to you?

8 MR. NIGUSSIE: I don't remember the  
9 exact date, but there is one I attend, sir.

10 MR. STOECKLEIN: Okay. And at that  
11 meeting, did you indicate that you were unaware  
12 that your establishment had been operating on the  
13 first floor for some period of time?

14 MR. NIGUSSIE: I don't recall what I  
15 said on that meeting sir, you're referring to.

16 MR. STOECKLEIN: Okay. So then is it  
17 your -- so you do not recall indicating to the  
18 members of the ABR committee on February 16th --

19 MR. BIANCO: Objection --

20 MR. NIGUSSIE: -- that --

21 MR. BIANCO: Asked and answered.

22 CHAIRPERSON ANDERSON: Sustained.

23 Let's move on, sir. He said he doesn't recall,  
24 so I'm not sure -- if you have evidence to --

25 MR. STOECKLEIN: I do.

1                   CHAIRPERSON ANDERSON: -- refresh his  
2 recollection, then let's have the evidence  
3 refresh his recollection, sir.

4                   MR. STOECKLEIN: Okay. We'll take a  
5 few minutes to -- that's actually the rebuttal  
6 testimony that I indicated the fourth witness  
7 would be able to speak to, so we'll have the --  
8 I'll have to circle back to that --

9                   CHAIRPERSON ANDERSON: And I think --  
10 I'm not quite sure of how that's relevant. I  
11 mean, the --

12                  MR. STOECKLEIN: I'd like to prove  
13 that Mr. Nigussie is, in many instances, quite  
14 frankly, to put it blankly, about -- just about  
15 everything. So I have evidence to -- I have  
16 testimony that I can offer from several witnesses  
17 that were at the meeting who can tell you that,  
18 in fact, Mr. Nigussie did claim that he was  
19 unaware that the first floor was operating.

20                  CHAIRPERSON ANDERSON: As of what  
21 date? As stated earlier in his investigative  
22 reports, the ABC Board issued a warning, I think,  
23 in February -- the date in February. So this --  
24 we've established that as of, I think, February  
25 16, 2022, he was aware that he was operating the

1 first floor illegally.

2 MR. STOECKLEIN: Yes. And I'm  
3 suggesting that prior to that date, he indicated  
4 to the committee, it's my understanding, but I --  
5 again, I would --

6 CHAIRPERSON ANDERSON: I mean, he can  
7 state whatever he wanted, but at least the record  
8 indicates that on February 16, 2022, the ABC  
9 Board issued him a warning.

10 So as of February -- if he stated on  
11 February the 20th that he was not aware, we can  
12 have an argument. But we don't really need to  
13 establish whether or not he was aware prior to  
14 February 16 because, since he was issued a  
15 warning by the Board, he was aware as of February  
16 16th.

17 MR. STOECKLEIN: Right. I agree with  
18 that and I'm suggesting that -- okay. I'll come  
19 back to that if we have time, Chair.

20 Mr. Nigussie, do -- can you tell me  
21 when the Sound Bar first -- when you first  
22 commenced operations on the first floor of your  
23 establishment?

24 MR. NIGUSSIE: Say -- what was the  
25 question again? I'm sorry. I missed it.



1 MR. STOECKLEIN: What was the date  
2 upon which you first commenced or became aware of  
3 operations commencing on the first floor of your  
4 establishment?

5 MR. BIANCO: Mr. Anderson, I'm going  
6 to object here. We discussed earlier the fact  
7 that there is an unadjudicated violation. A  
8 hearing's not been held.

9 And I know we've been very careful to  
10 dance around this issue, but I don't want to get  
11 into any issue that could put my client in a  
12 position to have to testify as something that's  
13 an issue in the show cause.

14 MR. STOECKLEIN: This speaks -- I  
15 mean, this -- the show cause is on the period of  
16 time following the warning. This speaks to -- my  
17 line of questioning speaks to Mr. Nigussie's  
18 underlying credibility as a witness.

19 I'd like to know whether he was --  
20 what he says he was or wasn't aware of during the  
21 roughly four month span during which Sound Bar  
22 was operating.

23 MR. BIANCO: Mr. Anderson, this  
24 doesn't have anything to do with the  
25 appropriateness of the request that's before the

1 Board. I understand that Mr. Stoecklein wants to  
2 try and impeach the credibility of my client, I  
3 get that.

4 I've given some latitude on that and  
5 what my only objection is, is on the issue of  
6 forcing my client to testify on an unadjudicated  
7 violation that's coming up for a hearing, is not  
8 appropriate, especially where it is more  
9 prejudicial than probative.

10 CHAIRPERSON ANDERSON: I'm going to  
11 sustain the objection. And let the record  
12 reflect that a warning was issued on -- by the  
13 ABC Board, it's in the investigative history, on  
14 -- and let me -- all right. Let me -- rather  
15 than me give in, let me go back to the report  
16 itself. Hold on please.

17 In the report -- the case report,  
18 which is a part of the record and in the  
19 investigative history, Case number 22CMP00 -- I'm  
20 sorry. Hold on. In Investigative History number  
21 4, Case 21, CMP00082 expanded its operation to  
22 the first floor without approval.

23 On January 26, 2022, the Board issued  
24 a warning. Let the record reflect. As of, the  
25 Board issued a warning to the applicant on

1 January 26, 2022 about expansion of its operation  
2 in the first floor.

3 That's already established because a  
4 warning was issued. I'm not quite sure how much  
5 more relevant it is for us to further explore  
6 this issue.

7 MR. BIANCO: Okay.

8 CHAIRPERSON ANDERSON: That is not  
9 relevant moving forward. We are aware that --  
10 and the Agency's aware and that is why we issued  
11 a warning to him on January 26, 2022 about  
12 expanding the operation on the first floor.  
13 Let's move on.

14 MR. STOECKLEIN: Mr. Chairman, can --  
15 is there any period of time that I'm -- during  
16 which -- over the four-month span during which  
17 Sound Bar was in operation that I'm allowed to  
18 inquire with Mr. Nigussie about his knowledge or  
19 his involvement or is that all off limits?

20 CHAIRPERSON ANDERSON: But why is that  
21 relevant, sir? We have already established that  
22 he was operating the first floor as the Board  
23 issued a warning on -- the Board issued a warning  
24 on Case 21 CMP00082, was generated on December  
25 16, 2021, on January 22nd, on January 26, 2022,

1 the Board issued a warning, right? So --

2 MR. STOECKLEIN: Mr. Chairman, I  
3 understand. I think that it's relevant and I  
4 would hope that the Board would agree --

5 MR. BIANCO: What is relevant, sir?  
6 We have already established that on -- we -- that  
7 our -- one of our investigators went to the  
8 establishment on January -- on December 16, 2020  
9 --

10 MR. STOECKLEIN: Yes, I know that. I  
11 understand that, Mr. Chairman. And what I'm  
12 trying to demonstrate is a persistent pattern of  
13 disregard for every -- nearly every rule that  
14 ABRA is responsible for enforcing and every  
15 issuance or citation or warning that you have  
16 issued to Mr. Nigussie, he's continued to ignore  
17 it.

18 And I have evidence indicating that  
19 even following the warning, Mr. Nigussie was  
20 intimately involved with the operation of the  
21 club. He continued to be aware of --

22 CHAIRPERSON ANDERSON: If there are  
23 other cases on his investigative history that  
24 have not been adjudicated, that the Board will  
25 make a decision. The Board could determine that

1 that was not true. I don't know. All right.

2 But I think that this is not an  
3 appropriate -- this is not an appropriate --  
4 let's move on from here, sir. I've sustained the  
5 objection. Let's move on.

6 This is of the appropriateness of  
7 expanding of -- whether or not the Board, excuse  
8 me, should issue a substantial change for him to  
9 operate on the first floor.

10 It has been established that he was  
11 operating on the first floor and the Board issued  
12 him a warning in January. That already is  
13 established. Let's move on from there.

14 MR. STOECKLEIN: Okay. Mr. Nigussie,  
15 do you allow smoking to occur inside your club?

16 MR. NIGUSSIE: I do not.

17 MR. STOECKLEIN: Does smoking occur  
18 inside your club even though it's not allowed?

19 MR. NIGUSSIE: Not that I'm aware of.  
20 We don't allow any smoking here.

21 MR. STOECKLEIN: Are your security  
22 personnel instructed to -- what are your security  
23 personnel instructed to do if they see someone  
24 smoking inside your club?

25 MR. BIANCO: I'm going to object as to

1 relevance on smoking. I don't see what this has  
2 to do with anything.

3 CHAIRPERSON ANDERSON: I am going to  
4 sustain the objection. The ABC Board does not  
5 regulate smoking as an establishment. That is  
6 regulated by Department of Health. It's -- so  
7 therefore --

8 MR. STOECKLEIN: Mr. Chair, one of the  
9 other Board members, it's my recollection,  
10 specifically inquired about this -- applicability  
11 of the smoking statutes to make an --

12 CHAIRPERSON ANDERSON: And I know,  
13 sir. And I but what I'm trying to say to you is,  
14 sir, a Board member can ask a question, but I'm  
15 the Board chair and I'm saying to you, we do not  
16 regulate smoking or hookah in an establishment.

17 And so therefore, we're not going to  
18 have any testimony regarding any type of smoking  
19 in this ABC establishment because this is not  
20 something that we regulate, okay?

21 MR. STOECKLEIN: All right. I --

22 CHAIRPERSON ANDERSON: It's not -- we  
23 do not regulate that, so therefore, we're not  
24 going to have testimony on that issue. If you --  
25 if there are --

1 MR. STOECKLEIN: Mr. Chair, for the  
2 record, I would respectfully request that my  
3 objection be recorded on the basis that there is  
4 applicable DC circuit law that --

5 CHAIRPERSON ANDERSON: All right.  
6 There is -- sir -- let me say this to you, sir,  
7 okay? We do not regulate that. The most recent  
8 court case regarding this issue. We do not  
9 regulate and we made no decisions on the  
10 operation of smoking in an ABC establishment. We  
11 --

12 MR. STOECKLEIN: I'm absolutely aware  
13 of that.

14 CHAIRPERSON ANDERSON: By the Office  
15 of Attorney General. And so therefore, we do not  
16 make decisions and we no longer opine on smoking  
17 or hookah in the establishment. This is not an  
18 area that we regulate and so therefore, you need  
19 to address that with the appropriate agency,  
20 ABRA.

21 MR. STOECKLEIN: And in order to do  
22 that, Mr. Chairman, I'd like to just renew my  
23 objection for the record and I will gladly move  
24 on.

25 CHAIRPERSON ANDERSON: Yes, sir. And

1 your objection is for the record and I've  
2 overruled it. I'm sorry -- I've overruled the  
3 objection --

4 MR. STOECKLEIN: Understood.

5 CHAIRPERSON ANDERSON: -- for the  
6 record.

7 MR. STOECKLEIN: I will move on, Mr.  
8 Chairman.

9 CHAIRPERSON ANDERSON: Let's move on,  
10 yes.

11 MR. STOECKLEIN: Understood.

12 Mr. Nigussie, what is the total square  
13 footage of your establishment currently?

14 MR. NIGUSSIE: I got to find out. I  
15 don't exactly know the square feet.

16 MR. STOECKLEIN: Is it approximately  
17 -- would you -- are you aware whether it is in  
18 excess of 3,000 square feet or not, if you'll put  
19 all three levels?

20 MR. NIGUSSIE: I can't say. I don't  
21 want to speculate.

22 MR. STOECKLEIN: Are you aware that a  
23 facility, a commercial building, in excess of  
24 3,000 fees required to provide all street private  
25 parking for its customers?



1 MR. NIGUSSIE: You said private  
2 parking?

3 MR. STOECKLEIN: Yes.

4 MR. NIGUSSIE: I'm not aware of that.

5 MR. STOECKLEIN: Okay. And do you  
6 provide any parking for your customers as it  
7 stands today?

8 MR. NIGUSSIE: We do not.

9 MR. STOECKLEIN: Okay. You indicated  
10 that you have no other co-owners; is that  
11 correct? At Empire?

12 MR. NIGUSSIE: You said --

13 CHAIRPERSON ANDERSON: I didn't hear  
14 the question, sir. And I think he's having a  
15 problem. So I did not understand the question  
16 you were asking.

17 MR. STOECKLEIN: Was it your testimony  
18 that you do not have any other co-owners in  
19 Empire?

20 MR. NIGUSSIE: That is correct.

21 MR. STOECKLEIN: Do you know a  
22 gentleman named Keayon Kassem?

23 MR. NIGUSSIE: Yes.

24 MR. STOECKLEIN: Do you know why this  
25 individual would have reached out to the

1 Westminster Neighborhood Association in early  
2 June of this year and represent himself as a  
3 partner of Empire?

4 MR. NIGUSSIE: I don't know.

5 MR. STOECKLEIN: Okay. Mr. Chairman,  
6 I know that you were explicit about our time  
7 restrictions and that each party would have an  
8 hour left. Would it be possible to find out how  
9 much time I have remaining?

10 CHAIRPERSON ANDERSON: I have not been  
11 keeping track, sir. But, you are -- yes.

12 MR. STOECKLEIN: Okay. I will -- I'm  
13 going --

14 CHAIRPERSON ANDERSON: I'm being  
15 judicious in the sense that I'm counting your  
16 time for -- when you present your actual case and  
17 not necessarily using time against you for you to  
18 do cross-examination because I think it's more  
19 appropriate for you to do direct testimony. So  
20 I've not been keeping track of --

21 MR. STOECKLEIN: I just wanted to be  
22 respectful of your -- the requirements, Mr.  
23 Chairman, so I appreciate that. And I'm  
24 finishing up with the witness momentarily.

25 Mr. Nigussie, are you aware that

1       you're under oath today?

2                   MR. NIGUSSIE:   Yes.

3                   MR. STOECKLEIN:   And do you understand  
4       it's a crime to lie under oath?

5                   MR. BIANCO:   I'm going to object.  
6       This is not relevant to anything.   Can we wrap  
7       this up, please?

8                   CHAIRPERSON ANDERSON:   I don't know  
9       where he's going, but what -- was -- what -- is  
10      there a question pending?

11                  MR. STOECKLEIN:   Oh, there -- yes,  
12      they are and it specifically pertains to Mr.  
13      Nigussie testimony about me.   And so I would  
14      appreciate some latitude to explore the multiple  
15      assertions made about my actions within the bar,  
16      my assertions at the bar, et cetera.

17                  CHAIRPERSON ANDERSON:   You are -- sir,  
18      he testified.   You're asking questions on cross-  
19      examination.   You're welcome to ask questions on  
20      cross-examination, sir.

21                  MR. STOECKLEIN:   Mr. Nigussie?

22                  MR. NIGUSSIE:   Yes.

23                  MR. STOECKLEIN:   Do you have any  
24      evidence to support any of your claims regarding  
25      alleged threats or to verify any of the alleged

1 contents of the exchange, the conversation that  
2 you and I had on the evening that -- portrayed in  
3 the video? I don't have the date in front of me,  
4 I'm sorry, but --

5 MR. NIGUSSIE: Yes, I do have a  
6 witness, actually.

7 MR. STOECKLEIN: I'm sorry? You have  
8 a witness who can --

9 MR. NIGUSSIE: Yes.

10 MR. STOECKLEIN: Are we hearing from  
11 that -- have we heard from that witness or --

12 MR. NIGUSSIE: Not yet.

13 MR. STOECKLEIN: Okay. You know who  
14 I am, right, Mr. Nigussie? And I think it's  
15 abundantly clear to everybody that we know each  
16 other, right? We've interacted over a period of  
17 several years now; is that correct?

18 MR. NIGUSSIE: Yes, I know you.

19 MR. STOECKLEIN: Yes. Do you know the  
20 difference between the FBI and the SBA?

21 MR. NIGUSSIE: I don't know what SBI  
22 is, but I know what CBA is.

23 MR. STOECKLEIN: I'm sorry, I'm not  
24 sure I understood your answer. Could you just  
25 repeat it again for me, please?

1 MR. NIGUSSIE: Yes, I don't know what  
2 a CBI is, but I don't know -- I know what a CBA  
3 is.

4 MR. STOECKLEIN: I'm not sure that I  
5 asked either of those, but I just want to be --  
6 just be clear here. So the Federal Bureau of  
7 Investigation, the FBI, is a federal agency.

8 And I'm asking you whether you know  
9 the difference between the Federal Bureau of  
10 Investigation and the Small Business  
11 Administration, the SBA?

12 MR. NIGUSSIE: Yes, I know the  
13 difference.

14 MR. STOECKLEIN: Okay. And is it  
15 possible -- and you are aware that I'm an  
16 attorney, correct? And that -- correct?

17 MR. NIGUSSIE: I wasn't aware.

18 MR. STOECKLEIN: Okay. And, you know  
19 --

20 CHAIRPERSON ANDERSON: He's aware that  
21 you are an attorney, Mr. Stoecklein, so are you -  
22 - I wasn't aware prior to hearing that you're an  
23 attorney so -- okay.

24 MR. STOECKLEIN: And are you -- at any  
25 point in our two years of interacting together,

1 Mr. Nigussie, have you had any reason to believe  
2 that I am an agent of the FBI?

3 MR. NIGUSSIE: That's what you told  
4 me, sir. I don't have any choice but to believe  
5 what you told me.

6 MR. STOECKLEIN: Mr. Nigussie, do you  
7 think that it's possible, particularly given the  
8 noise that we've all discussed in your  
9 establishment, that you may have misunderstood  
10 what was being said?

