

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :
 :
 2335, LLC, :
 t/a Power Night Club/ :
 Lounge/Restaurant :
 (Formerly-XS Lounge) :
 2335 Bladensburg Road NE :
 Retailer CT - ANC 5C :
 License No. 104228 :
 Case #17-PRO-00056 :
 :
 (Substantial Change :
 (Summer Garden :
 Endorsement)) :

Wednesday
 January 10, 2018

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

PRESENT:
 DONOVAN W. ANDERSON, Chairperson
 NICK ALBERTI, Member
 DONALD ISAAC, SR., Member
 MIKE SILVERSTEIN, Member
 JAMES SHORT, Member

ALSO PRESENT:
 SIDON YOHANNES, Applicant's Counsel
 ANDREW KLINE, Applicant's Counsel
 ABEBA BEYENE, Applicant

HENRY AKINNUOYE, Applicant's Employee

JANET DREW, Protestant

ANTHONY HOWZE, ABRA Investigator

KEVIN MULLONE, Protestant

GILBERT SMITH, Protestant

LESLIE BOURNES, Protestant

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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Abeba Beyene	65	82	129/142	140	96/121
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P-R-O-C-E-E-D-I-N-G-S

1:55 p.m.

CHAIRPERSON ANDERSON: Good afternoon, everyone. I apologize that we have taken the Bench a little tardy, but I'm not sure how long this hearing is going to last, so, therefore, just trying to take care of some administrative functions prior to coming out here. So I knew that you were here, I do apologize. That I do take your time, both sides, seriously, so I appreciate the fact, so please -- the Board apologizes for being late.

The next case on our calendar is Case No. 17-PRO-00056, Power Night Club/Lounge/Restaurant, License No. 104228.

Will the parties, please, approach and identify themselves for the record, please?

MS. YOHANNES: Sidon Yohannes on behalf of the Applicant.

MR. KLINE: Andrew Kline on behalf of the Applicant.

THE WITNESS: Abeba Beyene, the owner

1 of Power Night Club.

2 CHAIRPERSON ANDERSON: I did not hear
3 your last name, ma'am.

4 THE WITNESS: Abeba Beyene.

5 MR. KLINE: Beyene, B-E-Y-E-N-E.

6 CHAIRPERSON ANDERSON: Okay. You,
7 sir?

8 THE WITNESS: Henry Akinnuoye.

9 CHAIRPERSON ANDERSON: What's your
10 last name now? I didn't hear you.

11 THE WITNESS: Akinnuoye, A-K-I-N-N-U-
12 O-Y-E.

13 CHAIRPERSON ANDERSON: N-N?

14 THE WITNESS: U-O-Y-E.

15 CHAIRPERSON ANDERSON: Would everyone,
16 please, okay, sign-in?

17 MS. DREW: I'm sorry?

18 CHAIRPERSON ANDERSON: I'm just saying
19 everyone, please, sign-in on the sign-in sheet.
20 Your name, ma'am?

21 MS. DREW: Janet Drew, J-A-N-E-T D-R-
22 E-W, for the Gateway Community Association.

1 CHAIRPERSON ANDERSON: All right.
2 This is a Protest Hearing, so what I'll do is ask
3 each side -- this is a Protest Hearing.
4 Basically, the way this operates is that the
5 Board will issue its case, so the order of
6 proceeding is that the Board will call its first
7 witness and that will be the Board's
8 Investigator, who went and interviewed the
9 parties.

10 Once the Board has presented its case
11 and asked questions, each side will also have an
12 opportunity to ask questions. Then after that,
13 then the Applicant will -- well, basically, I
14 make my statements, do preliminary matters. Then
15 the Applicant will make an opening statement.
16 Then the protestant will make an opening
17 statement. Then the Board will present its case
18 and its witnesses.

19 Once the Board presents its case and
20 its witnesses, then the Applicant will present
21 its case and its witnesses. Once the Applicant
22 has presented its case and witnesses, then the

1 protestant will have an opportunity to do so.

2 Each side will have 90 minutes to
3 present its case. I will try for us to make sure
4 that we stick to the 90 minutes to present its
5 case, so which hopefully if everything goes fine,
6 maybe we will be out of here by 5:00 or so. But
7 time is of the essence, but at the same time, I'm
8 not going to not give you an opportunity to
9 present your case.

10 But I just want to make sure that
11 everyone knows that there are some constraints in
12 the sense of you have 90 minutes to present your
13 case.

14 You should also be aware that cross
15 examination might count towards your time. So
16 don't spend a whole lot of time cross-examining
17 someone if you have a lot of witnesses. It's
18 best for you to use your time to present your
19 case, because you can get more out in the
20 presentation of your case. So that's what I
21 wanted to make sure that each side is aware of
22 the process and the procedures.

1 Now, are there any preliminary matters
2 that need to be discussed prior to us doing this
3 hearing?

4 MS. YOHANNES: No, not for us.

5 CHAIRPERSON ANDERSON: No?

6 MS. YOHANNES: No.

7 CHAIRPERSON ANDERSON: And what I
8 would like you to do, so I'm going to ask the
9 Applicant to do its opening statement. And so
10 what I would like the Applicant to do in the
11 opening statement and also the protestant doing--
12 when it does its opening statement, tell me what
13 the issues are and what it is that you are
14 seeking.

15 So I want you to define to me in your
16 opening what the issues are, so at least when we
17 are listening to testimony, we will know what it
18 is that we need to look for. And as my position
19 has always been, if there are some agreement or
20 if you can come to an agreement, you can come to
21 an agreement through a settlement agreement prior
22 to today, if the parties want to -- can come to a

1 settlement agreement and the Board will
2 memorialize that in an order, I am open to that.

3 So if there is like some agreement
4 that you can agree to right now, if you want to
5 take a couple of minutes to discuss it and if we
6 can memorialize that as an order, we can or we
7 will go to a full blown hearing.