11 MR. NIGUSSIE: Sir, I remember what I  
12 heard and I'm very clear. It wasn't that loud.

13 MR. STOECKLEIN: Okay. Well, Mr.  
14 Chair, I'm not sure how to do this because  
15 there's nobody else that's here on my side to  
16 actually cross-examine me. So I don't know if  
17 it's appropriate for me to make a statement or  
18 how --

19 CHAIRPERSON ANDERSON: As an attorney,  
20 sir -- as you've said, you're an attorney, it's  
21 not appropriate for you to make a statement, sir,  
22 unless you're going to testify later on. So if  
23 you're going to testify --

24 MR. STOECKLEIN: I'm not sure how to  
25 direct myself, Mr. Chairman --

1 CHAIRPERSON ANDERSON: Well, then you  
2 can -- I can swear you in later on if you want to  
3 testify, sir, or you want to give a statement. I  
4 can swear you in and you can give a statement and  
5 then Mr. Bianco will cross-examine you.

6 MR. BIANCO: And, Mr. Anderson, just  
7 as a procedural point, I understood that Mr.  
8 Stoecklein was a representative for WNA and a  
9 witness. I didn't see that he had entered an  
10 appearance, and I understand he is an attorney,  
11 but I didn't understand that he was the attorney  
12 in this --

13 MR. STOECKLEIN: That is correct. No.  
14 You're -- that's right. Mr. Bianco, that's  
15 correct. I am not representing WNA in my  
16 capacity as an attorney. I just happen to be an  
17 attorney.

18 MR. BIANCO: Yes, that's my  
19 understanding.

20 MR. STOECKLEIN: Yes.

21 MR. BIANCO: I appreciate you  
22 clarifying that. Thank you.

23 MR. STOECKLEIN: Which is an important  
24 distinction and I appreciate --

25 MR. BIANCO: Yes, I --

1 MR. STOECKLEIN: I appreciate that.

2 MR. BIANCO: Yes. Absolutely.

3 MR. STOECKLEIN: Mr. Nigussie, you  
4 indicated in your statement to Inspector Glasgow  
5 that you -- please correct me if I'm wrong --  
6 that you faced threats of physical violence; is  
7 that accurate? That's your statement? From me?

8 MR. NIGUSSIE: Yes. That I was  
9 referring to -- I was referring to the way you  
10 were pointing fingers to my face while you were  
11 talking. That's what I was referring to. I  
12 wasn't referring to the fact that -- I didn't  
13 say, you personally hit me. That's the violence  
14 I was afraid of.

15 MR. STOECKLEIN: So point -- so when  
16 you use the phrase physical violence, you mean me  
17 pointing at you?

18 MR. NIGUSSIE: That is correct.

19 MR. STOECKLEIN: Okay. I'm glad we've  
20 clarified that. And so notwithstanding the  
21 significant threat or physical violence that you  
22 felt from my finger pointing, is it accurate that  
23 you, nonetheless, did invite me upstairs so that  
24 we can have a conversation in quiet; is that  
25 correct?



1 MR. NIGUSSIE: Yes. I invite you  
2 upstairs and we went downstairs.

3 MR. STOECKLEIN: Right. I remember.  
4 I remember. I know. So you developed a threat  
5 of physical violence from my finger, but you --  
6 but it was not so significant that you felt  
7 uncomfortable going upstairs with me and having a  
8 private conversation together; is that correct?

9 MR. NIGUSSIE: Not just your finger,  
10 sir. The whole demeanor, your anger, your  
11 agitation, the whole thing is -- it was a big  
12 threat to me. That's what I was referring to.

13 MR. STOECKLEIN: Okay. Mr. Nigussie,  
14 are you aware that it's illegal to withhold tips  
15 from employees?

16 CHAIRPERSON ANDERSON: All right.  
17 Okay. Mr. Stoecklein. All right. All right. I  
18 have been more than reasonable. I should have  
19 been counting your cross-examination against your  
20 time. I have not been doing that, sir. I need  
21 you to wrap up, sir. We're going to --

22 MR. STOECKLEIN: And I'm just trying  
23 to be responsive to extensive --

24 CHAIRPERSON ANDERSON: And I'm saying  
25 to you Mr. -- this is a hearing on the

1       appropriateness of whether the Board should issue  
2       a substantial change for the first floor. We are  
3       not going to have any evidence or any testimony  
4       on withholding tips, okay?

5               MR. STOECKLEIN: I disagree, Mr.  
6       Chairman. But what this -- I apologize.

7               CHAIRPERSON ANDERSON: I'm not going  
8       there, sir. I need you to -- we're going to put  
9       -- this is not relevant to what -- to our  
10      decision, sir. And so I need you to --

11              MR. STOECKLEIN: I understand, Mr.  
12      Chairman, but --

13              CHAIRPERSON ANDERSON: -- your cross-  
14      examination on relevant issue to the Board. If  
15      you want to maintain the Board's attention, you  
16      need to provide relevant cross-examination. This  
17      is the issue -- Mr. Nigussie is directed -- on  
18      his direct examination he stated that's his  
19      position.

20              That's not necessarily relevant to the  
21      decision that the Board needs to make today. And  
22      so therefore, I need you, sir, to ask relevant  
23      questions that will help this Board to make a  
24      determination.

25              If you're going to cross-examine him,

1 it's on issues that are relevant, that's going to  
2 enable this Board to make a decision.

3 And I believe that -- to help your  
4 case, I need you to present witnesses whose --  
5 who are going to provide us direct -- the --  
6 direct evidence on whether or not it is  
7 appropriate for this Board to issue the  
8 substantial change.

9 MR. STOECKLEIN: Okay. I understand,  
10 Mr. Chair.

11 CHAIRPERSON ANDERSON: You're going  
12 over a thousand questions. You cross-examining  
13 this licensee, it is not helpful to the Board,  
14 sir. It's not helpful for the Board. And I'm  
15 asking you --

16 MR. STOECKLEIN: Your point is taken,  
17 Mr. Chairman. I'll move on. And I'm -- and I  
18 will -- there's two more questions --

19 CHAIRPERSON ANDERSON: I think about  
20 ten minutes ago, you had stated that -- when you  
21 asked for time, I thought you were wrapping up  
22 because if I was keeping time, you would have  
23 exceeded the time for you to present your case  
24 and you would not present a case today because  
25 you'd have exceeded your hour.

1 MR. STOECKLEIN: Understood, Mr.  
2 Chairman. Shall I terminate my questioning of  
3 Mr. Nigussie in that matter, in that case?

4 CHAIRPERSON ANDERSON: This what I'm  
5 going to do, sir. I'm going to put my clock on  
6 and I'm going to start keeping time of how much  
7 time you have. And that's going towards the hour  
8 that you have to present your case.

9 MR. STOECKLEIN: I understand, Mr.  
10 Chairman.

11 CHAIRPERSON ANDERSON: So you can  
12 decide what you want to do first. I'm not going  
13 to -- if you want to continue asking questions,  
14 you can do that.

15 But I'm now putting you on notice that  
16 I'm now putting you on a timer regarding the one  
17 hour that you have to present your case. And the  
18 amount of time you spend cross-examination will  
19 be subtracted from your time, okay? Move --

20 MR. STOECKLEIN: Duly noted, Mr.  
21 Chairman.

22 CHAIRPERSON ANDERSON: Moving --  
23 starting now. Okay.

24 MR. STOECKLEIN: Mr. Nigussie, did you  
25 -- have you -- at any point in the past six

1 months, have you spoken with the third district  
2 commander at MPD regarding -- let me withdraw  
3 that question and rephrase.

4 Mr. Nigussie have you had occasion to  
5 speak with the third district MPD commander at  
6 any point in the past six months?

7 MR. NIGUSSIE: I don't recall, sir.

8 MR. STOECKLEIN: Do you know --  
9 referred -- have you interacted at all with  
10 Commander James Boteler of the Third District?

11 MR. NIGUSSIE: I don't recall,  
12 honestly.

13 MR. STOECKLEIN: Okay. And so is it  
14 accurate that you do not recall -- that you do  
15 not recall a conversation between Ms. -- between  
16 -- with Commander Boteler regarding an ATV rally  
17 that was being advertised at your establishment?

18 MR. BIANCO: I'm going to object.  
19 That has been now asked and answered for a third  
20 time.

21 CHAIRPERSON ANDERSON: Sustained.

22 MR. STOECKLEIN: Okay. No further  
23 questions.

24 CHAIRPERSON ANDERSON: Any questions  
25 by Board members?

1                   MEMBER SHORT: Mr. Short has a  
2 question.

3                   CHAIRPERSON ANDERSON: Go ahead, Mr.  
4 Short.

5                   MEMBER SHORT: To Mr. -- the licensee.  
6 Good afternoon, sir.

7                   MR. NIGUSSIE: Good afternoon, sir.

8                   MEMBER SHORT: Okay. Not a problem.  
9 Yes. Mr. Nigussie?

10                  MR. NIGUSSIE: Yes.

11                  MEMBER SHORT: Mr. Nigussie, on one of  
12 the exhibits that was displayed, there were two  
13 vehicles on the rear, close to the exit from the  
14 second floor and, of course, the exit on the  
15 first floor. Do you know whose vehicles those  
16 were?

17                  MR. NIGUSSIE: I believe you're  
18 referring to the car -- the two car park at the  
19 rear of the building?

20                  MEMBER SHORT: That's correct.

21                  MR. NIGUSSIE: That must be my car and  
22 my employee car.

23                  MEMBER SHORT: Okay. So when your  
24 business is open, you don't park back there, do  
25 you?

1 MR. NIGUSSIE: No. No. Well, we --  
2 when we are open we don't park there.

3 MEMBER SHORT: Okay. That's a fair  
4 question. Now, the gate that leads to the alley,  
5 is there something in your security plan or  
6 something in your operational plans that says if  
7 there's an incident on 9th Street and it is  
8 impossible to get out of that front door and you  
9 had to get all three floors if this -- if you  
10 actions is just permitted to happen and no cars  
11 at the back there, who opens the gate to the  
12 alley? And how long does that take for that to  
13 go in operation?

14 MR. NIGUSSIE: There is a door, but  
15 when business is operational, we usually -- we  
16 don't lock the alley door. We just locked the  
17 building door. I don't understand --

18 MEMBER SHORT: So explain to me again.  
19 And I'll tried to ask this question as slowly as  
20 possible so that you can understand what I'm  
21 saying. Now, this -- let's hypothetically say  
22 your businesses is open. It's 1:00 in the  
23 morning on a Saturday night or early Sunday  
24 morning.

25 And there's an incident on 9th Street,

1 maybe a shooting or maybe a fire, neighbor, what  
2 -- and it becomes impossible for you to allow  
3 your patrons to stay in and they all have to  
4 exit, all 125 of them, out of the rear exits from  
5 the second floor and from the first floor. What  
6 happens and who has the key to the gate in the  
7 back if there's an incident such as I described?

8 MR. NIGUSSIE: We do not lock the  
9 door, sir. The pedestrians can exit at the back  
10 door, actually.

11 MEMBER SHORT: So I'm not talking  
12 about the rear door itself from the first floor  
13 or from the second floor. I'm speaking of the  
14 wooden gate that leads to the alley. Who's  
15 responsible --

16 MR. NIGUSSIE: There is a --

17 MEMBER SHORT: Go ahead.

18 MR. NIGUSSIE: Sorry. I'm sorry to  
19 interrupt you. There is a gate to the alley  
20 fence. That gate is usually open on the -- when  
21 the business is operational. We don't lock it.

22 MEMBER SHORT: So anytime the  
23 investigator would have come and go through your  
24 back door and to the gate, it would be open; is  
25 that correct?



1 MR. NIGUSSIE: That is correct.

2 MEMBER SHORT: So would that be a part  
3 of your plan that you're going to submit to the  
4 Agency and make sure that there are no parking  
5 signs back there while business is going on?

6 MR. NIGUSSIE: Yes.

7 MEMBER SHORT: Because sometimes  
8 things can happen and you forget to move your car  
9 if you're there during the day. But is there any  
10 way that this Board or the -- our Agency, ABRA,  
11 can be assured no one's going to park back there  
12 and that the gate can be opened and accessible  
13 for people to exit from your property into the  
14 alley or wherever else they have to go?

15 Because if your car is back there and  
16 people are trying to leave, it's going to be  
17 almost impossible to get 125 people down the  
18 steps from the second floor or from the first  
19 floor.

20 Because we saw you in the video, when  
21 you opened the door and walked out and they were  
22 two vehicles back there, one of them being yours,  
23 as you just testified, it would be kind of hard  
24 for people to exit there; wouldn't it be?

25 MR. NIGUSSIE: I believe you're right,

1       sir.

2                   MEMBER SHORT:  So are there any signs  
3       going to placed out there?  Should you -- well,  
4       actually the sign should be there whether you get  
5       the first floor or not.

6                   Because when people come down from the  
7       second floor and the cars are there and the cars  
8       are between the wooden gate and -- to exit into  
9       the alley -- so how often do you park back there?

10                  MR. NIGUSSIE:  That is -- I don't know  
11       if you notice on the picture, from second floor  
12       to the alley door, there is the stairs that  
13       doesn't even park to the left of the car, there's  
14       a stairs that leads -- to the outside alley door.

15                  MEMBER SHORT:  Okay.  Well, I did  
16       observe that, so yes, I look very closely at  
17       that.  I looked -- when you left the first floor,  
18       with the sound video and all that was played by  
19       your attorney, when you walked out of that door,  
20       I can see the steps to your left coming from the  
21       second floor.

22                  MR. NIGUSSIE:  Right, right.

23                  MEMBER SHORT:  But also I saw that the  
24       vehicles extended past those steps.  Is it any  
25       way possible we can ask your attorney to put that

1 video on again and show --

2 Mr. Chair, can we ask the attorney to  
3 -- Mr. Bianco to show that video again so I can -  
4 - the -- I can positively identify what I'm  
5 addressing when I'm talking about the vehicles  
6 parked in the rear and the access to the alley?

7 MR. NIGUSSIE: Right.

8 MEMBER SHORT: Can I request that?  
9 Okay.

10 MR. BIANCO: It should be on the  
11 screen right now. Do you need the sound on or  
12 you just want to see it.

13 MEMBER SHORT: No, the sound won't  
14 matter. I just want to see Mr. --

15 MR. BIANCO: Okay.

16 MEMBER SHORT: -- Nigussie go to the  
17 back door. Can you backup a little bit more just  
18 before we go -- okay. Right -- hold it right  
19 there. Mr. Nigussie, is there -- required by law  
20 for you to have an exit sign over that door?

21 MR. NIGUSSIE: Yes.

22 MEMBER SHORT: Is there an exit sign  
23 over that door?

24 MR. NIGUSSIE: No. We got to -- we're  
25 going to finish that. It's not complete.

1                   MEMBER SHORT: Okay. And I can see  
2                   that you have a turn notch at the top of that  
3                   door or were -- opposed to your head at the door  
4                   level. Is that legal, or is that the way it's  
5                   going to be when you have people there --

6                   MR. NIGUSSIE: No.

7                   MEMBER SHORT: -- or is there going to  
8                   be some kind of mechanism on the door where  
9                   people can get out. It's -- they call that panic  
10                  hardware in the safety business. So that door  
11                  would have to have that kind of panic hardware on  
12                  it. It would have -- has -- also has some other  
13                  things happen.

14                  But let's continue the video, please.  
15                  Stop right there. Now, I'm looking at the  
16                  stairways. I'm looking at your vehicle and I'm  
17                  looking at you coming out. So again, are there  
18                  any No Parking signs while the business is going  
19                  on back there?

20                  MR. NIGUSSIE: No. But we can do  
21                  that.

22                  MEMBER SHORT: You can do that?

23                  MR. NIGUSSIE: Yes.

24                  MEMBER SHORT: Okay. I just wanted to  
25                  point those things out, Mr. Chairman. And again,

1 for the record, that exit is going to be very  
2 important even before -- if this wish is granted  
3 for -- this application for the first floor is  
4 granted.

5 Those airways and that rear exit door  
6 are going to have to be very accessible should  
7 something unfortunately or unforeseen happen on  
8 9th Street.

9 That's all I have, Mr. Chair. Thank  
10 you very much.

11 CHAIRPERSON ANDERSON: Is there any  
12 other questions --

13 Mr. Bianco, please turn off your  
14 screen, sir.

15 Any other question by any of the Board  
16 -- any of the Board members? Yes, Mr. Grandis.

17 MEMBER GRANDIS: Mr. Nigussie, thank  
18 you. How long have you had this --

19 CHAIRPERSON ANDERSON: Mr. Grandis,  
20 your volume is very low, sir.

21 MEMBER GRANDIS: That better?

22 CHAIRPERSON ANDERSON: It's -- I don't  
23 know why your volume is so low.

24 MEMBER GRANDIS: 84 out of 88. Is  
25 this any better?

1 CHAIRPERSON ANDERSON: It is a little  
2 better. Go ahead, sir.

3 MEMBER GRANDIS: That's all.

4 CHAIRPERSON ANDERSON: Hold on. Mr.  
5 Short, can you please adjust your -- I know you  
6 have switched equipment, so we can't see your  
7 face, so -- yes, that's better. Go ahead.

8 MEMBER SHORT: I'm on my phone, Mr.  
9 Chair. Please forgive me, but the -- my laptop,  
10 unfortunately for me, it's dead again today, so  
11 hopefully my phone will be a lot better off than  
12 -- and I'll tried the best I can keep to my face  
13 on the screen. Thank you, sir.

14 CHAIRPERSON ANDERSON: All right. Go  
15 ahead.

16 MEMBER GRANDIS: Thank you. Mr.  
17 Nigussie, how long have you been having a lease  
18 at this particular building?

19 MR. NIGUSSIE: Since -- we had it  
20 since 2019.

21 MEMBER GRANDIS: 2019. And did that  
22 lease include the first floor, second floor,  
23 third floor, and the roof?

24 MR. NIGUSSIE: That is correct.

25 MEMBER GRANDIS: So you have a lease

1 for the roof as well?