8 So I always give each side an
9 opportunity to say that sometimes you discuss,
10 you are unable to come to a settlement agreement,
11 but here you can do the same thing and then I'll
12 memorialize that in an order, if the parties so
13 want to. Okay?

14 So if there are none, then we will
15 have the Applicant do its opening statement.
16 And, Mr. Kline or Ms. Yohannes, who is doing the
17 case? How is it -- how are we doing the
18 presentation? What -- tell me, we have two
19 lawyers, so I just need to find out what is going
20 on.

21 MR. KLINE: I am second chair.

22 CHAIRPERSON ANDERSON: You are second

1 chair. All right. Ms. Yohannes, go ahead,
2 please.

3 MS. YOHANNES: Yes, sir. Good
4 afternoon. Before the Board today is a protest
5 on Power's application for a substantial change
6 for a summer garden endorsement. The protest
7 issues here are peace, order and quiet and
8 residential parking.

9 Power is located at 2335 Bladensburg
10 Road, NE. It's in a PDR-2 Zone. Located within
11 blocks of Power, the establishment and also
12 Gateway Association are the taverns, nightclubs
13 and of those are including Echostage, Bliss and
14 Stadium.

15 Today you are going to hear testimony
16 from Abeba Beyene, the owner and operator of
17 Power. Abeba will testify that since the opening
18 of Power, she has been there present, working
19 there every day that it is open from open to
20 close.

21 She will testify that since Power has
22 been opened, she has never received any

1 complaints about her operations, nothing from
2 neighbors, nothing from the ANC and nothing from
3 the protestants.

4 She will testify regarding her
5 engagement with ANC and Gateway, the community as
6 a whole.

7 You will also hear testimony from
8 Henry Akinnuoye, who is the general manager at
9 Power. He will testify that he also has been at
10 Power every day since its opening and he has also
11 been there from open to close.

12 He will testify that -- he will
13 testify in regards to community involvement as
14 well. So as a manager of Power, you will hear
15 him talk about the way that he was involved with
16 the community and with the ANC and with Gateway.

17 What we have here are owners of an
18 establishment that are very involved in the daily
19 operations of the establishment. They are
20 involved in the community and in efforts to
21 alleviate and mitigate concerns of the ANC and
22 specifically, the protestant, the Gateway

1 Association.

2 On the other side, we have
3 protestants, community association, who are
4 protesting for general issues and nothing that is
5 specifically related to Power.

6 So the question before the Board today
7 is whether the approval of a summer garden will
8 have an adverse impact on peace, order and quiet
9 and residential parking?

10 After the Board hears testimony from
11 the owner and the manager and listens to the
12 evidence today, we believe that the Board is
13 going to find that the addition of a summer
14 garden will not have an adverse impact on the
15 neighborhood and it is appropriate for the
16 neighborhood that it is in.

17 And therefore, we are requesting that
18 the Board approve the summer garden endorsement
19 application.

20 CHAIRPERSON ANDERSON: And what is the
21 capacity?

22 MS. YOHANNES: The capacity is 96

1 seats.

2 CHAIRPERSON ANDERSON: 96?

3 MS. YOHANNES: Correct.

4 CHAIRPERSON ANDERSON: And there is no
5 -- there is currently no summer garden?

6 MS. YOHANNES: That's correct.

7 CHAIRPERSON ANDERSON: Okay. Okay.

8 Do you want to do your opening, ma'am?

9 MS. DREW: Yes, please. First, thank
10 you for being here today to listen to our
11 protest.

12 Gateway is within 1,000 feet of four
13 mega-clubs. Power Night Club is the closest and
14 is only within maximum 100 feet of our residence.

15 There is a map in the Inspector's
16 report showing where the residences are in
17 relation to the club and I have provided photos
18 on how close the club is to our house, especially
19 the open parking lot where the proposed summer
20 garden would be located.

21 Although Power Night Club has a Tavern
22 License and the owners told the residents it

1 would operate as a tavern, it's a night club. It
2 is mainly open only on Fridays and Saturdays
3 after 10:00 p.m. with live music, a DJ or a DJ
4 and a dance floor.

5 Neighbors have raised concerns about
6 noise emanating from the night club. The
7 addition of 96 seats plus untold many more
8 standing outside in the parking lot would raise
9 the noise level exponentially.

10 The community agreement states that
11 the club noise can't be disruptive for residents
12 either inside or outside their homes. However,
13 the owners have not stated how they plan to
14 soundproof the parking lot or even provide a
15 Sound Mitigation Plan.

16 They also haven't provided any
17 assurances that there will be no amplified or
18 live music outside in the parking lot.

19 Regarding parking. Although the club
20 has 34 spaces on its premises and valet parking,
21 the patrons are opting instead to park for free
22 on the streets in our neighborhood, mostly on

1 Channing, Douglas and 30th Streets.

2 This has resulted in a rise in crimes,
3 cars' windows smashed in front of the residents'
4 homes, public urination as well as loud
5 arguments, partying, drinking in the alley and on
6 the streets as the patrons walk to and from their
7 cars in the early morning hours.

8 Many of our residents are elderly or
9 infirmed or both and are scared to death of the
10 drunken patrons yelling up our -- up and down our
11 streets and alleys at 3:00 a.m.

12 Gateway is in constant contact with
13 the MPD, but they are short-handed and no long-
14 term substantive remedies are available to
15 alleviate these concerns.

16 The loss of these parking spaces and
17 the increased occupancy of at least 100 plus
18 people allowed in the outdoor space would result
19 in more patrons parking in our neighborhood for
20 free with additional problems that have been
21 previously listed.

22 In our neighborhood, the Board denied

1 Pulse Nightclub a license three years ago,
2 because it would exacerbate parking problems in
3 the surrounding area.

4 This summer garden would do exactly
5 the same. If you guys are ever on Bladensburg on
6 a Saturday night at 1:00 a.m., you can see how
7 bad the parking problems are for all of the clubs
8 trying to get -- club patrons trying to get the
9 free parking spaces.