2 MR. NIGUSSIE: I -- well, we never we  
3 never open the room, but yes.

4 MEMBER GRANDIS: And when did you make  
5 the -- you know, the changes that we saw in the  
6 video of what the first row currently looks like,  
7 did you do that, or a prior tenant do that?

8 MR. NIGUSSIE: We did that. We did  
9 ourselves. Yes, I did that.

10 MEMBER GRANDIS: You did that. Okay.  
11 And I noticed that, and we've already brought it  
12 up, there's a DJ booth on in -- on that level. I  
13 think we've heard testimony today regarding the  
14 settlement agreement that talks about the DJ  
15 booth would be on the second floor.

16 So could you help me understand in the  
17 context of wanting to expand to the first floor  
18 what your business plan is for the first floor,  
19 since you do seem to have a DJ booth down there?

20 MR. NIGUSSIE: Yes. On the first  
21 floor, I will love to have DJ stand, hoping that  
22 we have different customers who has different  
23 taste to different music.

24 The second floor -- if we can play  
25 some, like, hip-hop on the second floor, we can

1 play some other type of music on the first floor.

2 That's my hope. So that's why it's --

3 (Simultaneous speaking.)

4 MR. NIGUSSIE: -- designed, yes.

5 MEMBER GRANDIS: Thank you. But your  
6 current settlement agreement, I believe, states  
7 that a DJ can only be on the second floor. So  
8 are you entering into negotiations to update your  
9 settlement agreement?

10 MR. BIANCO: Mr. Grandis, if I could  
11 just interject for a moment. I'll let him answer  
12 the question to the extent that he can. But what  
13 I -- what we had planned to do going forward is  
14 most likely be seeking some relief to the award  
15 on the interpretation issue of the applicability  
16 of the DJ clause to the first floor. And I would  
17 note it's in the record somewhere in connection  
18 with this request.

19 There was some back-and-forth with the  
20 Agency about the applicability of the first  
21 floor, the settlement agreement to the first  
22 floor, and what was prohibited and what was not.

23 So I think my point is, legally, my  
24 position is it's an open issue and we'll likely  
25 have to seek some decision or relief on it. But



1 I'm not objecting to your question. He can  
2 testify as to what his plan is physically for the  
3 space.

4 MEMBER GRANDIS: Mr. Bianco, I  
5 appreciate your advice to the Board, but I don't  
6 know if it's an open question. Let's move  
7 forward. So let's just say, in your business  
8 plan, you plan to have a DJ on that new first  
9 floor if you can expand there, correct?

10 MR. NIGUSSIE: That is correct.

11 MEMBER GRANDIS: And you plan to  
12 continue having a DJ on the second floor because  
13 I think I heard you say that individuals have  
14 different taste in music?

15 MR. NIGUSSIE: That is correct.

16 MEMBER GRANDIS: So does your business  
17 plan have a vision to come back to the Board to  
18 raise the occupancy because I think I heard your  
19 attorney address that earlier, saying that DCRA  
20 can give you occupancy loads to each of the  
21 floor?

22 So is that part of your business plan,  
23 to come back to the Board to raise your occupancy  
24 level?

25 MR. NIGUSSIE: No, sir.

1 MEMBER GRANDIS: Mr. Bianco, is it no?

2 CHAIRPERSON ANDERSON: He said that --  
3 he said no. He's not -- he doesn't have any plan  
4 to come back to the Board to raise his occupancy.  
5 He answered the question, sir.

6 MEMBER GRANDIS: And if you were to do  
7 that, make some kind of these type of changes,  
8 that could have also require perhaps placarding,  
9 but that's another issue down the road.

10 Does your business plan have, in your  
11 planning, to do any activity on the roof?  
12 Because I heard earlier today that someone notice  
13 something like a rooftop -- something on the  
14 rooftop.

15 So does your business plan encourage,  
16 based on being able to get what your relief is  
17 seeking to also include, perhaps coming back to  
18 the city to have the roof as a part of your  
19 business plan?

20 MR. NIGUSSIE: I believe you heard  
21 about Cortez next door, but we don't have any  
22 plan about that as well.

23 MEMBER GRANDIS: So no plans at this  
24 point. Okay.

25 Mr. Chairman, thank you very much.

1 CHAIRPERSON ANDERSON: Thank you, Mr.  
2 Grandis. Any other questions by any of the Board  
3 members?

4 Mr. Stoecklein, any questions based on  
5 questions that were asked by the Board?

6 MR. STOECKLEIN: No, Mr. Chairman.

7 CHAIRPERSON ANDERSON: Mr. Bianco, any  
8 redirect?

9 MR. BIANCO: Thank you.

10 CHAIRPERSON ANDERSON: Mr. Nigussie,  
11 thank you for your testimony. Do you have  
12 another witness?

13 MR. BIANCO: I do. Bayou Yohannes,  
14 his rights have already been elevated.

15 CHAIRPERSON ANDERSON: Mr. Yohannes,  
16 do you have camera you can elevate -- you can  
17 turn on, sir?

18 MR. BAYOU: Good afternoon.

19 CHAIRPERSON ANDERSON: Good afternoon,  
20 sir. Can you raise your right hand, please. Do  
21 you swear or affirm to tell the truth and nothing  
22 but the truth?

23 MR. BAYOU: Yes, I do, sir.

24 CHAIRPERSON ANDERSON: Your witness,  
25 sir.

1 MR. BIANCO: Thank you very much.

2 MR. BIANCO: Mr. Yohannes, you were  
3 here for Mr. Nigussie's testimony, correct?

4 CHAIRPERSON ANDERSON: Mr. Bianco, can  
5 you have him spelling stasis name for the record?

6 MR. BIANCO: Absolutely. Mr.  
7 Yohannes, could you please say your first name  
8 and your last name and spell them for the record.

9 MR. BAYOU: Yes. Yohannes Bayou. Y-  
10 O-H-A-N-N-E-S, last name Bayou, B-A-Y-O-U.

11 MR. BIANCO: Okay. Mr. Bayou, you  
12 were here for Mr. Nigussie's testimony, correct?

13 MR. BAYOU: Yes, sir.

14 MR. BIANCO: And do you recall  
15 watching the video of the sound tests on the  
16 first floor?

17 MR. BAYOU: Yes, sir.

18 MR. BIANCO: And were you involved in  
19 that sound test in any way?

20 MR. BAYOU: Come again? Sorry.

21 MR. BIANCO: Were you there on the day  
22 of that sound test?

23 MR. BAYOU: Yes. Yes, sir.

24 MR. BIANCO: And what did you do on  
25 that day?

1 MR. BAYOU: I was recording the video.

2 MR. BIANCO: Okay. I'm going to bring  
3 up the video and I am going to try to get through  
4 this very quickly. All right. Can you see the  
5 video up on the screen there?

6 MR. BAYOU: Yes, sir.

7 MR. BIANCO: Okay. And it was your  
8 testimony that you weren't taking this video,  
9 correct?

10 MR. BAYOU: Yes, sir.

11 MR. BIANCO: Okay. So I don't want to  
12 go through the whole thing because I want to get  
13 everybody out of here. So I'm going to go to  
14 this portion of the video, which is the 47-second  
15 mark. Do you see that?

16 MR. BAYOU: Yes, sir.

17 MR. BIANCO: And where are you  
18 standing at that point, the 47-second mark of the  
19 video?

20 MR. BAYOU: I'm behind of the camera.

21 MR. BIANCO: Okay. And how far away  
22 from the door are you, approximately?

23 MR. BAYOU: By this image, maybe 6 to  
24 7 feet.

25 MR. BIANCO: Okay. And from that

1 position, were you able to hear any music coming  
2 out of the establishment?

3 MR. BAYOU: No, sir.

4 MR. BIANCO: Okay. And it looks like  
5 at that point you backed up. And were you able  
6 to hear any music coming out of the establishment  
7 from that vantage point?

8 MR. BAYOU: No, sir.

9 MR. BIANCO: And I just have one more  
10 exhibit that I want to show you. And so do you  
11 recall Mr. Nigussie's testimony about the sound  
12 meter that was used?

13 MR. BAYOU: Yes, yes, I used that  
14 application many times.

15 MR. BIANCO: Okay. So I'm going to  
16 show you what has been marked as Exhibit number  
17 6. Do you recognize that?

18 MR. BAYOU: Yes.

19 MR. BIANCO: And is that the sound  
20 meter that you used to conduct that test?

21 MR. BAYOU: Yes, that sound meter  
22 application.

23 MR. BIANCO: Okay. And where did you  
24 get that sound meter application?

25 MR. BAYOU: From Apple store.

1 MR. BIANCO: Okay. And does that --  
2 is that a true picture of what the sound meter  
3 showed on the day that you measured it?

4 MR. BAYOU: Yes, sir.

5 MR. BIANCO: Thank you. I have no  
6 further questions. Mr. Stoecklein -- please stay  
7 on the line. Mr. Stoecklein and the Board will  
8 likely have some questions for you.

9 MR. BAYOU: All right.

10 CHAIRPERSON ANDERSON: Mr. Stoecklein?

11 MR. STOECKLEIN: Sir, could you please  
12 tell me, do you have any -- you indicated that  
13 you conducted sound tests. Are you a licensed  
14 sound engineer?

15 MR. BAYOU: On a legal liability, yes.

16 MR. STOECKLEIN: I'm sorry?

17 MR. BAYOU: I have a license, yes.

18 MR. STOECKLEIN: You have a acoustic  
19 engineer or sound engineer license?

20 MR. BAYOU: Sound engineer, no.  
21 Designer. As designer.

22 MR. STOECKLEIN: Okay. As a designer  
23 -- as a -- what does that mean? As a designer of  
24 physical spaces, a architect? Can you just  
25 clarify for me, please.

1 MR. BAYOU: Interior designer, sir.

2 MR. STOECKLEIN: Okay. Interior  
3 designer. Thank you. Do you have any other  
4 technical credentials in acoustic measurement or  
5 any kind of mathematical background or any other  
6 kind of quantitative background that makes you  
7 particularly expert or at all expert in sound  
8 testing?

9 MR. BAYOU: No, sir. I don't have it.

10 MR. STOECKLEIN: Okay. That's okay.  
11 I mean, neither do I. So, you know, good. You  
12 indicated that you use a phone app to measure  
13 sounds -- sound levels at the establishment. Can  
14 you tell me how the application that you  
15 downloaded is calibrated?

16 MR. BAYOU: Yes. I use these  
17 application when I finish the job. When I  
18 building interior designer, I use sound proof  
19 installations.

20 MR. STOECKLEIN: But --

21 MR. BAYOU: And --

22 MR. STOECKLEIN: Sir, I'm sorry. I  
23 just -- I'm going to ask you to please just stick  
24 to the question for your sake and for mine so  
25 that I don't get in further trouble.



1                   Can you just tell me, do you have --  
2                   can you tell me -- so you said that you know how  
3                   the sound application that you used is  
4                   calibrated. How it -- how you know that what it  
5                   shows is an accurate reflection of what's  
6                   actually occurring? That's what I mean when I  
7                   say calibrated.

8                   MR. BAYOU: Yes. That day image that  
9                   is -- so it is a screenshot, but the matter is  
10                  recording. It's about three minutes, if you see  
11                  in the image.

12                  MR. STOECKLEIN: It's fair to say, I  
13                  think, that you are not aware of how the sound  
14                  meter that is purportedly portrayed in -- as  
15                  represented in this screenshot is actually  
16                  calibrated to measure sound at any level; is that  
17                  accurate?

18                  MR. BAYOU: (No verbal response.)

19                  MR. STOECKLEIN: Okay. No further  
20                  questions.

21                  CHAIRPERSON ANDERSON: Any other --  
22                  any questions by the Board members?

23                  MEMBER SHORT: Yes, Mr. Chairman. I'd  
24                  like to have a question.

25                  CHAIRPERSON ANDERSON: Yes, Mr. Short?

1                   MEMBER SHORT: Yes. Good afternoon --  
2 well, wait a minute. Good evening now, Mr.  
3 Bayou. Okay. Thank you. Now, you tested it.  
4 What time of day was that when you did that  
5 testing that video was taken?

6                   MR. BAYOU: Around 2:00, 3:00.

7                   MEMBER SHORT: P.m. in the --

8                   MR. BAYOU: P.m., sir.

9                   MEMBER SHORT: Okay. So if you would  
10 mean --

11                   MR. BAYOU: Sorry, a.m. I mean, p.m.  
12 Yes, yes, 2 pm.

13                   MEMBER SHORT: Okay. If you were  
14 there at 1:00 a.m. and the club was fully  
15 functioning, if you were there in that same  
16 location using the same application at 1:00 a.m.  
17 in the morning when the club is fully -- forgive  
18 me -- the CT is fully packed with clients and you  
19 were playing music, would that meter be reading  
20 the same thing at that time? Is that possible?

21                   MR. BIANCO: Objection. Speculation.  
22 Assumes facts not in evidence.

23                   MEMBER SHORT: I'd like to ask this  
24 question, Mr. Chairman, because this person, Mr.  
25 Bayou, has just testified that his application on

1 his iPhone, which he got through the Apple store  
2 is pretty accurate.

3 And I was just wondering would he be  
4 willing to take that same test with that meter  
5 with an investigator standing beside him at 1:00  
6 a.m. in the morning?

7 CHAIRPERSON ANDERSON: I'm going to  
8 overrule the objection. If he can answer the  
9 question, answer it. If he can't, just -- let's  
10 move on. So are you able to answer the question,  
11 sir?

12 MR. BAYOU: Yes. Absolutely yes, sir.  
13 My answer is, yes, sir.

14 MEMBER SHORT: Okay. Well, we can ask  
15 you, but I'd really liked to ask the attorney,  
16 Mr. Bianco, if he would be willing to have a  
17 private investigator come out there with Mr.  
18 Bayou and yourself at 1:00 a.m. in the morning  
19 and run this very same test and provide that  
20 information to this Board. Would that be  
21 possible, Mr. Bianco?

22 CHAIRPERSON ANDERSON: Mr. Short,  
23 that's not something that we can ask the --

24 MEMBER SHORT: I'm sorry. I thought  
25 I'd ask that question and I thought it would be

1 relevant because the testimony is that you can  
2 hear any sound outside of the back door when the  
3 music is playing. And that was just on one  
4 floor.

5 And I was just wondering, since we're  
6 going to be -- it's been requested of this Board  
7 by the applicant to use all three floors. And

8 if they're going to use this same  
9 tests to bring before this Board to grant them  
10 their wishes for an application -- first floor,  
11 then how would we know his sound mediation or  
12 whatever else that Mr. Bayou had worked on and  
13 using that very same meter, how would that affect  
14 this hearing and effective the community?

15 CHAIRPERSON ANDERSON: Well, I don't  
16 -- that's not -- we can't ask questions of the  
17 attorney, Mr. Short. So if you if you have a  
18 question for -- if you have a question for the  
19 witness, you ask a question for the witness, but  
20 we're not going to have -- that's not a question  
21 we can ask the attorney at this juncture in the  
22 case.

23 MEMBER SHORT: Well, again, I'd like  
24 to ask the witness, does he think his sound  
25 equipment he got on his -- he has on his Apple

1 phone would get the same results at 1:00 a.m. in  
2 the morning with clients on all three floors or  
3 two floors, the second and third floor -- would  
4 he get the same reading he got at 1:00 p.m.  
5 during the day? Can you answer that question?

6 MR. BAYOU: No, sir.

7 MEMBER SHORT: Why is he --

8 MR. BAYOU: I didn't hear. What did  
9 --

10 MEMBER SHORT: Excuse me?

11 MR. BAYOU: Yes. The metal that I  
12 check it, if I try it, say, 24 -- 1:00 a.m.,  
13 whatever. It doesn't -- yes. My answer is yes,  
14 so --

15 CHAIRPERSON ANDERSON: Sir, why did  
16 you turn your -- the lights off, sir? We weren't  
17 seeing you clearly. Then you turned the lights  
18 off, so you're now in the shadows. Thank you,  
19 sir.

20 MEMBER SHORT: Okay. And my last  
21 question for you, sir, is: Would you be willing  
22 to do it yourself, just for you and for the  
23 applicant's sake, for the licensee's sake, to do  
24 that same test at 1:00 a.m. in the morning with  
25 your same equipment?

1 MR. BAYOU: Yes, yes.

2 MEMBER SHORT: Would you be willing to  
3 provide that to this Board?

4 MR. BAYOU: Yes.

5 MEMBER SHORT: Thank you. That's all  
6 I -- thank you, Mr. Chair, that's all I wanted to  
7 get. Thank you.

8 CHAIRPERSON ANDERSON: Thank you, Mr.  
9 Short. Any other questions by any of the Board  
10 members?

11 Mr. Stoecklein, any questions based on  
12 the questions that were asked by the Board?

13 MR. STOECKLEIN: (No verbal response.)

14 Mr. Bianco, any redirect?

15 MR. BIANCO: No.

16 CHAIRPERSON ANDERSON: All right.  
17 Thank you, sir, for your testimony. Have a great  
18 day. Does the applicant rest?

19 MR. BAYOU: Thank you.

20 MR. BIANCO: Yes. I just got a text  
21 from my client, and at my urging, he is allowing  
22 me to not call our last identified witness. So  
23 the applicant rests.

24 CHAIRPERSON ANDERSON: Thank you, Mr.  
25 Bianco. All right. It's 8:47. We're going to

1 take another break.

2 Mr. Stoecklein, you have 55.57 minutes  
3 to present your case, sir.

4 MR. STOECKLEIN: I promise not to use  
5 them, or at least all of them.

6 CHAIRPERSON ANDERSON: It is 8:48.  
7 We're in recess until 9:00. So you can start to  
8 your presentation at 9:00. So we're in recess  
9 until 9:00.