10 The community agreement also requires
11 the club owners to ensure the surrounding streets
12 are kept clean. I have included photos of the
13 liquor bottles and other trash on Channing Street
14 on January 1st of this year at 10:00 a.m. before
15 I went to Mass, a violation of the community
16 agreement.

17 Regarding the investigation report,
18 and I'm not sure if I'm supposed to be able to go
19 into this, so I apologize.

20 CHAIRPERSON ANDERSON: Well, your
21 opening is just -- the opening is just you are
22 just telling me what the issues are and what it

1 is that you are seeking, so you don't necessarily
2 need to go into your case.

3 Hold on, Mr. Silverstein. So you are
4 just --

5 MS. DREW: Okay.

6 CHAIRPERSON ANDERSON: So in your
7 opening, you are just saying as -- just tell me
8 what it is that you are seeking --

9 MS. DREW: All right.

10 CHAIRPERSON ANDERSON: -- and so you
11 don't necessarily need to go into the merits of
12 the case --

13 MS. DREW: I apologize.

14 CHAIRPERSON ANDERSON: -- in your
15 opening.

16 MS. DREW: Everybody said this was
17 easy, but --

18 MEMBER SILVERSTEIN: Really quick.

19 MS. DREW: Yeah?

20 MEMBER SILVERSTEIN: The opening, you
21 tell him what you are going to tell him in the
22 case. You tell him in the close, you tell him

1 what you told him.

2 So you are just going to say we are
3 going to tell you this, this, this.

4 MS. DREW: Oh, okay.

5 MEMBER SILVERSTEIN: So that way when
6 you do it --

7 MS. DREW: I'm almost done.

8 MEMBER SILVERSTEIN: -- we can follow.
9 Fine.

10 MS. DREW: Sorry. The Board has found
11 for community concerns about noise, parking and
12 disruptions that are valid in previous rulings,
13 including Pulse, Climax, Ozio and Romeo & Juliet.
14 We are concerned that the summer garden in the
15 parking lot with no sound mitigation or
16 assurances against amplified music will add to
17 the noise, parking -- and parking problems and,
18 therefore, ask the Board to deny the summer
19 garden endorsement.

20 I should also state, I guess, that I
21 will have three witnesses: Kevin Mullone, ANC-
22 5C02; Gilbert Smith, a resident; and Leslie

1 Bournes, a resident.

2 CHAIRPERSON ANDERSON: All right. I
3 just want to get some clarification. I'm looking
4 at the Notice of Public Hearing and because I see
5 that the protest -- I'm sorry, the protestant had
6 -- was talking about amplified sound. And now,
7 all that -- am I correct that all that is being
8 asked for is a summer garden endorsement of 96
9 seats and that we are -- and that it has not been
10 requested or it is not anticipated that there
11 will be any entertainment in the summer garden?

12 MS. YOHANNES: Yes, that's correct.

13 CHAIRPERSON ANDERSON: All right.

14 MS. DREW: We were told, at one point,
15 that there would be light music through speakers
16 and, to me, that's amplified music.

17 CHAIRPERSON ANDERSON: Well, there
18 have been -- what has been asked is that they are
19 asking for a summer garden and there is going to
20 be no entertainment in the -- they are not
21 getting an entertainment endorsement in the
22 summer garden.

1 And I know -- I see in part of your
2 opening you stated that the 96 and more people
3 and if it's 96, it means 96. I don't think it
4 means 96 and then maybe another 100 people
5 standing out.

6 MEMBER ALBERTI: It does.

7 CHAIRPERSON ANDERSON: It does?

8 MEMBER SHORT: Yes.

9 MEMBER ALBERTI: Yes, it does.

10 CHAIRPERSON ANDERSON: So 96 seats and
11 -- okay. So on that portion --

12 MEMBER ALBERTI: But we can deal with
13 that.

14 CHAIRPERSON ANDERSON: All right.

15 MEMBER ALBERTI: We can deal with
16 that.

17 CHAIRPERSON ANDERSON: So but -- yes,
18 ma'am?

19 MS. DREW: Can I ask a clarification,
20 since I don't know all of the ABRA laws?

21 CHAIRPERSON ANDERSON: What's the
22 question?

1 MS. DREW: If they have an endorse --
2 an entertainment -- do I have that right, an
3 entertainment endorsement --

4 CHAIRPERSON ANDERSON: Entertainment
5 endorsement. Right.

6 MS. DREW: -- if they have a summer
7 garden, doesn't that mean they could have live
8 music out in the summer garden? Amplified music?

9 CHAIRPERSON ANDERSON: No.

10 MEMBER ALBERTI: No. You -- they have
11 an entertainment endorsement for the interior.
12 All right?

13 MS. DREW: So they can't have any
14 music?

15 MEMBER ALBERTI: So -- well, wait. If
16 they wanted to provide entertainment or if they
17 wanted to, because I know this is going to be
18 your concern, pipe, broadcast the entertainment
19 from inside out into the summer garden, that
20 would be considered entertainment on the summer
21 garden.

22 And if they want to do -- have it out

1 there or to broadcast it out there, they would
2 need an additional endorsement for the summer
3 garden. An additional entertainment endorsement
4 for the summer garden.

5 So as the Board is viewing it, there
6 would be no entertainment, no entertainment
7 broadcast --

8 MS. DREW: Absolutely no --

9 MEMBER ALBERTI: -- from the inside
10 outside --

11 MS. DREW: -- music whatsoever?

12 MEMBER ALBERTI: Well, no. No, if
13 they had a separate sound system out there and
14 they were playing the radio, that's a different
15 story. So that's the distinction.