10 We're back on the record.

11 Mr. Stoecklein, are you there, sir?  
12 Mr. Stoecklein?

13 MR. STOECKLEIN: Sorry, Mr. Chair, I'm  
14 just -- yes, I apologize.

15 CHAIRPERSON ANDERSON: Do you have a  
16 camera you can turn on, sir? Since you'll be now  
17 doing your -- yes, sir. Thank you. Do you have  
18 a witness that you want to call?

19 MR. STOECKLEIN: I do. As an initial  
20 matter before I do, I have a -- I guess a  
21 request.

22 CHAIRPERSON ANDERSON: What is that,  
23 sir?

24 MR. STOECKLEIN: So I indicated to you  
25 that we had three residents available to speak to

1       their experience, but given the long time that  
2       we've been at this, one of them had a personal  
3       situation. I don't want to call it an emergency.  
4       I don't want to speak for them, but they had to  
5       leave immediately.

6                Their partner and -- you know, their  
7       live-in partner is available to speak to the same  
8       experience. And I would like to be able to call  
9       that person.

10               CHAIRPERSON ANDERSON: The person's in  
11       the same household?

12               MR. STOECKLEIN: Correct.

13               CHAIRPERSON ANDERSON: Mr. Bianco?

14               MR. BIANCO: Mr. Anderson, I am too  
15       tired to object, so let's have it.

16               CHAIRPERSON ANDERSON: Mr. Bianco, I  
17       --

18               MR. STOECKLEIN: Rich, I appreciate  
19       the charity. Thank you.

20               MR. BIANCO: All right. We have the  
21       -- without objection.

22               CHAIRPERSON ANDERSON: You know, Mr.  
23       Stoecklein, this is what you need to do, just  
24       wear them down, wear them down, wear them down.

25               MR. BIANCO: If at this late time, Mr.



1       Stoecklein, there's any, like, reasonable facts  
2       we can stipulate to, then whatever moves this  
3       thing along. Let's just get through it.

4               MR. STOECKLEIN: Yes. I'm going to  
5       ask the same three questions to each of these  
6       folks and it's going to be, I think -- that'll be  
7       the ballgame. All right?

8               MR. BIANCO: All right. Let's rock  
9       and roll.

10              CHAIRPERSON ANDERSON: Who's the  
11       witness, sir?

12              MR. STOECKLEIN: Okay.

13              CHAIRPERSON ANDERSON: Do we need --  
14       are they -- do we need to elevate anyone, or are  
15       they here?

16              MR. STOECKLEIN: Yes.

17              CHAIRPERSON ANDERSON: Who do we need  
18       elevate?

19              MR. STOECKLEIN: Yes. So the first  
20       witness is Kyle Dudzinski.

21              CHAIRPERSON ANDERSON: If -- Ms. --  
22       well, let's -- who are the three witnesses? I'll  
23       make sure that they're all -- okay. So he's  
24       elevated. who else needs to be elevated?

25              MR. STOECKLEIN: So the second witness

1 is, pardon me, Ewa Sobczynska.

2 CHAIRPERSON ANDERSON: Okay. She's  
3 been elevated. Who else?

4 MR. STOECKLEIN: And the third, I'm  
5 texting with right now, this is the sort of the  
6 substitute partner of -- she's trying to  
7 determine whether she can participate via phone  
8 if that -- is that -- if that is allowable.

9 CHAIRPERSON ANDERSON: That's fine.  
10 We can -- you can provide her the phone line and  
11 you can provide us with maybe her -- the last  
12 four digits of her phone and we will have -- we  
13 will elevate that -- unmute that line.

14 MR. STOECKLEIN: Okay.

15 CHAIRPERSON ANDERSON: So if you'd  
16 provide us the last four digits of her phone  
17 number, we will -- or his or her phone number, I  
18 will have Ms. Fashbaugh unmute that line.

19 MR. STOECKLEIN: Okay. I'm going to  
20 send her the number to get her to call in while  
21 my -- Mr. Dudzinski is introducing himself. So  
22 I'll --

23 CHAIRPERSON ANDERSON: All right.  
24 Fine. All right. So, Mr. Dudzinski, do you have  
25 a camera? Can you unmute your line and turn your

1 camera on, sir, if you have a camera?

2 MR. DUDZINSKI: Evening.

3 CHAIRPERSON ANDERSON: Good evening.

4 Can you raise your right hand, please. Do you  
5 swear or affirm to tell the truth and nothing but  
6 the truth?

7 MR. DUDZINSKI: Yes.

8 CHAIRPERSON ANDERSON: Let him -- your  
9 first question, to have him, please, spell and  
10 state his name for the record. That's the first  
11 question should be asked. Okay. Thanks. Go  
12 ahead. Your witness.

13 MR. STOECKLEIN: Okay. Mr. Dudzinski,  
14 could you please state your -- can you spell your  
15 name for the record? Are you with us, Kyle?

16 CHAIRPERSON ANDERSON: He's here. can  
17 you hear us, sir? We can't hear you, sir.

18 MR. DUDZINSKI: Can --

19 CHAIRPERSON ANDERSON: Yes, we can  
20 now. We can hear you.

21 MR. DUDZINSKI: Okay. Perfect. I  
22 just -- I'll use my internal speakers.

23 CHAIRPERSON ANDERSON: Okay. So the  
24 question was: Can you please spell and state your  
25 name for the record, sir?

1 MR. DUDZINSKI: Yes, sir. Sorry.  
2 Name is Kyle Dudzinski, spelled K-Y-L-E, last  
3 name, D-U-D-Z-I-N-S-K-I.

4 MR. STOECKLEIN: Great. And, could  
5 you please tell me -- could you state the address  
6 which -- at which you own a condo at or near  
7 Empire?

8 MR. DUDZINSKI: Yes, 1912 8th Street  
9 Northwest.

10 MR. STOECKLEIN: Okay. And just to be  
11 clear, is it correct that you are the owner of  
12 that unit, formerly a resident of, and have since  
13 moved out?

14 MR. DUDZINSKI: Yes, sir.

15 MR. STOECKLEIN: Okay. Kyle, could  
16 you please explain to the Board, from the time  
17 that you moved in 'til the present day, the  
18 nature of your experience as a resident and owner  
19 relative to Empire?

20 MR. DUDZINSKI: Yes, absolutely.  
21 We'll take you guys through abbreviated timeline,  
22 understanding, you know, it is 9:00.

23 So I bought my home back in September  
24 of 2020 and had originally planned to be there  
25 for the next five to seven years, loved DC, loved

1 the Shaw neighborhood.

2 And everything was great until, I  
3 would say, by spring of 2020, around the -- or  
4 excuse me, 2021, around the May time frame.

5 Started to hear some base and some  
6 music that hadn't otherwise been there for the  
7 first, you know, handful of months I was living  
8 there.

9 Granted, understanding we were going  
10 through a pandemic and operations weren't  
11 necessarily in full swing anywhere. So that  
12 being a reason and understandable one at that.

13 However, over the course of the next  
14 couple of months, you know, it grew worse and  
15 worse. So around the June 2021 month, you know,  
16 the base that was able to allow me to sleep got a  
17 little bit louder, but nothing that, you know, a  
18 couple of melatonin didn't fix.

19 Unfortunately, you know, throughout  
20 that summer, it just got worse and worse to the  
21 point where, you know, in about August -- late  
22 July, August my master bedroom was reverberating  
23 and my bed was shaking, the windows were shaking  
24 and I -- we couldn't sleep in there anymore.

25 It was, I mean, at least five days a

1 week. You know, weekends were certainly louder  
2 and more raucous than the weekdays. But I  
3 remember on countless occasions, Mondays,  
4 Tuesdays, Thursdays, that these noises also just  
5 permeated through my building.

6 So I -- in July, we started sleeping  
7 in our second bedroom and initially, that was  
8 okay.

9 But it got to the September time frame  
10 and then it just seemed like the noise ratcheted  
11 up that much further, to the point where, instead  
12 of sleeping in our second bedroom, we moved one  
13 of our beds into our living room and I started  
14 sleeping in my living room with my mattress on  
15 the ground, kind of make makeshift movie theater,  
16 if you will.

17 Unfortunately, it wasn't a type of  
18 vacation that I appreciated. So initially  
19 started looking at, you know, how do we solve  
20 this problem in September because that's when the  
21 sleeping really became an issue, when we had to  
22 move from our second bedroom into our living  
23 room, but also stayed with friends and families  
24 in certain times.

25 And initially called the police, not

1 knowing that there was an ABRA Board that's  
2 specifically designed for these things, you know.  
3 They came.

4 They heard the noise and they said,  
5 Unfortunately, we can't do anything. If it was  
6 one of your neighbors, sure, we could we could  
7 talk, but this is an establishment and a licensed  
8 establishment. You need to go to the ABRA.

9 So when I got, you know, back and we  
10 were living there concurrently for a couple of  
11 weeks in October after a couple of trips, made  
12 three separate complaints to the ABRA late  
13 October, where two of them, I believe one was the  
14 27th of October, one was the 30th of October.

15 And then about a week-and-a-half after  
16 -- and two weeks after the first one, on November  
17 8th, was the third and final complaint.

18 We went back-and-forth with the ABRA,  
19 filing oral requests to understand where these  
20 cases were in the judicial process, understanding  
21 that it does take time.

22 Didn't receive a fact briefing on any  
23 of it until maybe at the beginning of December.  
24 Unfortunately, it was at that time, living there  
25 for another three weeks over the thanksgiving

1 holiday, that me and my girlfriend made the  
2 decision to move out of the city.

3 We couldn't deal with the noise  
4 anymore. Nothing was changing. And, you know,  
5 for better or for worse, I started reading up on  
6 no previous cases and, unfortunately, it didn't  
7 seem like for this establishment, what was  
8 discussed prior -- in settlements that may have  
9 been discussed prior, unfortunately, you know,  
10 the issues still were happening. So we moved  
11 out.

12 I've kept the place in hopes of moving  
13 back one day. Again, I love the city. I've  
14 lived there for -- I lived there for six years  
15 before moving across the river. And, you know,  
16 the nature is what it is. At this point in time  
17 when I felt compelled to address this Board to my  
18 experience.

19 MR. STOECKLEIN: Thanks, Mr.  
20 Dudzinski. So it was a pretty comprehensive  
21 summary. I appreciate it. So just a few follow-  
22 ups.

23 Did you, at any point in time, try to  
24 contact the owners of Empire, Mr. Nigussie in  
25 particular? And if so, what was the nature of



1 those conversations or interactions, if any?

2 MR. DUDZINSKI: No, I didn't. I mean,  
3 at most points in time, it was very late at  
4 night. And even if it was 10:00 or 11:00, you  
5 know, I wasn't about to go over there in my  
6 skivvies and knock on their door, telling them to  
7 quiet it down.

8 I figured that our institutions in DC,  
9 the checks and balances would be able to handle  
10 such situations, which is why I didn't raise it  
11 to the ABRA to hopefully have these issues dealt  
12 with.

13 MR. STOECKLEIN: Are you of any -- are  
14 you aware of any requirement within your condo  
15 documents or any law in DC that would obligate  
16 you, before calling ABRA to complain about noise,  
17 to take it upon yourself to go try to address it  
18 directly?

19 MR. DUDZINSKI: I'm not aware, sir.

20 MR. STOECKLEIN: Okay. And am I  
21 correct in -- am I correct that your testimony is  
22 that, on average -- let's start -- say that sort  
23 of on a weekly average that this -- that the kind  
24 of noise that you described that could be heard  
25 and felt in your condo, occurred approximately

1 five nights a week, sometimes more?

2 MR. DUDZINSKI: Five nights a week,  
3 sometimes more from -- starting at 9:30, 10:00  
4 p.m. all the way until 3:00 a.m.

5 MR. STOECKLEIN: Okay. And how many  
6 times did ABRA investigators come out and inspect  
7 the sound levels?

8 MR. DUDZINSKI: Certainly on three  
9 occasions, they came out physically. I believe  
10 on one other occasion they just went directly to  
11 their place, although I don't have record of that  
12 from memory here.

13 And each time that came into my unit  
14 and they took measurements from inside my unit,  
15 heard noise, and then they went out to our back  
16 patio, which is on the adjacent alleyway, and  
17 they were able to hear the noise permeating  
18 through there.

19 And then they had another officer in  
20 my unit that was able to corroborate everything  
21 that they were hearing outside.

22 So to the event that I saw that video  
23 earlier, unfortunately, my experiences were --  
24 you know, just the second and the third floor  
25 operating, that was what was shaking my unit and

1 I can't imagine what adding another floor on top  
2 of that would do to my building and neighboring  
3 buildings. And that's unfortunate.

4 MR. STOECKLEIN: And is it fair to say  
5 that the -- your decision to leave a condo that  
6 you had likely just purchased, is -- was the  
7 result of your experience of Empire?

8 MR. DUDZINSKI: That is the sole  
9 reason that I left.

10 MR. STOECKLEIN: Okay. I have no  
11 further questions.

12 CHAIRPERSON ANDERSON: Mr. Bianco?

13 MR. BIANCO: Yes, sir.

14 Good evening. I am going to try to  
15 move through this in an abbreviated way. I am  
16 going to share my screen here.

17 Are you able to see I have Applicant's  
18 Exhibit 3 up on the screen? And can you see  
19 where 1909 9th Street is marked on that map?

20 MR. DUDZINSKI: Yes, sir.

21 MR. BIANCO: And can you describe for  
22 me where you live in relationship to 1909 9th  
23 Street?

24 MR. DUDZINSKI: Yes. I live behind on  
25 the 8th Street side, as testified.

1 MR. BIANCO: Okay. So one of these  
2 buildings here?

3 MR. DUDZINSKI: That's correct.

4 MR. BIANCO: Okay. Or is -- which one  
5 is it? Is it this building, or this building?

6 MR. DUDZINSKI: It's the building  
7 directly behind it.

8 MR. BIANCO: Okay. So that would be  
9 -- what's the address, this building here?

10 MR. DUDZINSKI: 1912, as I stated  
11 earlier.

12 MR. BIANCO: Okay. 1912 8th Street.  
13 And where is your unit inside of 1912 8th Street?

14 MR. DUDZINSKI: It was the ground  
15 level, sir.

16 MR. BIANCO: Okay. And these symbols  
17 here, one, two, three, four, five, represent  
18 other ABC licensed establishments with  
19 entertainment endorsements.

20 How is it that you know the noise that  
21 was bothering you was coming from Empire and not  
22 one of the other establishments?

23 MR. DUDZINSKI: Well, the taco joint,  
24 which is directly to the left of Empire, has a  
25 rooftop where they're serving food and they would

1 shut down all of their music and things by about  
2 10:00, 11:00 because their lights would go off  
3 and that's when the cleaning staff would be done.

4 I know that it was Empire because I  
5 actually went back into that alleyway and opened  
6 the door that they said was unlocked and just  
7 listened from outside to make sure that's exactly  
8 what I could hear.

9 The base that I could hear each time  
10 that I walked outside was exactly what was  
11 permeating from Empire.

12 So me being on the premises from the  
13 alley way, not actually on their premises, I was  
14 certainly able to tell if it was directly coming  
15 from Empire Lounge.

16 MR. BIANCO: Okay. And it was your  
17 testimony at that time that only the second and  
18 third floor were operating, correct?

19 MR. DUDZINSKI: I moved out in  
20 November of 2021, so I'm assuming, just based on  
21 this timeline that was provided earlier, that  
22 they weren't operating that first floor at that  
23 time.

24 MR. BIANCO: Okay. And other than the  
25 sound test video you watched today, you don't

1 have any understanding of how the first floor is  
2 soundproofed, correct?

3 MR. DUDZINSKI: I don't, but from my  
4 experiences, I can tell that the second and third  
5 floor certainly aren't soundproofed.

6 MR. BIANCO: Okay. And you know we're  
7 here today talking about the first floor,  
8 correct?

9 MR. DUDZINSKI: Absolutely, but as my  
10 testimony goes to --

11 MR. BIANCO: I'm not looking for  
12 argument.

13 MR. DUDZINSKI: I'm sorry.

14 MR. BIANCO: He'll redirect you and  
15 you can make all the argument you like. You  
16 answer the question, thank you. Okay. So you  
17 testified about some complaints to ABRA, correct?

18 MR. DUDZINSKI: Yes, sir.

19 MR. BIANCO: And you called ABRA and  
20 they came out and they did some measurements, you  
21 said?

22 MR. DUDZINSKI: Yes, sir.

23 MR. BIANCO: Okay. And you were  
24 frustrated, you followed up, and what you didn't  
25 testify about is what the results were.

1 MR. DUDZINSKI: I was never provided  
2 the results.

3 MR. BIANCO: Would you be surprised to  
4 learn that your noise complaints were dismissed,  
5 sir?

6 MR. DUDZINSKI: I would be surprised  
7 and I would ask, do you have reasons for why they  
8 were dismissed?

9 MR. BIANCO: Yes, they couldn't be  
10 substantiated.

11 MR. DUDZINSKI: And why is that?

12 MR. BIANCO: You can -- we can look at  
13 the Board records, but I do appreciate your  
14 testimony on that on that point. So you moved in  
15 in 2020, correct?

16 MR. DUDZINSKI: That's correct.

17 MR. BIANCO: Okay. And at the time  
18 you moved in, Empire was there and operating,  
19 correct?

20 MR. DUDZINSKI: Correct. I believe,  
21 but to a lesser so due to COVID protocols.

22 MR. BIANCO: Okay. And Cloud Lounge,  
23 which is located here, they were operating at  
24 that time as well?

25 MR. DUDZINSKI: I have no knowledge of

1       that establishment, sir.

2               MR. BIANCO:   Okay.   And how about  
3   Right Spot?   Do you know --

4               MR. DUDZINSKI:   Again, I'm sure that  
5   their lights were on, but I have no knowledge of  
6   those establishments.

7               My knowledge is strictly based on what  
8   I could hear from my unit directly behind me,  
9   which is Empire Lounge.   So I would like to  
10   testify on that because I have no knowledge of  
11   the other establishments.

12              MR. BIANCO:   Okay.   And finally, it  
13   was your testimony that you did not communicate  
14   any noise issues directly to the establishment,  
15   correct?

16              MR. DUDZINSKI:   No.   I thought ABRA,  
17   a city institution, would be able to help handle  
18   this, but obviously not.

19              MR. BIANCO:   Great.   Thank you very  
20   much.   I have no further questions.

21              CHAIRPERSON ANDERSON:   Thank you.  
22   Close this screen, please, Mr. Bianco.   Any  
23   questions by any Board members?   Yes, Mr. --  
24   excuse me, yes, Mr. Grandis.

25              MEMBER GRANDIS:   Thank you.   Mr.



1 Dudzinski. Thank you for your testimony this  
2 evening. Do you have someone currently living --  
3 and you may have already said this, but just for  
4 my knowledge, did you -- do you have someone  
5 living in that unit that you had to move out of?

6 MR. DUDZINSKI: It was vacant for five  
7 or six months.

8 MEMBER GRANDIS: And are they  
9 complaining to you?

10 MR. DUDZINSKI: They have made some  
11 complaints, but not on a regular basis. And I'm  
12 not sure if that somewhat replicates, you know,  
13 the line of them trying to expand business and  
14 trying to play ball. So I can only speculate on  
15 that, unfortunately.

16 MEMBER GRANDIS: Okay. Thank you.  
17 And you said that your unit is on the ground  
18 floor?

19 MR. DUDZINSKI: Yes, sir.

20 MEMBER GRANDIS: Correct? And that --  
21 is there a -- do you have a door on that ground  
22 floor that goes to a patio or to the back alley  
23 as well?

24 MR. DUDZINSKI: Yes. So I have a  
25 carport. I have my window unit, which does have

1 an egress, but there's also a door to my second  
2 bedroom that provides a full egress to the  
3 stairwell.

4 MEMBER GRANDIS: And if they do get  
5 approval to expand their business to the first  
6 floor, I think there's been testimony today that  
7 they already have a DJ booth on that first floor.  
8 I think I heard you say that would be more  
9 problematic?

10 MR. DUDZINSKI: Well, to the extent I  
11 can testify that my bedroom was shaking due to DJ  
12 booths on the second floor and operations on the  
13 third floor, I can only imagine that anything put  
14 in on the first floor would only exacerbate that  
15 issue.

16 MEMBER GRANDIS: Well, that's a good  
17 point I'd like to ask you. And you may not be  
18 knowledgeable enough to give an opinion, but when  
19 you say shaking, I'm only speculating, but often  
20 shaking may be actually the base as opposed to  
21 the sound. So were -- are you disturbed both by  
22 visible shaking and as well with sound?

23 MR. DUDZINSKI: So yes, sir. And they  
24 both cause sleep problems. The shaking was the  
25 window panes as well as the bed frame, but base

1 plus music also was able to get through the  
2 window. So it's twofold.

3 MEMBER GRANDIS: And I heard testimony  
4 that there may be some kind of soundproofing that  
5 may be part of their business plan, which I don't  
6 know specifically.

7 But perhaps if the bass, which usually  
8 is why we have shaking, is resolved and they have  
9 soundproofing, that may alleviate some of the  
10 noise actually that goes into your --

11 I'm only speculating, but if they were  
12 able to do that, would you have a problem with  
13 them expanding to the first floor?

14 MR. DUDZINSKI: -- that I understood  
15 that previous witness testimony is that he has  
16 already installed the soundproofing on the first  
17 floor. Again, to you, my experience was from the  
18 second third floor and that being an issue.

19 So again, exacerbation, but I don't  
20 understand how, unless their business plan  
21 involves a complete, total overhaul,  
22 deconstruction, and construction of soundproof  
23 throughout the whole building, how just  
24 soundproofing the first floor would make my  
25 experience on the first floor any better.

1                   MEMBER GRANDIS: And all residents  
2 should be able to have a peaceful night. We all  
3 agree with that. Well, I have one last question.

4                   Putting -- and I know noise is an  
5 issue with you and the impact it had onto your  
6 sleep. But putting that aside, we heard other  
7 testimony about so-called crime, other issues  
8 that may or may not be related to this building.

9                   Did you have other issues, other  
10 experiences that emanated from the customers for  
11 the staff of this building?

12                  MR. DUDZINSKI: I can't say that the  
13 customers or the staff were the ones committing  
14 any of the violence. I do have an unfortunate  
15 break-in attempt that I had -- I thwarted where  
16 someone jumped in my back carport around bar  
17 closing time and tried to break into my bedroom  
18 window.

19                  Again, I have no clue if that  
20 individual was related to the club or not. But  
21 just the litter was -- from the back alley, the  
22 human feces, the pee smell, just the rat  
23 overfestation in the area, I mean, it's not being  
24 made better by any of these clubs and the garbage  
25 that they have back there.

1                   So it's not just crime, it's dirt and  
2                   it's just kind of a peace of mind that the  
3                   cleanliness of the community that we would all  
4                   hope to live in.

5                   CHAIRPERSON ANDERSON: Any other  
6                   questions by any of the Board members?

7                   Mr. Bianco, any questions based on --  
8                   any based on the questions of the Board?

9                   CHAIRPERSON ANDERSON: Yes. Mr.  
10                  Grandis -- so Mr. Grandis asked you about the  
11                  establishment agreeing to sound proofing and the  
12                  like. Are you a member of WNA?

13                  MR. DUDZINSKI: I'm not, sir, no.

14                  MR. BIANCO: Okay. Did you  
15                  participate in any of their meetings or  
16                  discussions about this establishment?

17                  MR. DUDZINSKI: I did not, sir, no.  
18                  I'm testifying on behalf.

19                  MR. BIANCO: Okay. That's all. Thank  
20                  you.

21                  CHAIRPERSON ANDERSON: Mr. Stoecklein,  
22                  any redirect?

23                  MR. STOECKLEIN: Yes.

24                  Mr. Dudzinski, is it correct, to the  
25                  best of your knowledge, that at this time, none

1 of the owners of the units in your building are  
2 currently occupying those units?

3 MR. DUDZINSKI: I believe one of the  
4 owners is only part-time and then I do believe we  
5 have one couple that are full-time owners, but  
6 they just moved in recently.

7 MR. ORLASKEY: Okay.

8 MR. DUDZINSKI: So they bought it this  
9 past -- in the past few months.

10 MR. STOECKLEIN: Okay. And do you  
11 recall in preparation for your testimony today  
12 and in the multiple conversations and e-mail  
13 exchanges that we had in this subject attempting  
14 to connect me with certain other owners in the  
15 building?

16 MR. DUDZINSKI: Yes.

17 MR. STOECKLEIN: And do you recall my  
18 persistent efforts to secure testimony from  
19 additional owners?

20 MR. DUDZINSKI: Yes, sir.

21 MR. STOECKLEIN: So can you indicate,  
22 to the best of your knowledge and based on the  
23 feedback of those owners, why it is that they  
24 were concerned about testifying and ultimately  
25 unwilling?

1 MR. BIANCO: Objection. Speculation.  
2 He's asking him how other people think or feel.

3 MR. STOECKLEIN: I'm asking, based on  
4 the conversations to which Mr. Dudzinski was a  
5 party, what he was aware of.

6 MR. BIANCO: I mean, that wasn't the  
7 question, one, and two, it calls for hearsay.  
8 It's not appropriate in any of them.

9 CHAIRPERSON ANDERSON: All right. I'm  
10 going to overrule the objection. If you can  
11 answer the question, answer the question, if you  
12 can.

13 MR. DUDZINSKI: So I can speak to my  
14 experience first and I was extremely afraid of  
15 retribution, which is why I did not consider  
16 coming before this Board on numerous occasions  
17 and Pierson was extremely persistent in saying  
18 that, you know, only unfortunate, you know,  
19 witness testimony can drive change.

20 And although I'm not living there, I  
21 still own the unit and I would love to move back  
22 some day. I think I made that clear earlier.  
23 And I believe, through conversations with my  
24 other Board members, as well as tenants of the  
25 building, those were some shared concerns between

1 all of us.

2 I mean, we live in the same community.  
3 We operate on the same streets. It's not crazy  
4 to think that, you know, things could happen and  
5 that is a very real fear.

6 MR. STOECKLEIN: Okay. Thank you, Mr.  
7 Dudzinski. I have no further questions.

8 MR. BIANCO: I have a question based  
9 on Mr. Stoecklein's line of questioning, just  
10 answer --

11 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
12 Bianco, but I'm not going to give you another run  
13 because if I do, then I -- he has to -- I would  
14 give him -- I have to give him another  
15 opportunity to ask. So with that line of  
16 questioning it's over, sir. Thank you. So let's  
17 move on. Do you have --

18 Thank you, sir, for your testimony.

19 MR. DUDZINSKI: Thank you, all.

20 CHAIRPERSON ANDERSON: Do you have  
21 another witness, sir?

22 MR. STOECKLEIN: I do. I'd like to  
23 call Ms. Ewa Sobczynska. I know I'm butchering  
24 that name.

25 CHAIRPERSON ANDERSON: Ms. Sobczynska,



1 can you turn your camera on, please, ma'am. Can  
2 you raise your right hand, please. Do you swear  
3 or affirm to tell the truth and nothing but the  
4 truth?

5 MS. SOBCZYNSKA: Yes, I do.

6 CHAIRPERSON ANDERSON: Can you have  
7 her say and spell her name for the record,  
8 please, sir.

9 MR. STOECKLEIN: Yes. Could you  
10 please say and spell your name for the record?

11 MS. SOBCZYNSKA: Sure. My name is Ewa  
12 Sobczynska, E-W-A S-O-B-C-Z-Y-N-S-K-A.

13 MR. STOECKLEIN: Thank you.

14 CHAIRPERSON ANDERSON: Ms. Sobczynska,  
15 could you please indicate the address of the  
16 building in which you live her on property

17 MS. SOBCZYNSKA: Yes. I lived -- I  
18 own an apartment at 1912 8th Street, Northwest,  
19 Apartment D.

20 CHAIRPERSON ANDERSON: Okay. And did  
21 you see -- just for the record, did you see the  
22 map that Mr. Bianco was showing to the prior  
23 witness, Mr. Dudzinski?

24 MS. SOBCZYNSKA: Yes. I live in the  
25 same building as Kyle -- or I own an apartment in

1 the same building as Kyle.

2 CHAIRPERSON ANDERSON: Okay. Okay.

3 Thank you.

4 MR. STOECKLEIN: Could you please tell  
5 me how long you've -- you resided in and/or owned  
6 in the building?

7 MS. SOBCZYNSKA: Yes. So I and my  
8 husband bought the apartment in February 2012 and  
9 we have lived here for a year-and-a-half. We  
10 have been renting the space from 2014 to 2021 --  
11 October 2021, and I have moved back here part-  
12 time. I live in Washington DC and New York State  
13 from October 2021 'til now.

14 MR. STOECKLEIN: Okay. So just -- so  
15 I'm looking to focus just specifically on the  
16 time that you spend in the 1912 building so just  
17 so I'm clear, you --

18 MS. SOBCZYNSKA: Sure. I can be very  
19 clear. I have lived here from February 2012 'til  
20 December 2013, and then from October 2021 until  
21 now.

22 CHAIRPERSON ANDERSON: Okay. And  
23 during your time living in the building, can you  
24 please describe the -- any observations at Empire  
25 and any impact that it's had on, you know, your

1 peace and enjoyment of your property, your home?

2 MS. SOBCZYNSKA: Thanks, Pierson. So  
3 just a general observation that -- my unit is  
4 facing 8th Street. So I don't have any windows  
5 of any bedrooms facing backwards. So I have not  
6 experienced the same amount of sound distress  
7 that Kyle has described and he -- and I --

8 But I want to underline that Kyle has  
9 shared with us his concerns and his sound  
10 distress for a number of months before I have  
11 moved back to the building. I can hear loud  
12 noises in the back in the evenings as I throw out  
13 my trash.

14 I can't testify that they are coming  
15 from Empire Lounge. There is -- this is a very -  
16 - this has become a very noisy neighborhood since  
17 the time we bought this apartment over ten years  
18 ago. So I can't testify that the sound is coming  
19 specifically from Empire Lounge, from my  
20 knowledge.

21 I do want to make a statement that the  
22 general quality of life has definitely declined  
23 for residents of this area. It's very clear that  
24 the City's placing a lot of value on inviting a  
25 number of business owners to the area without

1       mainly be due respect to the fact that this is  
2       still quite a residential neighborhood.

3               And so what Kyle has stated about the  
4       quality of life, the trash in the alley behind  
5       Empire and other accomplishments along the 9th  
6       Street corridor, the human feces, the stink of  
7       pee, that has definitely -- over the past ten  
8       years, there's been a decline.

9               And I have to say I was -- it was  
10      quite a stark difference from where the area has  
11      been ten years ago.

12              MR. STOECKLEIN: Can you tell me, ten  
13      years ago if you think about the 1900 block and  
14      the establishments that existed there at the  
15      time, can be described what the differences  
16      between the establishments that existed then  
17      exist today?

18              MS. SOBCZYNSKA: Yes.

19              MR. BIANCO: I'm going to -- hang on.  
20      I'm going to object, Mr. Chair, on the -- on  
21      relevance grounds to both this question and the  
22      remainder of this witness's testimony.

23              She just testified that she can't say  
24      that there's any disturbances coming from Empire.  
25      What are we talking about here? I think we

1 should just move on and hear any relevant  
2 testimony that remains.

3 MR. STOECKLEIN: The witness is --

4 CHAIRPERSON ANDERSON: Go ahead, sir.

5 MR. STOECKLEIN: Well, the witness  
6 agrees she made that statement. She did,  
7 however, speak specifically to other nuisances  
8 that arise specifically out of Empire that she  
9 has personally observed, so she can speak to  
10 other adverse consequences of Empire's activities  
11 on her life and her co-residents.

12 I think it's also highly probative of  
13 the broader question that we're -- we continue to  
14 try to address and to bring into focus, which is  
15 that an expansion has to be considered in the  
16 broader context of the impact on the area -- the  
17 immediate area.

18 That is what the statutory obligation  
19 -- I mean, that's what the requirement is. And  
20 so she's -- I'm asking her to speak because she's  
21 in a unique position over the course of a decade  
22 to speak to the difference that she's observed  
23 personally in the area.

24 MR. BIANCO: Empire hasn't been there  
25 for a decade.

1 MR. STOECKLEIN: I couldn't agree  
2 more, but that's the point. That's the whole  
3 point, Mr. Bianco.

4 MR. BIANCO: I don't get the point.  
5 She can't tie --

6 CHAIRPERSON ANDERSON: Gentlemen, all  
7 right.

8 MR. BIANCO: What are we talking  
9 about?

10 CHAIRPERSON ANDERSON: I'm going to --  
11 for what it's worth, I'll have the witness  
12 testify. However, the witness has, however,  
13 testified that based on where her unit is, she  
14 cannot --

15 I mean, the purpose of this hearing is  
16 to state whether it's appropriate for us to allow  
17 the substantial change for them to operate on the  
18 first floor.

19 This witness, however, has testified  
20 that she cannot specifically pinpoint whether or  
21 not this establishment is responsible for the  
22 noise.

23 But I will allow the witness to  
24 testify, but -- for what it's worth, since she's  
25 here and she has volunteered to testify, but I

1 think we need to keep in mind the limits of her  
2 testimony regarding --

3 MR. STOECKLEIN: Understood, Mr.  
4 Chair.

5 CHAIRPERSON ANDERSON: -- of the  
6 expansion.

7 MR. STOECKLEIN: Ms. Sobczynska, I'm  
8 going to withdraw that question, just try to  
9 rephrase a narrower question and then we can  
10 finish.

11 Could you please specifically speak to  
12 the relative difference in the, you know, number  
13 of clubs and loudness that you observed in your -  
14 - you know, during your first year of residence  
15 back in 2012 versus what you now see?

16 MS. SOBCZYNSKA: Yes. So none of the  
17 owners that originally owned the unit in this  
18 building had ever complained about excessive  
19 noise at night. That was never a complaint we've  
20 had about any of the establishments at 8th  
21 Street.

22 And mind you, there has been -- and I  
23 guess that's the building next to Empire, there  
24 has been a rooftop deck that actually was, I  
25 think, constructed around the time when we bought

1 an apartment here where there was noise coming  
2 during the day that was turned off in the  
3 evening.

4 So we've never had, really, complaints  
5 about noise issues at all.

6 MR. STOECKLEIN: Just so I understand,  
7 you're -- you mean when you first moved to the  
8 area?

9 MS. SOBCZYNSKA: Yes. So between 2012  
10 and 2013 when we reside --

11 MR. STOECKLEIN: Right.

12 MS. SOBCZYNSKA: -- resided here, yes.

13 MR. STOECKLEIN: And how does that  
14 differ from the experience that you've observed  
15 now?

16 MS. SOBCZYNSKA: There is a constant  
17 noise that is coming from the alleyway in the  
18 evenings.

19 MR. STOECKLEIN: Okay. And would you  
20 say that that -- can you indicate to us the  
21 extent to which that disrupts your ability to  
22 enjoy your own property and to live your life, go  
23 about your business peacefully?