16 MS. DREW: That's a --

17 MEMBER ALBERTI: You may --

18 MS. DREW: -- concern.

19 MEMBER ALBERTI: -- you can address
20 that, if you want, in your remarks, but that's
21 the distinction that we make.

22 MS. DREW: That and 96 people plus

1 however many standing --

2 MEMBER ALBERTI: I got it, yes.

3 CHAIRPERSON ANDERSON: Yes, Mr. --

4 MEMBER ALBERTI: I just wanted to
5 clarify --

6 MS. DREW: -- will be loud.

7 MEMBER ALBERTI: Yes.

8 CHAIRPERSON ANDERSON: Hold on. Yes,
9 Mr. Silverstein, what's your -- do you want to
10 make a -- do you want to say something?

11 MEMBER SILVERSTEIN: I was just
12 telling her if that's the case, she can argue the
13 case later.

14 CHAIRPERSON ANDERSON: Okay.

15 MEMBER ALBERTI: All right. But I
16 think we are all on the same page? All right.

17 MS. DREW: Sorry.

18 MEMBER ALBERTI: That's all right.

19 MS. DREW: First time ever, so I
20 apologize for --

21 MEMBER ALBERTI: You're not the only
22 one who has that confusion.

1 MS. DREW: Okay.

2 CHAIRPERSON ANDERSON: All right.

3 Okay.

4 MS. YOHANNES: May I? I'm sorry, may
5 I clarify something regarding the 96 seats?

6 CHAIRPERSON ANDERSON: Yes, ma'am.

7 MS. YOHANNES: So the 96 seats is what
8 we applied for. However, the 96 seats is in
9 reference of the entire space that the -- that
10 Power has, the entire parking lot space. But
11 what we are now requesting or seeking would be
12 the use of half of that space, so that would be a
13 maximum of 60 seats.

14 MS. DREW: But how many people
15 standing?

16 CHAIRPERSON ANDERSON: Do you guys
17 want to talk about it for a couple of minutes?
18 If you can come to an agreement, we can end this?
19 Do you want to take a 10 minute break and you can
20 discuss it to see --

21 MS. DREW: These are my residents. I
22 apologize.

1 CHAIRPERSON ANDERSON: I don't -- I
2 mean --

3 MEMBER SILVERSTEIN: Ms. Yohannes, I
4 have a question about --

5 CHAIRPERSON ANDERSON: Hold on, hold
6 on, hold on one minute.

7 MEMBER SILVERSTEIN: -- what you just
8 said.

9 MEMBER ALBERTI: I think we need to go
10 down this road.

11 CHAIRPERSON ANDERSON: Hold on. Hold
12 on, Mr. Silverstein. I'm sorry.

13 I'm sorry, what were you saying? Yes?
14 There is some confusion.

15 MS. YOHANNES: Because I was -- yes,
16 I just wanted to clarify. I mean, I said 96
17 seats. 96 seats is what we applied for, but, at
18 this time, we would like to amend to say 60
19 seats, because we are only requesting the use of
20 half of the parking lot there.

21 CHAIRPERSON ANDERSON: All right.

22 MEMBER ALBERTI: That's fine.

1 CHAIRPERSON ANDERSON: 60 seats.

2 MEMBER SILVERSTEIN: You are amending
3 it to -- sorry, I didn't hear. You are amending
4 it to 60?

5 MS. YOHANNES: Yes.

6 MEMBER ALBERTI: 60 seats.

7 CHAIRPERSON ANDERSON: 60 seats.

8 MEMBER SILVERSTEIN: Any standing?

9 MS. YOHANNES: What --

10 MEMBER ALBERTI: We don't usually
11 address that in our applications. That is
12 something that is issued -- that is addressed
13 like in Board Orders as a separate, an addendum
14 to -- or a condition on a license. If it --

15 MS. YOHANNES: Right.

16 MEMBER ALBERTI: -- I mean, that's --
17 that can be -- I'm saying it can be addressed
18 that way. But in our applications, we never
19 address standing --

20 MR. KLINE: If I may?

21 MEMBER ALBERTI: -- in summer gardens.

22 MR. KLINE: It's a completely

1 different function.

2 MEMBER ALBERTI: And then you can
3 contradict me if you would like, Mr. Kline, but--

4 MR. KLINE: No, I'm not going to
5 correct you. I just want to supplement and say,
6 typically, that is a function of DCRA Code
7 calculations --

8 MEMBER ALBERTI: Absolutely.

9 MR. KLINE: -- for the space.

10 MEMBER ALBERTI: Yes, absolutely.

11 CHAIRPERSON ANDERSON: And the
12 question I was asking the protestant, does that
13 make a difference in your protest? That's all
14 I'm asking.

15 MS. DREW: No.

16 CHAIRPERSON ANDERSON: All right. You
17 have to ask the question to see if there is an
18 answer.

19 MS. DREW: Absolutely, absolutely.

20 CHAIRPERSON ANDERSON: All right. All
21 right. So the board will call its first witness,
22 Mr. Anthony Howze. Can you raise your right

1 hand, please?

2 Whereupon,

3 INVESTIGATOR ANTHONY HOWZE

4 was called as a witness by the ABRA Board, and
5 having been first duly sworn, assumed the witness
6 stand and was examined and testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON ANDERSON: Can you state
9 your name for the record, please?

10 THE WITNESS: Anthony Howze.

11 CHAIRPERSON ANDERSON: Have a seat,
12 Mr. Howze. Mr. Howze, where are you currently
13 employed?

14 THE WITNESS: Alcoholic Beverage
15 Regulation Administration.

16 CHAIRPERSON ANDERSON: And how long
17 have you been employed by the Agency?

18 THE WITNESS: Two and a half years.

19 CHAIRPERSON ANDERSON: And can you
20 speak up, sir?

21 THE WITNESS: Two and a half years.

22 CHAIRPERSON ANDERSON: And what is

1 your role as an employee of the Agency?