24 MS. SOBCZYNSKA: It disrupts my  
25 ability to enjoy my property in peace on the



1 weekends, especially.

2 MR. STOECKLEIN: Okay. Thank you very  
3 much. I have no further questions.

4 CHAIRPERSON ANDERSON: Mr. Bianco? We  
5 can't hear you, sir.

6 MR. BIANCO: Okay. So if I understand  
7 your testimony, it is that your neighborhood is  
8 noisier now than it was ten years ago? Is that  
9 the crux of your testimony?

10 MS. SOBCZYNSKA: The quality of life  
11 in our neighborhood has declined substantively  
12 over the past ten years, correct.

13 MR. BIANCO: Okay. And the reason you  
14 attribute to that is the number of ABC licensed  
15 establishments in your neighborhood, correct?

16 MS. SOBCZYNSKA: Sorry. Can you  
17 explain this to me?

18 MR. BIANCO: Sure. The number of bars  
19 and restaurants that are now in your  
20 neighborhood.

21 MS. SOBCZYNSKA: I would not attribute  
22 the increased noise from the increase in  
23 residency, which has also increased over the past  
24 ten years. There is now two huge -- or actually  
25 four apartment buildings.

1                   So no, that noise does not come from  
2 more people living here. It comes from more  
3 establishments with, I guess, alcohol licenses,  
4 correct.

5                   MR. BIANCO: Okay. Good. So the  
6 quality of life declines with the number of  
7 alcohol licenses. And can you draw a direct line  
8 to Empire Lounge in terms of the diminishing  
9 quality of life in the neighborhood?

10                  MS. SOBCZYNSKA: The simple answer is,  
11 I can't because it is one of the establishment  
12 and it is one of the establishments that is the  
13 loudest on the block.

14                  MR. BIANCO: Okay. And have you --

15                  MS. SOBCZYNSKA: And that's -- and  
16 just to be clear, when I say the loudest,  
17 obviously, it's my qualitative assessment. I  
18 don't have any data or evidence to substantiate  
19 this.

20                  MR. BIANCO: Okay. All right. That's  
21 good enough. Thank you very much for your  
22 testimony. I appreciate it.

23                  MS. SOBCZYNSKA: Thank you.

24                  CHAIRPERSON ANDERSON: Any other  
25 questions? Any questions by any Board members?

1 All right. Well, I guess no -- there's no  
2 questions by the Board members and I don't  
3 believe that I need to give you a chance to do  
4 redirect. So that is it okay.

5 All right. Thank you, ma'am, for your  
6 testimony. Have a great day.

7 MS. SOBCZYNSKA: Thank you.

8 CHAIRPERSON ANDERSON: All right. Do  
9 you have any other witnesses, sir?

10 MR. STOECKLEIN: Thank you. I'd like  
11 to call the substitute witness, Ms. Lexi  
12 Overholt. She is dialed in the phone.

13 CHAIRPERSON ANDERSON: Is she -- has  
14 she been elevated? I don't know, that's what I'm  
15 trying to find out, if I need to have her  
16 elevated.

17 MR. STOECKLEIN: The last four digits  
18 of her phone are 1026.

19 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
20 can you please elevate 10426, please?

21 MR. STOECKLEIN: 1026.

22 CHAIRPERSON ANDERSON: 1026, I  
23 believe.

24 MS. FASHBAUGH: 103969 is elevated.

25 Thank you.

1 CHAIRPERSON ANDERSON: Is that --  
2 who's -- can the person who's --

3 MR. STOECKLEIN: That's correct.

4 CHAIRPERSON ANDERSON: I'm sorry --  
5 all right. So hello? Hello? Can I -- yes, I  
6 think she has to unmute herself and I think she  
7 needs to --

8 MS. OVERHOLT: Hi. Can you hear me  
9 now?

10 CHAIRPERSON ANDERSON: Yes, ma'am. We  
11 can hear you.

12 MS. OVERHOLT: Okay.

13 CHAIRPERSON ANDERSON: Can you raise  
14 your right hand, please. Can you raise your  
15 right hand, please ma'am.

16 MS. OVERHOLT: Yes. Yes.

17 CHAIRPERSON ANDERSON: Do you swear or  
18 affirm to tell truth and nothing but the truth?

19 MS. OVERHOLT: I do.

20 CHAIRPERSON ANDERSON: All right. Can  
21 you have -- Mr. Stoecklein, can you have her  
22 spell and state her name for the record, please.

23 MR. STOECKLEIN: Yes, Lexi, could you  
24 please state and spell your name for the record.

25 MS. OVERHOLT: Yes. My full legal

1 name is the Alexandra Overholt, A-L-E-X-A-N-D-R-  
2 A, O-V as in Victor, E-R-H-O-L-T as in Tom.

3 MR. STOECKLEIN: Great. Thank you.  
4 And could you please indicate your -- you know,  
5 your address?

6 MS. OVERHOLT: Yes. I was residing in  
7 1912 8th Street, Apartment E as in elephant.

8 MR. STOECKLEIN: Okay. And you just  
9 said it in the past tense, so does that mean that  
10 you are no longer living there?

11 MS. OVERHOLT: Correct. We still have  
12 our lease until August 1st, but we've moved out.

13 MR. STOECKLEIN: Okay. And when did  
14 you first move in?

15 MS. OVERHOLT: We moved in July 27th  
16 of 2020.

17 MR. STOECKLEIN: Okay. And could you  
18 please describe to us the nature of your  
19 experience as it specifically relates to living  
20 in your home and any observations or impacts to -  
21 - directly tied to Empire Lounge?

22 MS. OVERHOLT: Yes, absolutely. So  
23 the first night that we moved in, we started  
24 experiencing very loud noise coming from Empire  
25 Lounge. We actually went down into the carport

1 to see if we could tell what establishment it  
2 was. And it was clear that it was coming from  
3 the second and third floor of Empire.

4 We could tell because employees were  
5 going down the stairs, opening the doors, and the  
6 sound would increase. This continued to happen  
7 for the duration of our time there, I would say a  
8 minimum of five times a week, but it's honestly  
9 more like seven.

10 And we were on the top floor of 1912,  
11 so our bedroom balcony faced the top floor of  
12 Empire Lounge. And our bedroom floor would  
13 shake, our TV would shake, our head board would  
14 shake.

15 I actually reached out to Empire and  
16 they would never pick up their phone. So I  
17 resorted to text. If you text the main line,  
18 they will actually text you back.

19 And so they said that they would turn  
20 the music down and in turn they actually would  
21 turn it up, causing us to move to our guest room  
22 on the other side of the apartment.

23 We called the ABRA many times. ABRA  
24 never came to our apartment. I know that we had  
25 been talking with the other owners of the

1 building and they had had ABRA come out a few  
2 times to do the sound decibel measurements, but  
3 they never came when we called.

4 On one occasion, I woke up at 3:00 in  
5 the morning to what I thought was a table saw.  
6 And I went and looked out the balcony, and they  
7 were using the table saw to reconstruct new  
8 bottle boxes and six signage. That lasted until  
9 about 4:30 in the morning.

10 On about five or six different  
11 occasions, usually on Thursday nights, around  
12 midnight, a gold van would come.

13 They would open the back gate of the  
14 Empire parking lot and everyone in the van  
15 dressed in all black would load trash bags into  
16 the back of the van, usually taking about 15  
17 minutes.

18 The staff, one time was playing  
19 basketball from about 1:00 a.m. to 2:00 a.m. I  
20 know it was the staff because then they went back  
21 up the entrance into the club.

22 There was a ton of garbage all the  
23 time, causing rats and rodents. And I think that  
24 that is probably about the extent of my  
25 experiences.

1 MR. STOECKLEIN: Okay. Thank you for  
2 that. Can you just confirm again the -- on a  
3 weekly basis -- weekly or monthly, whatever is  
4 appropriate, you know, the number of nights  
5 during which -- you know, you endured the  
6 circumstances that you described?

7 MR. BIANCO: Objection. Asked and  
8 answered.

9 CHAIRPERSON ANDERSON: I'm going to  
10 overrule the objection. Let her answer the  
11 question if she can.

12 MS. OVERHOLT: Sure. I would say it  
13 was a minimum of five nights a week and it  
14 started around 10:00 p.m. and would go until 3:00  
15 a.m.

16 MR. STOECKLEIN: Okay. Are you aware  
17 of the -- sorry. Are you aware of the stated  
18 closing time for Empire Lounge?

19 MS. OVERHOLT: I'm not.

20 MR. STOECKLEIN: Okay. Would you say,  
21 during your experience, that Empire is a good  
22 neighbor?

23 MR. BIANCO: Objection.

24 MS. OVERHOLT: No.

25 MR. BIANCO: Relevance.



1 CHAIRPERSON ANDERSON: Overruled.

2 MR. STOECKLEIN: Are there --

3 MS. OVERHOLT: No, I would --

4 MR. STOECKLEIN: Go ahead. Lexi.

5 MS. OVERHOLT: I'm sorry.

6 MR. STOECKLEIN: Go.

7 MS. OVERHOLT: I would say no, that  
8 they're not. As I mentioned previously, I had  
9 texted, asking them to turn down the music and  
10 they would turn it up.

11 I think that if we're sitting here  
12 today discussing Empire, that they have not been  
13 respectful neighbors. As you can see, many  
14 people are complaining about their quality of  
15 life.

16 MR. STOECKLEIN: All right. And can  
17 you tell me why it is that you decided not to  
18 renew your lease?

19 MS. OVERHOLT: Solely because of  
20 Empire Lounge.

21 MR. STOECKLEIN: Got it. Okay.  
22 Thanks very much. I have no further questions.

23 CHAIRPERSON ANDERSON: Mr. Bianco?

24 MR. BIANCO: Yes. Very briefly, you  
25 testified that you moved in in 2020, correct?

1 MS. OVERHOLT: Correct.

2 MR. BIANCO: And Empire Lounge was  
3 there, when you decided to move in, correct?

4 MS. OVERHOLT: Correct.

5 MR. BIANCO: And could you tell the  
6 Board why you decided to move behind a bar?

7 MS. OVERHOLT: Well, when we first  
8 moved there, we were not aware of any of the  
9 establishments on 9th Street. I had just moved  
10 to DC and we had not heard about anything from  
11 our leasing agent.

12 MR. BIANCO: Okay. Were you aware of  
13 the five other bars within 100 feet of Empire?

14 MS. OVERHOLT: I was not. As I  
15 mentioned, I was not aware of pretty much  
16 anything in DC as I moved here from Florida.

17 MR. BIANCO: Okay. And if you were  
18 aware that there were five bars with  
19 entertainment endorsements within 100 feet of  
20 Empire, would you have decided to move in?

21 MS. OVERHOLT: Yes, because I lived in  
22 South Beach for 12 years and we never had  
23 experiences like this. The other bars, to my  
24 knowledge, do not disrespect the neighborhood  
25 like Empire does.

1 MR. BIANCO: Okay. Thank -- oh, I'm  
2 sorry. One more question. Are you a member of  
3 the Westminster Neighborhood Association?

4 MS. OVERHOLT: I am not.

5 MR. BIANCO: Okay. Did you  
6 participate with them in any way in the decision  
7 to protest the substantial change?

8 MS. OVERHOLT: I spoke with Pierson,  
9 but that's pretty much it.

10 MR. BIANCO: Okay. Did you gain any  
11 insight as to why Westminster did not want to  
12 discuss any of these issues you're raising with  
13 us?

14 MS. OVERHOLT: I'm not aware.

15 MR. STOECKLEIN: Objection. She can't  
16 --

17 CHAIRPERSON ANDERSON: Overruled.  
18 Overruled. Let's move on.

19 MR. BIANCO: Thank you very much. I  
20 don't have any more questions.

21 CHAIRPERSON ANDERSON: Hold on, ma'am.  
22 Any questions by any Board members? There are  
23 none. Thank you very much for your testimony,  
24 ma'am. Have a great day.

25 MS. OVERHOLT: Thank you so much.

1 CHAIRPERSON ANDERSON: All right. Bye  
2 bye. Do you have any other -- I think that was  
3 your last witness, sir?

4 MR. STOECKLEIN: I do have the witness  
5 that we discussed to I don't know whether we'll  
6 call it impeach or rebut Mr. Nigussie's testimony  
7 related to the ANC ABRA committee hearing, but  
8 extremely limited scope of testimony there, but  
9 it is highly relevant.

10 CHAIRPERSON ANDERSON: I'm sorry,  
11 you're trying to -- the witness rebutted what  
12 testimony?

13 MR. STOECKLEIN: Mr. Nigussie  
14 indicated in his testimony -- he acknowledged  
15 that he attended the ANC ABRA committee hearing  
16 on February 16th.

17 CHAIRPERSON ANDERSON: Okay.

18 MR. STOECKLEIN: But indicated that --  
19 but indicated -- I just want to say, this is when  
20 we got into the back -- the extended back-and-  
21 forth conversation, all of us, I think, about  
22 whether he could -- what statements he made in  
23 front of the committee regarding Sound Bar.

24 And so this witness will be able to  
25 testify, based on first-hand knowledge,

1 specifically, the representations that Mr.  
2 Nigussie made regarding Sound Bar when he,  
3 according to his own testimony, was attempting to  
4 secure some kind of settlement arrangement.

5 CHAIRPERSON ANDERSON: So you're  
6 stating that the -- he made a -- when was this  
7 meeting, I'm sorry, again?

8 MR. STOECKLEIN: February 16, 2022.

9 CHAIRPERSON ANDERSON: So you're  
10 saying on February 16th, he made representation  
11 that he was not aware of the operation of Sound  
12 Bar?

13 MR. STOECKLEIN: That is correct.

14 CHAIRPERSON ANDERSON: I mean, I don't  
15 believe that we need any rebuttal testimony -- I  
16 mean, as I've stated earlier, on 12/16/21, there  
17 was Case number 21 CMP00082 -- I'm sorry -- yes,  
18 82, that on January 26, 2022, the Board issued a  
19 warning to Mr. Nigussie regarding the operation  
20 of the expansion onto -- into the first floor.

21 MR. STOECKLEIN: Right.

22 CHAIRPERSON ANDERSON: So I mean, I --

23 MR. STOECKLEIN: I agree.

24 CHAIRPERSON ANDERSON: -- irrespective  
25 -- but what I'm -- my position, irrespective of

1        what he states to whoever he states, it -- as the  
2        Board have decided issued January 26, 2022, he  
3        was on notice.

4                So I don't think it's relevant what is  
5        it that he tells the community. It's -- the  
6        Board issued him a warning in January 26, 2022.  
7        And the reason why the Board issued him a warning  
8        in January 26, '22, it was the because of the  
9        expansion of the operation into the first floor,  
10       so --

11               MR. STOECKLEIN: All right. I agree,  
12       Mr. Chair --

13               CHAIRPERSON ANDERSON: -- whether or  
14       not he denies it -- this is my position, sir,  
15       whether or not he denied that he knew, as of  
16       January 26, 2022, the Board -- it -- factually,  
17       the Board issued him a warning.

18               So I don't think it's relevant to --  
19       us to -- for us to -- we don't need rebuttal  
20       testimony on what is it that he claims he knew or  
21       didn't know. Factually, as far as the Board is  
22       concerned, he was aware on January 26, 2020, when  
23       we issued the warning.

24               MR. STOECKLEIN: Mr. Chair, if I may?  
25       The intention here is because of -- the timing

1 matters, so the fact that he came before the ANC,  
2 which he did for a reason, but indicated to all  
3 of us earlier today that the ANC had refused to  
4 even speak to him or deal with him is directly  
5 contradictory to what this witness will speak to.

6 Furthermore, because the warning was  
7 issued prior to, and we all agree that if the  
8 warning was issued, he has constructive knowledge  
9 of the existence of the club, then an attempt to  
10 go before the ANC and induce some kind of  
11 settlement fraudulently is highly relevant in  
12 this instance because the ANC is our highest  
13 authority in the neighborhood.

14 CHAIRPERSON ANDERSON: But it just --  
15 I think that's not relevant. Clearly, there was  
16 no settlement. The ANC is one of the party --  
17 for whatever reason, the ANC didn't settle the  
18 matter. The ANC is a party at this hearing. So  
19 therefore, whether or not whatever was done or  
20 wasn't done, it's not relevant, as I've stated.

21 MR. STOECKLEIN: So am I understanding  
22 correctly that it's the position of the Chair  
23 that Mr. Nigussie's credibility is irrelevant to  
24 this proceeding?

25 CHAIRPERSON ANDERSON: I -- but what

1 I'm trying to say to you, sir -- okay. If you're  
2 saying he came to the Board and said he didn't  
3 know anything in February --

4 MR. STOECKLEIN: I'm saying that I  
5 provided about 15 cases where Mr. Nigussie has  
6 clearly lied, not only to us, but to you. And  
7 I'm trying to bear out the final instance of that  
8 for the record. If that's not allowable, then I  
9 will just -- I will just -- then we rest our  
10 case.

11 MR. BIANCO: Mr. Chair, we're well  
12 into fantasy land at this point. This doesn't  
13 make any sense. The chair has already addressed  
14 this issue of notice that Mr. Stoecklein keeps  
15 harping on for no reason.

16 Mr. Nigussie testified that he went to  
17 this meeting. The Board Chair has repeatedly  
18 referenced evidence that is, in fact, on the  
19 record with respect to the warning and I don't  
20 know why on earth any of us would want to belabor  
21 this any longer.

22 And it has no bearing on the ultimate  
23 issue here, which is not credibility, it's not  
24 trash, it's not garbage, it's not upset neighbors  
25 that don't like having 55 establishments in their



1 neighborhood, even though they move directly  
2 behind them.

3 The issue here is very simple, first  
4 floor expansion, no increase in occupancy,  
5 appropriateness. All this --

6 MR. STOECKLEIN: Have we entered into  
7 closing statements? It feels like we may have at  
8 this juncture.

9 CHAIRPERSON ANDERSON: Mr. Stoecklein,  
10 Mr. Stoecklein?

11 MR. STOECKLEIN: Well, I'm just  
12 wondering whether we have --

13 MR. BIANCO: Again --

14 CHAIRPERSON ANDERSON: All right.  
15 Hold on. Gentlemen, gentlemen, gentlemen, it is  
16 -- gentlemen, it is 9:59 and we've been going at  
17 listens 1:30, 1:40. All right. So it's not  
18 necessary to call rebuttal witness. So where --  
19 let's do closing.

20 All right. Each side has five minutes  
21 to do closing. And are you ready for closing,  
22 Mr. Bianco, or do we need that get five-minute  
23 break?

24 MR. BIANCO: I -- based on where we  
25 are, I'm ready to go off the cuff. Let's just do

1 it.

2 CHAIRPERSON ANDERSON: All right. So  
3 you have five minutes to do closing, sir. I'm  
4 sorry. And this is what I want from each party,  
5 what is it that the licensee is requesting and  
6 what is it that the protesting is requesting of  
7 the Board? Thank you. Five minutes, sir.

8 MR. BIANCO: Thank you, Mr. Anderson.  
9 As I said at the outset nine hours ago, this is a  
10 very simple issue that the WNA has needlessly  
11 complicated.

12 The very simple issue is whether the  
13 applicant in this case can expand its square  
14 footage onto the first floor of 1909 9th Street  
15 without a corresponding expansion and occupancy.

16 What you've heard from WNA is largely  
17 noise and not motivated by a bona fide intention  
18 about peace and quiet. Based on the testimony  
19 that was presented, their motivation is shutting  
20 down this establishment at all costs. That's not  
21 why we're here.

22 We're here to consider a very limited  
23 issue. The protest reasons that were cited were  
24 done so in a form letter that was just a blanket  
25 statement, checking off all of the boxes.

1           There has been no evidence presented  
2 with respect to parking. There has been no  
3 evidence that has been presented with respect to  
4 vehicular safety. There has no evidence that has  
5 been presented with respect to real property  
6 values.

7           The evidence on peace, order, and  
8 quiet is scant, if any, and weighs strongly in  
9 our favor. For all of WNA's complaints,  
10 something that they are not able to deny, that we  
11 all heard with our own ears, is my client's  
12 standing directly outside of his establishment  
13 during the day, which is important because there  
14 was no ambient noise coming from other  
15 establishments.

16           So at a time when it was otherwise  
17 silent, my client was standing directly -- or his  
18 contractor was standing directly within a few  
19 feet of the back door with the music at full  
20 blast and none of us could hear it. That is an  
21 important point that I think the Board needs to  
22 rely very heavily on.

23           The testimony presented by the MPD,  
24 again, I think, weighs in our favor in that the  
25 issues cited are broader than just one

1 establishment.

2 Captain Kim stated very clearly that  
3 the problem is outside. He further conceded, on  
4 cross-examination, that there's nothing that  
5 establishments can do to control the behavior of  
6 adults in public space other than report it to  
7 the police.

8 This case is not a fire marshal case,  
9 it's not a DCRA occupancy issue, it's not even an  
10 ABRA occupancy issue.

11 For whatever efforts were made to turn  
12 it into that, there is no evidence that at any  
13 point this establishment was over occupancy, nor  
14 is there any evidence that they have been cited  
15 for that.

16 And I think that's important because  
17 the MPD testimony is that he has referred  
18 complaints to both ABRA and to the fire marshal,  
19 and notwithstanding those referrals, not only  
20 were there no violations, there were no  
21 citations. Occupancy is not an issue here as  
22 much as WNA would like it to be.

23 The problem -- I think one of the very  
24 big problems we have here is that 9th Street and  
25 that U Street Corridor is dying. And the

1 evidence that is on the record indicates that  
2 just one year ago, there were 69 licensed  
3 establishments in a 1200-foot radius and that  
4 could be found in the Board's order renewing the  
5 license.

6 The report we heard today indicates  
7 there's only 55 left. That's 14 gone in a year.  
8 And what these businesses are, are small family-  
9 owned neighborhood businesses.

10 And the testimony that we are hearing  
11 that is quite concerning is Johnny-come-lately  
12 people moving in, paying too much money for  
13 condominiums directly behind a strip of five  
14 bars, and then instantly complaining to anybody  
15 who will listen that it's dirty and there's rats  
16 and it's noisy and it's inappropriate.

17 And in the process of doing that, they  
18 are murdering these businesses. The literal  
19 corner and epicenter of the Don't Mute DC  
20 movement is here and the people fighting against  
21 it, unfortunately, are here as well.

22 What we're asking for -- oh, I'm  
23 sorry. And there's one more thing I want to  
24 mention, which is the conspicuous absence of the  
25 ANC.

1                   They have been completely disengaged  
2                   in this process. They've provided no reasoning,  
3                   no logic, no explanation as to why this  
4                   particular request would be inappropriate.

5                   The testimony on the record  
6                   demonstrates my client made efforts to reach out  
7                   and address whatever concerns they had, they  
8                   didn't tell us, nor did WNA in a manner that  
9                   would be cooperative among the neighborhood and  
10                  allow people to work together.

11                  Instead, the response that we get is,  
12                  no, we will never agree to anything. And here we  
13                  are after a nine hour hearing over largely  
14                  nothing.

15                  Our position is that the increase in  
16                  square footage without a corresponding increase  
17                  in occupancy should be granted. Many of the  
18                  details that were the focus of the extensive  
19                  examination couldn't -- could have and should  
20                  have been worked out in the ordinary course of  
21                  this process that the Board uses.

22                  Unfortunately, due to the attitudes of  
23                  the neighbors, they were not and we are where we  
24                  are.

25                  It's my hope that the Board grants our

1 request and then I'm sure -- and, unfortunately,  
2 we will all see each other again in the fall when  
3 we're fighting over the renewal of this license  
4 and all of the things that Mr. Stoecklein wanted  
5 to raise in this hearing will be more  
6 appropriately considered by the Board at that  
7 time. Thank you very much.

8 CHAIRPERSON ANDERSON: Thank you. Is  
9 Mr. Orlaskey -- is he still here?

10 MR. STOECKLEIN: Mr. Chairman, the --  
11 ironically, the ANC's ABR committee meets  
12 tonight. So Mr. Orlaskey had to leave to attend  
13 that meeting --

14 CHAIRPERSON ANDERSON: All right.

15 MR. STOECKLEIN: -- to discuss, among  
16 other things, this proceeding. So I don't know  
17 that he is available right now, but I can  
18 certainly find out.

19 CHAIRPERSON ANDERSON: Well, it's your  
20 -- I'll give you an opportunity to do closing.  
21 If he comes online, prior to your closing, then  
22 we'll probably just close record.

23 Then if he wants to -- I mean, he has  
24 basically stated that he's here for questions.  
25 He didn't necessarily have anything to say. But

1       you have five minutes to close, sir.

2               MR. STOECKLEIN: Okay. Thank you, Mr.  
3       Chairman. And I've texted Mr. Orlaskey to see if  
4       he's available, so he may join.

5               To that point, Mr. Bianco has  
6       suggested or implied that the ANC is completely  
7       disengaged and that is simply not the case.

8               The ANC protested this proceeding.  
9       They approved -- an approval of a protest to the  
10      ANC requires rigorous process, multiple meetings,  
11      and it include -- it requires substantial buy in  
12      from the entire neighborhood.

13              So the reason that the ANC was not  
14      more vocal in this process is because we were  
15      required to choose one speaker, one  
16      representative, to represent both the WNA and the  
17      ANC and in that case for better and for worse, it  
18      was me.

19              So this has -- it has nothing to do  
20      with whether the ANC is supportive of the  
21      position espoused by WNA, that's the first point.

22              Mr. Bianco has also seemed to suggest  
23      that there is a wholesale unwillingness on the  
24      part of the WNA or the ANC to reach any kind of  
25      amicable agreement with these -- with the clubs



1 on the 1900 Block of 9th Street. And that too is  
2 demonstratively false.

3 We, in fact, only have two pending  
4 protest proceedings at all right now because we  
5 are very judicious about the protests that we  
6 file.

7 MR. BIANCO: Mr. Anderson, can we keep  
8 this to the evidence on the record? None of this  
9 is on the record --

10 CHAIRPERSON ANDERSON: Mr. Bianco,  
11 he's doing his closing. Please do not interrupt.  
12 Go ahead, Mr. Stoecklein.

13 MR. STOECKLEIN: Thank you, Mr. Chair.  
14 And so we -- you know, I will tell you that we  
15 have settlement agreements in place recently  
16 negotiated with several establishments.

17 So we are more than willing to work  
18 with our neighbors who actually have an intention  
19 of being neighbors and would have been  
20 comfortable doing so in this case, if not, for  
21 the extensive history with Mr. Nigussie, in  
22 particular, of making misrepresentation at every  
23 possible turn to the road.

24 We simply cannot trust anything that  
25 Mr. Nigussie says. And so how could we possibly

1       come to the table and negotiate anything on that  
2       basis?

3               Mr. Bianco has also suggested to you,  
4       I think, in an attempt to distract from the real  
5       sort of substantive facts here, that somehow the  
6       fact that some of the witnesses that you heard  
7       from tonight and some of the members that WNA  
8       that I represent may have moved to the area or  
9       purchased property subsequent to the opening of  
10      Empire Lounge, that that somehow -- that that  
11      moots their rights as property owners and  
12      residents in the district.

13              And I can't fathom how that is  
14      supported or even reasonable to consider. The  
15      fact remains, the law is the law. And there is  
16      no first in time, first in right overarching rule  
17      here.

18              If an establishment wants to continue  
19      to operate, they need to operate in accordance  
20      with the rules that you, among others, are  
21      charged with enforcing.

22              And what, unfortunately, this club has  
23      shown is that they have no interest in following  
24      those rules. And in fact, they have -- they  
25      flouted your authority left and right.

1                   This isn't just about ignoring a  
2                   settlement agreement with the WNA. This isn't  
3                   just about some trash. And forget whether they  
4                   have misrepresented and broken promises to the  
5                   WNA, they have ignored your authority over and  
6                   over and over and over.

7                   This establishment is one of the worst  
8                   ABRA violators in the District of Columbia. And  
9                   it has shown repeated disregard for statutes and  
10                  regulations.

11                  Close to a year ago, in its order,  
12                  allowing Empire's license to be reviewed, this  
13                  Board, you, found that the record of compliance  
14                  raised, quote, serious questions about the  
15                  ownership's ability to properly superintend the  
16                  business. The ownership's knowledge of the  
17                  requirements of his license and ability to act  
18                  appropriately when confronted with crime,  
19                  violence, unruly crowds, and other issues that  
20                  may arise in the course of operating a tavern,  
21                  end quote.

22                  Since that order, Mr. Nigussie has  
23                  continued his blatant, disregard and contempt for  
24                  ABRA, its laws, and its regulations. That  
25                  includes his contempt for your authority and all

1 of the time that you put him tonight and every  
2 other night and very other day to try to help  
3 support the good businesses, trying to do  
4 business the right way in the district.

5 It is in a front to your authority and  
6 a front to all the efforts of the law abiding  
7 businesses that try to do it the right way.

8 Since your order, Mr. Nigussie  
9 received citations, whenever inspectors  
10 repeatedly operating on the first floor of the  
11 building. And although we were prevented from  
12 further engaging in and discovering facts around  
13 those circumstances, the fact remains that he did  
14 so without an endorsement, continued to do so  
15 after receiving a warning, and he has  
16 consistently failed to abide by settlement  
17 agreements and a variety of other licensure  
18 requirements.

19 Very recently, his license, as you  
20 know, was suspended because he allowed a patron  
21 to enter with a firearm. So my question to you  
22 is: Is there any reason to think that if you  
23 allow Mr. Nigussie to expand his premises by,  
24 we'll call it a third, that somehow it won't make  
25 it even harder for him to act, as you put it, to

1       superintend his business, that it won't simply  
2       exacerbate the problems that Empire has caused  
3       and continue to cause?

4               I don't think that there's any  
5       possibility. We're not talking about random  
6       events of violence without a causal connection.  
7       We have talked tonight about a shooting that  
8       occurred just outside, a discharge of a weapon  
9       that occurred inside, an attempted murder inside  
10      Empire, all within the past year.

11              If you lived next door to that  
12      establishment, would you be comfortable with your  
13      safety, with your family's safety? Do you think  
14      that that's a reasonable way for this -- for a  
15      club to operate? I hope not. I appreciate your  
16      time and consideration.

17              CHAIRPERSON ANDERSON: Thank you, sir.  
18      Before closing the record are there any documents  
19      that you wish to move into evidence? I know  
20      we've had some type of testimony that you want to  
21      move into evidence?

22              MR. BIANCO: I believe we've moved all  
23      our documents.

24              CHAIRPERSON ANDERSON: Thank you, Mr.  
25      Bianco.

1 And, Mr. Stoecklein?

2 MR. STOECKLEIN: Other than the  
3 Twitter video that I wasn't able to submit, no.

4 CHAIRPERSON ANDERSON: All right.  
5 Thank you. The record is now closed. Do the  
6 parties wish to provide -- to do proposed  
7 findings of fact and conclusions of law or waive  
8 your right to do so? We can opposed -- I'm  
9 sorry.

10 MR. BIANCO: Sorry about that. This  
11 is Richard Bianco. No, no, I'm ready to move on  
12 with my life. I definitely don't want to brief  
13 this.

14 CHAIRPERSON ANDERSON: Mr. Stoecklein?

15 MR. STOECKLEIN: Unfortunately, I  
16 would say that we would err on the side of  
17 caution and say that we would like to. But I  
18 would -- if permissible, I'd like to take it back  
19 to the Association and the ANC, since Mr.  
20 Orlaskey is not here and I can't really speak for  
21 the ANC, and then circle back with the general  
22 counsel, if that's possible with your general  
23 counsel. I just -- I'm not in a position to  
24 speak for Mr. Orlaskey or the ANC, so I'm not  
25 able to really -- to do that?

1                   CHAIRPERSON ANDERSON: But what is  
2 your position? His position -- I mean, his  
3 position was that, I'm just here to listen if  
4 there are questions that needs to be asked. If  
5 question that needs to be asked, then I'll ask a  
6 question, so there -- so I'm asking you, as part  
7 of your client, whether or not you wish to do  
8 that?

9                   MR. STOECKLEIN: Yes.

10                  CHAIRPERSON ANDERSON: All right. The  
11 parties choose to file proposed findings of fact  
12 conclusion of law from 90 days from when the  
13 Board received proposed findings of fact and  
14 conclusions of law. So therefore, you should get  
15 the transcript within three weeks. They,  
16 therefore, are due to the Board 30 days after  
17 receipt of the transcript.

18                  Now, the proposed findings of fact and  
19 conclusions of law, you're not bringing any new  
20 evidence, no evidence, no new evidence, no  
21 testimony, no new testimony. It's basically  
22 based on the transcript.

23                  This is what was proven. These are  
24 what the facts are in the transcript and this is  
25 what the law -- as long as it's clear, this is

1        what needs to be done. You -- therefore, if you  
2        change your mind, please advise the Board, sir,  
3        if you will change your mind in doing this.

4                MR. STOECKLEIN: Mr. Chairman, I'm  
5        very sorry to do this, but I'm told and just saw  
6        that Mr. Orlaskey has joined the -- rejoined the  
7        call. I don't know if the Chair is amenable to  
8        reopening the record from Mr. Orlaskey to make a  
9        brief statement, but I'm just conveying the  
10       request.

11               MR. BIANCO: Mr. Chair, my position is  
12       that the record is closed. There's been ample  
13       opportunity here. Mr. Orlaskey opted to attend  
14       another meeting, which is understandable, but at  
15       the end of the day, we've been here all day  
16       working on this and it's not for lack of  
17       opportunity to present what he wanted to present.  
18       I think the hearing should be closed at this  
19       point.

20               CHAIRPERSON ANDERSON: You're correct,  
21       Mr. Bianco. The record is closed. I said prior  
22       to and so the record is closed. So if -- since,  
23       Mr. Stoecklein, you have stated that on behalf of  
24       your client, you're going to do proposed findings  
25       of fact and conclusion of law, then -- Mr.



1       Orlaskey, then he can participate in that  
2       exercise if he so desire, but the record is  
3       closed, okay?

4               All right. So as I stated before, the  
5       transcript will be available within, I think, two  
6       to three weeks and you're just -- this -- the  
7       proposed findings of fact and conclusions of law  
8       argues the Board within 30 days after receipt of  
9       the transcript. If you change your mind, please  
10      so advise the Board, okay?

11             All right. As chairperson of the  
12      Alcoholic Beverage Control Board for the District  
13      of Columbia and in accordance with DC Code  
14      Section 2-575 of the Open Meetings Act, I move  
15      that ABC Board hold a closed meeting for the  
16      purpose of seeking legal advice from our counsel  
17      on Case number 22 PRO-00026, Empire Lounge,  
18      pursuant to DC Code Section 2-575 B 4A of the  
19      Open Meetings Act and deliberate upon Case number  
20      22 PRO-00026, Empire Lounge for the reasons cited  
21      in DC Code Section 2-575 B13 of the Open Meetings  
22      Act.

23             Is there a second? Mr. Short has  
24      seconded the motion. We'll now -- I'll now take  
25      a roll call vote on the motion. Mr. Short?