2 THE WITNESS: I conduct inspections
3 and investigations of ABC-licensed establishments
4 in the District of Columbia.

5 CHAIRPERSON ANDERSON: All right. And
6 are you familiar with this establishment, Power
7 Night Club?

8 THE WITNESS: Yes, I am.

9 CHAIRPERSON ANDERSON: And how are you
10 familiar with this?

11 THE WITNESS: I was assigned the
12 protest of this establishment.

13 CHAIRPERSON ANDERSON: And so did
14 there come a time that you drafted a report for
15 this establishment?

16 THE WITNESS: Yes, I did.

17 CHAIRPERSON ANDERSON: And so can you,
18 please, share with us what is it you were able to
19 find as a result of your investigation, sir?

20 THE WITNESS: On Wednesday, December
21 20, 2017, I telephonically called the President
22 of the Gateway Community, Ms. Janet Drew in

1 regards to the protest issues. Ms. Drew stated
2 there has been limited parking since the
3 establishment has been in business and there has
4 been an abundance of trash surrounding the
5 establishment.

6 Ms. Drew stated that the crime rate
7 has gone up with unruly patrons leaving the
8 establishment intoxicated, making excessive
9 amounts of noise, leaving trash on the ground and
10 having loud arguments in the manner that were
11 disruptive to the neighbors.

12 Ms. Drew stated that she has heard
13 from surrounding neighbors that cars and
14 properties have been vandalized by patrons. Ms.
15 Drew also stated there has been patrons publicly
16 urinating on sidewalks, grass and any place that
17 could be found in the neighborhood.

18 She already stated in her statement
19 earlier, so I won't repeat that.

20 I then spoke to the attorney's
21 advocate, Ms. Sidon Yohannes, and she submitted a
22 statement to ABRA via email and it reads "The

1 licensee filed an application for a substantial
2 change in May 2017 to add a summer garden with 96
3 seats. The licensee applied for the following
4 hours of operation and sales in the summer
5 garden: Sunday through Thursday, 2:00 p.m. to
6 2:00 a.m., and Friday and Saturday, 2:00 p.m. to
7 3:00 a.m.

8 The application has been protested by
9 the Gateway Community Association. Gateway's
10 protest is primarily based on concerns regarding
11 parking. However, Gateway has failed to identify
12 or show their parking concerns are directly
13 attributable to Power Night Club.

14 Gateway has voiced concerns about
15 patrons of various establishments parking in
16 residential areas. However, Gateway had no idea
17 which establishment, if any, the parking patrons
18 are going to or leaving.

19 Gateway has not provided any basis for
20 their belief that people parking in the
21 neighborhood are patrons of Power and not any
22 other establishment in the area.

1 Gateway's Protest Letter also
2 references concerns about crime and noise.
3 However, this is a concern based on Gateway's
4 experience with the previous establishment,
5 Dino's, not Power Night Club.

6 As stated in their own Protest Letter,
7 there are at least four nightclubs located near
8 the Gateway residential neighborhood: Echostage,
9 Aqua, Bliss and Stadium."

10 On December 22, 2017, Investigator
11 Howze visited Power Night Club and spoke with the
12 owner, Ms. Beyene, did I say that right, okay,
13 concerning the protest issues. Ms. Beyene stated
14 that she has been an alcohol license holder for
15 seven years in D.C., formerly with the owner of
16 Vita Lounge.

17 Power has been operating since May of
18 2017. It has operations on Fridays and
19 Saturdays. Friday being hip-hop night and
20 Saturday being African night.

21 You must be 21 years of age to enter
22 into the establishment. She said she has seven

1 security in fixed locations and their job
2 description are pat-downs, metal detector
3 searches, thorough checks of identification.

4 Ms. Beyene stated that the
5 establishment is soundproof and that sound can't
6 be heard outside of the establishment.

7 The establishment has its own parking
8 and there is also a Metrobus Station directly
9 across the street, the 34 seats that were
10 mentioned earlier.

11 Ms. Beyene stated that she has a
12 contract with KMG Hauling, which picks up trash
13 two times a week. Ms. Beyene also stated that
14 she has employees who not only clean the
15 establishment when events or parties are over,
16 but they also clean the establishment outside,
17 front, back and neighboring establishments as
18 well.

19 Ms. Beyene stated that she has an MPD
20 Reimbursable Detail, which she pays to survey the
21 establishment and operation if anything was to
22 transpire.

1 Ms. Beyene stated that she is willing
2 to cooperate with any suggestions or information
3 that Gateway Community has to offer. She also
4 stated that she feels this is a fresh start and
5 doesn't want to jeopardize the opportunity.

6 During the time that the establishment
7 was visited, it was visited 12 separate
8 occasions. And there were two violations that
9 were found.

10 Investigator Howze did advise Ms.
11 Beyene of the violation that the establishment
12 received for charging patrons for entrance in the
13 establishment on Saturday, December 16, 2017 at
14 1:32 a.m.

15 Investigator Howze advised Ms. Beyene
16 that until the establishment is granted the cover
17 charge endorsement on the alcohol license, the
18 establishment will be in violation if they
19 continue to charge patrons for a cover charge
20 endorsement.

21 The establishment was also notified by
22 ABRA on Sunday, December 24th, for violation of

1 operating after the Board-approved hours. ABRA
2 Investigator reports are being prepared for each
3 violation.

4 As far as MPD, ABRA was not in receipt
5 from MPD Crime Analysis Unit for the calls of
6 service for 2335 Bladensburg at the time this
7 report was completed. A review of ABRA records
8 determined that the period of January 1, 2017 and
9 January 1, 2018, there was one noise complaint,
10 which did not result in a noise violation.

11 Those are my findings from Power Night
12 Club.

13 CHAIRPERSON ANDERSON: Now, there --
14 in the report there are exhibits. Can you tell
15 us what the exhibits are?

16 THE WITNESS: Exhibit 1 is the
17 building exterior of Power Night Club.

18 Exhibit 2 is a portion of where the
19 proposed summer garden will be held.

20 Exhibit 3 is also a proposed photo of
21 where the summer garden will be held.

22 Exhibit 4 is the rear of the

1 establishment and those are the parking spaces
2 allotted to Power Night Club.

3 (Whereupon, the above-
4 referred to documents were
5 marked as ABRA Exhibit No. 1
6 through 4 for
7 identification.)

8 THE WITNESS: If you take a deeper
9 look, in the corner there are two dumpsters there
10 for the establishment from KMG Hauling.

11 Exhibit 5 is the entrance into Power.

12 Exhibit 6 is just a picture of the
13 interior of Power.

14 Exhibit 7 is also the interior of
15 Power.

16 Exhibit No. 8 is a room that is inside
17 of Power. I guess this is supposed to be the VIP
18 room.

19 Exhibit 9 has tables and chairs and
20 ropes that ropes off the dance floor from the VIP
21 section.

22 Exhibit No. 10 is a duplicate of the

1 VIP room.

2 Exhibit No. 11 is what they carry the
3 alcoholic beverages in, as far as bottles, to the
4 prospective tables.

5 Exhibit 12 is a dual photo. This is
6 a photo taken on the night of the cover charge
7 endorsement violation, the top half is. And the
8 bottom half is a picture of the street parking on
9 Bladensburg Road.

10 Exhibit No. 13 is also the same, just
11 a different view of patrons entering into the
12 establishment and being charged for doing so and
13 the bottom half is actually another picture of
14 the parking.

15 This is actually a duplicate of
16 Exhibit 13, Exhibit 14.

17 (Whereupon, the above-
18 referred to documents were
19 marked as ABRA Exhibit No. 5
20 through 14 for
21 identification.)

22 CHAIRPERSON ANDERSON: All right. So

1 let me ask you, let's go back to Exhibit 3.

2 What's Exhibit 3 again?

3 THE WITNESS: This is where Ms. Beyene
4 explained to me that the proposed summer garden
5 would be.

6 CHAIRPERSON ANDERSON: All right.

7 THE WITNESS: She said that these vans
8 would not be there, but this is a portion of
9 where she wants the summer garden to be held.
10 Exhibits 2 and 3.

11 CHAIRPERSON ANDERSON: So do you know
12 what is -- what this space is currently being
13 used for? Did she explain to you what this space
14 is currently being used for?

15 THE WITNESS: I'm not sure. I do not
16 know.

17 CHAIRPERSON ANDERSON: How many times
18 did you go to observe this establishment?

19 THE WITNESS: The establishment was
20 visited 12 times.

21 CHAIRPERSON ANDERSON: How many?

22 THE WITNESS: 12 times. I, myself,

1 six times to the establishment.

2 CHAIRPERSON ANDERSON: So of the 12
3 times it was visited, so you are saying that
4 there were two violations and one was the cover
5 charge and one was the --

6 THE WITNESS: After hours.

7 CHAIRPERSON ANDERSON: -- after hours?

8 THE WITNESS: Correct.

9 CHAIRPERSON ANDERSON: So tell me
10 during the period of time that you went to do the
11 observations, I mean, what was the -- did you
12 observe any -- were there -- I guess, was there
13 any obvious parking concerns to you in the
14 neighborhood or noise or anything like that?

15 THE WITNESS: It is limited parking.
16 It's only street parking and the parking that is
17 allotted for the establishment.

18 CHAIRPERSON ANDERSON: I'm sorry, you
19 said what?

20 THE WITNESS: I said there is limited
21 street parking and there is parking for the
22 allotted establishment. So there is very limited

1 parking.

2 CHAIRPERSON ANDERSON: So where are --
3 do you know where folks -- I mean, do you -- did
4 you ask any questions from the licensee where is
5 it that the patrons are parking? Are they
6 walking? Are they Ubering or how do they get to
7 the establishment?

8 THE WITNESS: From my understand from
9 Ms. Beyene, patrons are actually parking in this
10 -- that parking lot, on the street, Ubering and
11 either catching a bus or the Metro or parking all
12 the way up Bladensburg Road to attend the
13 establishment.

14 CHAIRPERSON ANDERSON: Okay. All
15 right. Any other questions by any of the Board
16 Members?

17 MEMBER ALBERTI: Yeah.

18 MEMBER SHORT: Yes.

19 CHAIRPERSON ANDERSON: Go ahead, Mr.
20 Short.

21 MEMBER SHORT: Good afternoon,
22 Investigator. Let me ask you a question. You

1 said on -- you visited six times.

2 THE WITNESS: 6 out of the 12,
3 correct.

4 MEMBER SHORT: 6 out of 12. And
5 during those six, how many violations did you
6 find?

7 THE WITNESS: I, myself? None.

8 MEMBER SHORT: But you said there were
9 -- something about cover charge?

10 THE WITNESS: Cover charge.

11 MEMBER SHORT: That wasn't you?

12 THE WITNESS: No, sir.

13 MEMBER SHORT: Okay. What day did
14 that happen? What time of day did that happen?

15 THE WITNESS: Um, let me look. From
16 the time of 1:15 to 1:45 a.m. Saturday, December
17 16, 2017.

18 MEMBER SHORT: And they don't have an
19 endorsement for that, but they were doing it?

20 THE WITNESS: Correct.

21 MEMBER SHORT: Were there any other
22 violations found?

1 THE WITNESS: On that day, no, sir.

2 MEMBER SHORT: Were any -- during the
3 period of time that the 12 inspections were made?

4 THE WITNESS: Sunday, December 24,
5 2017 from the times of 2:45 to 3:15 a.m.

6 MEMBER SHORT: What was found during
7 that period of time?

8 THE WITNESS: The establishment was
9 operating outside of their Board-approved hours
10 of sale.

11 MEMBER SHORT: Are you familiar with
12 their investigative history at all?

13 THE WITNESS: Yes, I am.

14 MEMBER SHORT: Outside of those two
15 violations you just mentioned, which is the cover
16 charge and operating out of hours, are there any
17 other violations?