1 MEMBER SHORT: Mr. Short, I agree.

2 CHAIRPERSON ANDERSON: Ms. Crockett?

3 MEMBER CROCKETT: I agree.

4 CHAIRPERSON ANDERSON: Ms. Hansen?

5 MEMBER HANSEN: Jeni Hansen, I agree.

6 CHAIRPERSON ANDERSON: Mr. Grandis?

7 MEMBER GRANDIS: Agree.

8 CHAIRPERSON ANDERSON: Mr. Anderson,  
9 I agree as to appear through the motion has fast.  
10 I hereby give notice that the ABC Board will  
11 recess this proceedings to hold a closed meeting  
12 pursuant to Section 2-575 of the Open Meetings  
13 Act.

14 I would like to thank the parties for  
15 their participation in the hearing today. And  
16 again, the proposed findings of fact and  
17 conclusions of law, I give the Board 30 days upon  
18 receipt of the transcript.

19 If you change your mind that you no  
20 longer wish to pursue this option, please advise  
21 the Board through ABRA legal. Thank you very  
22 much. Have a great night.

23 All right. The Board, our work is not  
24 done. So we're going to go into a short  
25 executive session and then we will come back to

1 close the record.

2 So we -- the Board, will go into  
3 executive session and we will come back to  
4 officially close the record. So let us move into  
5 executive session and then we'll come back to  
6 close the record, please. Thanks.

7 (Whereupon, the above-entitled matter  
8 went off the record at 10:21 p.m.)  
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C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Empire Lounge

Before: DC ABRA

Date: 07-20-22

Place: teleconference

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9:30

5G

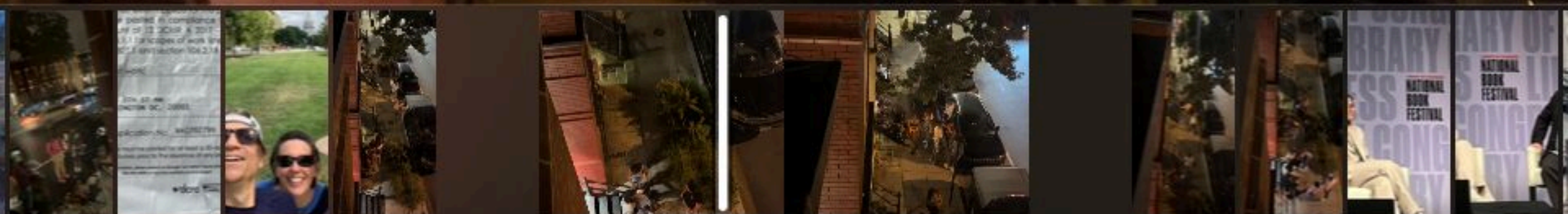
◀ Camera



Washington

September 3, 2022 1:49 AM

Edit





Marie Bouvet and Anup Jagwani  
(12/02/22)

We moved from our house on 929 T street NW in September 2022 to raise our daughter in a safer area.

The constant noise from people that were drunk coming out of the nearby clubs and their screaming and fighting that was going on every week end spilling on to our street was too much for us. So among other reasons, the constant increase of crime in the neighborhood (from car breaking, robberies to shooting and fatal stabbing) was anxiety producing and a daily fear which became intolerable.

We request that in addition of reducing the number of clubs and bars allowed as one way to address the above issues, the street parking should also only be allowed to residents zone 1 at all time (especially at night).

Thank you,  
Marie Bouvet and Anup Jagwani

To Whom It May Concern:

We purchased our house at 948 Westminster Street NW in May 2020, excited to start our family on such a special street. We welcomed our first child, Lucy, in May 2021, and are expecting our second in June of this year.

As COVID restriction lifted, noticeably in Spring 2021, the noise and crime escalated in a highly distressing manner. Friday and Saturday nights are raucous, especially in the summer. We endure extreme noise from loud music from cars and verbal altercations. There have been many occasions when we have left our house at 2am or 3am to ask people to turn down music and move on - a risky move and usually to no avail. Beyond the noise is the trash that litters our street in the mornings - broken car windows, litter, vomit, even human feces. The cars that come to park on our street with the intention of frequenting the clubs are often driven recklessly. In one instance, when I (Elizabeth) was 7 months pregnant with my daughter Lucy, I was almost hit while in a crosswalk by a woman at dusk driving with no lights on. And, most severe of the problems that stem from the nightlife establishments is the uptick in violent crimes. Stabbings in clubs, shootings with bodies at our doorsteps, drive-by shootings with bullets hitting our houses. How can we raise our family here? Our beautiful neighborhood has quickly become an epicenter of crime in the city.

We are actively searching for housing in safer neighborhoods, with a focus on moving out of the District. In order for us to feel comfortable staying in our home on Westminster, we would need to witness action to limit the number of clubs and bars permitted to operate, as well as stronger parking restrictions to limit noise. Further, we believe there need to be harsher repercussions for establishments that are directly linked to the violence (e.g., stabbings occurring in the lounge).

We appreciate your consideration.

Thank you,  
Elizabeth Baker and Andrew Kalaris  
948 Westminster Street NW

To Whom it May Concern-

My husband and I are long-time residents of Washington, DC currently living on Westminister Street NW. We are both city people with a high tolerance for typical urban nuisances, however the current conditions on 9th Street are unacceptable to the point where we need to move. Every day, we step on fresh broken glass on the sidewalks from cars that have been broken into. Every weekend, we cannot sleep because of the loud fighting happening between people hanging out drinking and doing drugs by their cars after the clubs of 9th Street close for the night. The lack of sleep affects our mood and health. Trash, condoms, drug paraphernalia, and liquor bottles are routinely dumped out of party cars onto the side walks, eliciting uncomfortable conversations with our kids when we walk them to the Westminister or Garrison playgrounds. On the 1800 block of 10th Street, one of these fights led to a car being set on fire, with the burned out hull sitting there for several weeks. The January 15th shooting on our street was the final straw. At 3am, I awoke to the sounds of about a dozen gun shots. Four cars and several houses were riddled with bullets and a neighbor's young daughter found a bullet lodged in her window frame. 9th Street club-goers are known to leave guns in their cars so that club security does not confiscate them. This brings gun fights to our streets when clubs close. I love my city and am heart-broken that I have to leave my home because we cannot get public safety under control. I have not seen such unabashed lawlessness and daily violence in two decades and urge you to ***push for a moratorium on the number of clubs and bars, a key cause of the noise and violence.***

Thank you, WNA Member



# MedStar Georgetown University Hospital

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Mary Carter Denny, MD, MPH  
Assistant Professor  
Department of Neurology

April 4, 2023

## **RE: 1900 Block of 9<sup>th</sup> Street and Petition for Moratorium**

To Whom It May Concern:

As the homeowner of 906 Westminster St NW, as a physician, and particularly as the mother of a young child, I write to express the urgent need for a moratorium on liquor licenses on the 1900 block of 9<sup>th</sup> Street and surrounding streets. For context, I grew up in New York City in the 1980s, did my medical training in post-Katrina New Orleans, and have lived in Washington, D.C. for 10 years. I have never felt as unsafe and unsettled in my life, as I do on weekend nights living near the corner of 9<sup>th</sup> and Westminster St NW. Nearly every single weekend night between 10pm – 4am, I wake up to the sound of intoxicated club patrons shouting at each other, music blasting from cars with non-DC license plates, car windows being smashed, and/or gunshots. A few specific examples are burned into my memory:

- 1) August 23<sup>rd</sup>, 2021: Our son was 4 months old, and we awoke at 2:25am to 5-6 gunshots on the 1800 block of 9<sup>th</sup> St and loud yelling followed almost immediately by sirens. We looked out our bedroom window and saw a crowd of club/tavern patrons surrounding a first responder who was administering CPR to the shooting victim on the sidewalk. We were told later that he had been declared dead on the scene.
- 2) October 22<sup>nd</sup>, 2022: We awoke to multiple gunshots coming from the intersection of 9<sup>th</sup> and T St NW around 3:25am just as the clubs on the 1900 block of 9<sup>th</sup> St let out.
- 3) January 15<sup>th</sup>, 2023: My husband and I awoke to the sound of 20+ gunshots on Westminster St NW at 3:30am just as the clubs had closed and there was an altercation between two groups of people. Five cars on our block, including one belonging to a neighbor who was 9 months pregnant, were severely damaged by bullet holes.

- 4) Every weekend morning my husband sweeps up broken glass from alcohol bottles and smashed car windows from the sidewalk in front of our house, so that our toddler and our dog don't get cut as we leave the house.

During the week and daytime hours, our street and our neighborhood feel safe, welcoming, and family-friendly. On weekend nights when the taverns on the 1900 block of 9<sup>th</sup> Street are running at full capacity and just after they close, our neighborhood is debaucherous, chaotic, and dangerous. Although we love our neighborhood on weekdays, we don't know how much longer we can stay here with the constant alcohol-driven violence and disorderly conduct on weekend nights. We have started to look at homes for sale and for rent in the nearby Virginia and Maryland suburbs along with other DC neighborhoods. We are one intoxicated drive-by shooting away from selling the home that we love and leaving the Westminster neighborhood enclave of Shaw.

Lastly, from a public health standpoint it is well known that **“reducing the density of alcohol outlets and restricting the hours alcohol can be sold have been showed to reduce gun violence in communities.”** [Ref: Johns Hopkins Bloomberg School of Public Health – Community Violence Intervention] The solution is clear: we must implement a moratorium on liquor licenses and commit to enforcing the ABCA and zoning regulations to protect our community immediately.

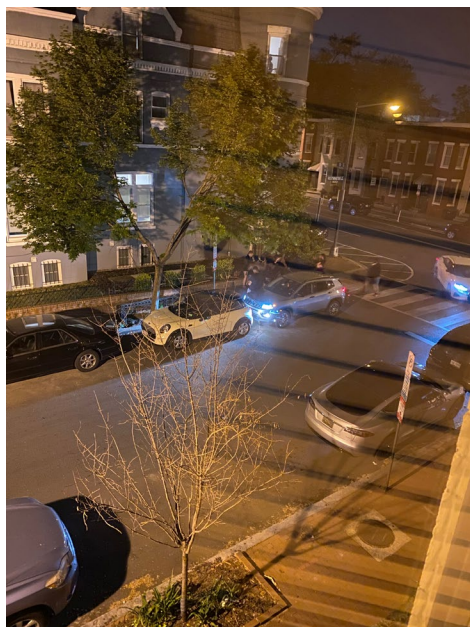
Please don't hesitate to contact me with any questions.

Sincerely,



M. Carter Denny, MD, MPH

Car Party, 900 block of Westminster Street, April 22, 2023 - 3 a.m.



From the reporting neighbor:

Yes, I did call 311 and asked on the police non-emergency line for MPD to come by to ask the partygoers to go home or at least be quiet (provided that they had the resources of course).

My husband Will also asked the car partiers to please turn down their music around 3:20am as they seemed unaware of how loud it was. They did turn down the music. They continued to talk/shout/sing in voices at a volume that I could still hear from our second-story window across the street. When Will finally just got up at 4:45am a few of the partygoers were still actually there - although speaking in what I would consider typical volume voices.

We understand that the vast majority of young people who come to the bars/clubs on U St are well meaning and out for a good time. There are only a small fraction that are involved with drugs, guns, and other illegal activities. That being said, we live on an entirely residential street with a wonderful diverse mix of older adults, families with young children, single people, couples, and everyone in between. The density of clubs/bars/taverns in our area (especially on the 1900 block of 9th St), whose primary business is to serve alcohol, is simply too high. We're tired of cleaning up broken glass and late night takeout boxes every weekend morning. We're exhausted by waking up to loud music, shouting or gunshots from 2-3am most weekends. We're doing everything we can to stay here because we love our home, our neighbors and our street AND the alcohol-driven weekend night chaos is also really wearing us down. I summarized this in my letter with specific examples.

Thank you to you, the attorneys and the moratorium committee for taking the lead in this. We remain hopeful that every little bit will help.



Trash from taverns on Monday morning of three-day Emancipation Day Weekend.  
1900 block of 9<sup>th</sup> Street, west side, Monday morning, April 17, 2023





April 7, 2023

ABC Board  
Alcoholic Beverage Regulation Administration  
2000 14th St NW  
Suite 400  
Washington, DC 20009

Dear ABC Board,

I am writing in support of the petition put forward by the Westminster Neighborhood Association to establish an alcohol moratorium on 9<sup>th</sup> St NW. I am the owner of 1912 9<sup>th</sup> St NW, a historic rowhouse consisting of four apartment units.

The numerous bars located along the 1900 block of 9<sup>th</sup> St NW have resulted in noise late into the night, accumulation of trash, petty vandalism, and safety concerns from drunk revelers. As a result, residents have complained about all these aspects, it is difficult to attract new residents, and it is even more difficult to retain them for the basement and first floor apartments located closest to the street.

Residents have complained regarding the noise of nearby bars, customers congregating outside the rowhouse, and drunk customers walking to and from the bars. The Tiny Tiki Bar, located in the basement of 1914 9<sup>th</sup> St NW next door, had for a time a speaker chained to the window bars outside their bar from which they would play music into the street in the evenings. Other bars along the 1900 block of 9<sup>th</sup> St NW similarly routinely play music into the streets at night to attract customers which results in noise pollution throughout the street.

Female residents have noted that they do not feel safe at times entering and exiting the building at night due to the presence of drunk men congregating on the street nearby.

Late night revelers frequently throw trash, including cigarette butts, into the entrance way of the English basement apartment. There have also been acts of petty vandalism, such as removal of signage for recycling and package delivery.

I urge you to establish an alcohol moratorium on 9<sup>th</sup> St NW to help ameliorate the living conditions of residents and improve their safety.

Sincerely,

Ivan Szpakowski

Attn: Frank Chauvin, Kerry Verdi



COUNCIL OF THE DISTRICT OF COLUMBIA  
THE JOHN A. WILSON BUILDING  
1350 PENNSYLVANIA AVENUE, NW  
WASHINGTON, D.C. 20004

BRIANNE K. NADEAU  
Councilmember, Ward 1

**Chairperson**  
Public Works and Operations

**Committee Member**  
Recreation, Libraries, and Youth Affairs  
Facilities and Family Services  
Health

June 1, 2023

Donovan Anderson  
Chairperson, ABC Board  
Alcoholic Beverage and Cannabis Regulation Administration  
2000 14<sup>th</sup> St NW  
Suite 400 S  
Washington, DC 20009

Dear Chairperson Anderson,

I am writing to express my support for the establishment of the *North Shaw and 9<sup>th</sup> Street Neighborhood Moratorium Zone*, which is being submitted to the ABC Board by residents of the area. The area included in this moratorium zone seeks to include only the 1900 block of 9<sup>th</sup> Street, NW by extending a six hundred foot radius from 1914 9<sup>th</sup> St NW, but excluding establishments on U Street and Florida Avenue and north, as well as establishments east and west of 9<sup>th</sup> Street NW. This is a popular place for nightlife and has seen an influx in new taverns, nightclubs, and restaurants that regularly draw a large number of people to the area.

While I am grateful for the vibrancy of our business corridors, this does not come without impact on the many residents who call this area home. It is believed that the imposition of a moratorium on new liquor licenses in this finite area, to exclude new restaurants, will help mitigate some of the related issues of crime, noise, and disorderliness that have been observed by neighbors in recent years. As such, I support a fixed term of three years for this moratorium so that there is opportunity to observe its possible impact before determining to extend or remove in the long term.

Given the density of Ward 1, and the desire from time to time to limit liquor establishments in a distinct area, I would also support any updates to the law that would allow for a smaller radius to be selected when applying for a liquor license moratorium, so as to eliminate the need to outline exclusions.

Sincerely,

*Brianne K. Nadeau*

July 21, 2023

TO: Donovan Anderson  
Chairman, ABC Board  
Alcoholic Beverage and Cannabis Regulation Administration  
2000 14<sup>th</sup> Street, NW, Suite 400 S  
Washington, DC 20009  
VIA E-MAIL: [abca.legal@dc.gov](mailto:abca.legal@dc.gov)

Cc: Lynn Johnson, WNA President; WNA Work Group on Alcohol Licenses & Public Safety

**RE: North Shaw & Ninth Street Neighborhood Moratorium Zone**

Dear Chairman Anderson:

I am contacting you today to express my full support for an ABCA established moratorium in the 1900 block of Ninth Street, NW, based on the forthcoming petition submission by Westminster Neighborhood Association. The adverse impacts to peace, order quiet, neighborhood litter and noise, residential parking requirements in my SMD (ANC1B-02) require a more extensive and encompassing review; however, for now, the 1900 block of Ninth Street and its overconcentration of liquor licenses causing harmful impacts on the adjacent residential neighborhood is a good place to begin to address these effects by establishing a moratorium zone. Neighborhood and ANC conversation began over seventeen (17) years ago, when a preceding ANC1B commissioner, Phil Spaulding, requested further ABCA review and consideration on liquor license overconcentration in the 1900 block of 9<sup>th</sup> Street, so this merited review is overdue.

The selected Locality (600-foot radius circle, centered at 1914 9<sup>th</sup> Street) established in the North Shaw and Ninth Street Neighborhood Moratorium Zone is fully encapsulated in my SMD and does not touch upon or bisect any other commissioner's SMD. My receipt of regular complaints by its 170 WNA members – along with complaints expressed by many multi-family building residents as well as the additional 280 rowhome, and more, residents in the adjacent blocks – are valid and extensive. These complaints and evidence provided, as you will note in the petition, articulate serious public safety and residential livability complaints and substantial evidence which provide the basis on which approval of this moratorium zone is requested.

I appreciate your consideration on this matter. I will be attending the pending hearing on this matter where I can answer any questions that you or the Board may have.

Best,

*Sean Holihan*

Sean Holihan,  
Commissioner, ANC1B0-02 – [1b02@anc.dc.gov](mailto:1b02@anc.dc.gov)