18 THE WITNESS: On the history?

19 MEMBER SHORT: Yes.

20 THE WITNESS: Substantial change,
21 summer garden endorsement, cover charge 8/8/17.

22 MEMBER SHORT: Well, wait, stop for a

1 minute. The very first one, what was the very
2 first one you said?

3 THE WITNESS: Substantial change.

4 MEMBER SHORT: And what was that
5 substantial change?

6 THE WITNESS: A cover charge
7 endorsement.

8 MEMBER SHORT: Okay. You gave me
9 cover charging. You gave me operating after
10 hours. You mentioned another one or did you?

11 THE WITNESS: So --

12 MEMBER SHORT: I'm asking you outside
13 of those two, are there any other violations on
14 their history?

15 THE WITNESS: On the history, yes.

16 MEMBER ALBERTI: Would that be page 8
17 of the report?

18 MEMBER SHORT: Well, I'm --

19 MEMBER ALBERTI: All right. I mean,
20 you can -- well, I think it might aid you in your
21 questioning of him.

22 MEMBER SHORT: Okay. Well, I'm just

1 trying to get him to give me --

2 MEMBER ALBERTI: No, I understand.

3 MEMBER SHORT: -- an answer. Okay.

4 Do you have the history in front of you?

5 THE WITNESS: I do.

6 MEMBER SHORT: Okay. Starting from
7 the time they opened until now, how many
8 violations have they had?

9 THE WITNESS: A cumulative of three.

10 MEMBER SHORT: Okay. What are those
11 three again?

12 MS. YOHANNES: Actually --

13 CHAIRPERSON ANDERSON: Is there an
14 issue or what?

15 MS. YOHANNES: Yes. These are not
16 violations yet.

17 CHAIRPERSON ANDERSON: Well --

18 MS. YOHANNES: The only violation --

19 CHAIRPERSON ANDERSON: Are you making
20 that objection, ma'am?

21 MS. YOHANNES: Yes, objection.

22 CHAIRPERSON ANDERSON: What's the

1 nature of your objection?

2 MS. YOHANNES: That these aren't
3 violations.

4 MEMBER SHORT: Can I ask you what they
5 are, if they aren't violations?

6 MEMBER ALBERTI: Well --

7 MEMBER SHORT: They are outside of the
8 Code and outside of operating under the legal --

9 MEMBER ALBERTI: Mr. --

10 CHAIRPERSON ANDERSON: All right.
11 Hold on. All right. All right. Mr. Short has
12 some concerns. He is a Board Member. He is
13 asking the witness a question. Yes, you can
14 object, but, of course, you know that this is a
15 concern for him, so I'll allow him to ask the
16 question. And so, therefore, you now know where
17 he is, so in the presentation of your case, then
18 you need to make sure that you satisfy his
19 curiosity.

20 So go ahead, Mr. Short.

21 MEMBER SHORT: Thank you, Mr. Chair.

22 Okay. So you gave me operating outside of hours.

1 You gave me collecting money at the door without
2 an endorsement. What is the third one? You said
3 there were three.

4 THE WITNESS: Correct. From July 5,
5 2017, a cover charge endorsement.

6 MEMBER SHORT: So there are two cover
7 charge endorsements?

8 THE WITNESS: As I look on the history
9 here, yes.

10 MEMBER ALBERTI: If he --

11 MEMBER SHORT: That's what I'm trying
12 to get out of him.

13 MEMBER ALBERTI: All right.

14 MEMBER SHORT: You gave me two. You
15 said there were three. You gave me --

16 MEMBER ALBERTI: I'll ask him.

17 MEMBER SHORT: -- endorsement at the
18 door. I mean, you gave me the one about
19 collecting money at the door. You gave me the
20 one about the operating after hours. What is the
21 third one? You said there were three.

22 THE WITNESS: I said we -- during our

1 investigation, I found two violations.

2 MEMBER SHORT: Didn't I ask you about
3 the history? Do you have the history in front of
4 you?

5 THE WITNESS: I have the history.

6 MEMBER SHORT: Okay.

7 MEMBER ALBERTI: Investigator, I think
8 it would be helpful if you just read what was
9 here.

10 THE WITNESS: I was trying to. I was
11 trying to.

12 MEMBER ALBERTI: Read the entire
13 thing.

14 THE WITNESS: Okay.

15 MEMBER SHORT: Thank you very much.

16 MEMBER ALBERTI: Thank you.

17 THE WITNESS: So No. 1, 12/24/2017,
18 Case 18-CMP-0005, operating after Board-approved
19 hours.

20 No. 2, 12/16/2017, Case No. 18-CMP-
21 0004, cover charge endorsement.

22 July 5, 2017, Case No. 17-CMP-000430,

1 substantial change, summer garden endorsement,
2 cover charge and that's dated August 9, 2017.
3 The license endorsement, staff settlement cover
4 charge, warning on September 18, 2017, \$1,000
5 fine paid.

6 MEMBER SHORT: Okay. So that meant
7 that someone at that establishment was operating
8 a summer garden without the appropriate license.
9 Is that correct?

10 THE WITNESS: Yes.

11 MEMBER SHORT: That's all I have, Mr.
12 Chair. Thank you very much.

13 CHAIRPERSON ANDERSON: Mr. Alberti?

14 MEMBER ALBERTI: Okay. Just to be
15 fair to everyone, I will point out, Ms. Yohannes,
16 I think, objected because the first two
17 violations are allegations right now. They are
18 charges pending before us with the OAG's Office
19 currently.

20 The only one that we have resolved is
21 the third one, which is -- includes the summer
22 garden endorsement violation.

1 MS. YOHANNES: Thank you.

2 MEMBER ALBERTI: Okay. So,
3 Investigator, of the days that we have visits,
4 which days did you visit? This is on page 7 of
5 your report?

6 THE WITNESS: Correct. Tuesday.

7 MEMBER ALBERTI: The date, please.

8 THE WITNESS: December 12, 2017.

9 MEMBER ALBERTI: Um-hum.

10 THE WITNESS: Monday, December 18,
11 2017.

12 MEMBER ALBERTI: Okay.

13 THE WITNESS: Tuesday, December 19,
14 2017.

15 MEMBER ALBERTI: Okay.

16 THE WITNESS: Friday, December 22,
17 2017.

18 MEMBER ALBERTI: Okay.

19 THE WITNESS: Wednesday, December 27,
20 2017.

21 MEMBER ALBERTI: Okay. So is it fair
22 to say that you haven't visited this

1 establishment during prime clubbing hours? And
2 what I mean by prime clubbing hours is 10:00 to
3 3:00 on Friday, 10:00 p.m. to 3:00 a.m. on
4 Saturday and 10:00 -- on Saturday night and 10:00
5 p.m. to 2:00 a.m. on Sunday, which would be
6 Monday morning. Is that correct?

7 THE WITNESS: Correct.

8 MEMBER ALBERTI: All right. Did you
9 talk to any of the Investigators who visited on
10 Saturday, December 16th, or December 17th?

11 THE WITNESS: Yes.

12 MEMBER ALBERTI: All right. Did they
13 talk -- tell you anything about -- did they -- do
14 you know if they traveled in the vicinity of the
15 club to view parking issues?

16 THE WITNESS: Yes. On the exhibit --

17 MEMBER ALBERTI: Well, more than just
18 in front of the club, because we have a lot of --
19 I think, there are some neighborhoods behind the
20 club just to the northeast, do you know if they
21 ventured into those neighborhoods to see what the
22 parking issues were?

1 THE WITNESS: I'm not sure.

2 MEMBER ALBERTI: Okay. I will tell
3 you, I'm just -- this is just a comment. My
4 concern is that we do have the clubs across the
5 street and I don't know whether they are coming
6 across the street or not. I don't know what
7 parking they are utilizing in the neighborhood.

8 THE WITNESS: Right.

9 MEMBER ALBERTI: Because I know they
10 venture south of New York Avenue also. The
11 Echostage and Bliss, they venture south of New
12 York Avenue even.

13 So anyway, getting back to this, in
14 their opening statement the protestant said that
15 at most, the neighborhood residents were, at
16 most, 100 feet away from the establishment.

17 So going up along Bladensburg Avenue,
18 the neighborhood that's just north and east of
19 this, do you know how far that is that
20 neighborhood begins? What would your estimate be
21 of how far that is from the parking lot?

22 THE WITNESS: I would say roughly 100

1 feet.

2 MEMBER ALBERTI: Okay. Thank you. It
3 looks like there is parking on all -- there is a
4 vacant parking lot on all sides of the building,
5 which houses Power Night Club. Is that correct?

6 THE WITNESS: Correct.

7 MEMBER ALBERTI: All right. Do you
8 know which part of those parking lots are
9 controlled by the licensee? Is it all three
10 sides or is it just the back or --

11 THE WITNESS: It's --

12 MEMBER ALBERTI: -- the left side?

13 THE WITNESS: -- on the --

14 MEMBER ALBERTI: What's controlled by
15 the licensee?

16 THE WITNESS: Directly behind the
17 establishment in the rear, so on Exhibit 4 and
18 around the corner from Exhibit 4. So that
19 alleyway, that parking lot right there, those
20 spaces.

21 MEMBER ALBERTI: Okay. Wait, wait,
22 wait. So I'm looking at Exhibit 4.

1 THE WITNESS: Okay.

2 MEMBER ALBERTI: If I go up to the top
3 and make a left, that area?

4 THE WITNESS: Those spaces as well.

5 MEMBER ALBERTI: Those spaces as well.

6 What about the southern portion of that building?

7 And that southern portion of the building, I

8 think, is where the white vans are. Do they

9 control that parking lot?

10 THE WITNESS: To my knowledge, these

11 vans have nothing to do with the establishment.

12 So patrons can't park or it has been occupied.

13 MEMBER ALBERTI: All right. But that

14 is the area where the summer garden will be?

15 THE WITNESS: That is the area where

16 the summer garden is proposed to be.

17 MEMBER ALBERTI: Okay. All right. I

18 have no further questions. Thank you.

19 CHAIRPERSON ANDERSON: Any other

20 questions by any other Board Members? Ms.

21 Yohannes?

22 MS. YOHANNES: Yes.

1 CROSS-EXAMINATION

2 BY MS. YOHANNES:

3 Q Investigator Howze, you visited the
4 establishment six times, correct?

5 A Correct.

6 Q During this time, did you witness any
7 patrons leaving the establishment intoxicated and
8 making an excessive amount of noise?

9 A I did not.

10 Q During this time, during the six times
11 you visited, did you witness any patrons leaving
12 Power and throwing out trash on the ground?

13 A I did not.

14 Q During this time, did you -- during
15 the six times that you visited Power, did you
16 witness patrons leaving the establishment and
17 vandalizing vehicles?

18 A I did not.

19 Q During the six times you visited, did
20 you witness any patrons leaving the establishment
21 and committing a crime?

22 A I did not.

1 Q During the six times that you visited
2 Power, did you witness any adverse impacts on
3 peace, order and quiet?

4 A I did not.

5 MS. YOHANNES: That's all I have.

6 CHAIRPERSON ANDERSON: Ms. Drew?

7 MS. DREW: Thank you.

8 BY MS. DREW:

9 Q Mr. Howze, during the six times that
10 you visited the club, how many times was it open?

11 A None of the times I visited was it
12 open.

13 Q Okay. So you could not, this is a
14 question, have witnessed drunken patrons,
15 vandalism, well, you could have witnessed
16 vandalism, it's Bladensburg Road, but due to
17 patrons leaving the club?

18 A Are you asking if I saw patrons
19 leaving the club?

20 Q Yes.

21 A No, I did not.

22 Q Okay. Did you witness -- well, you

1 couldn't have, because there were no patrons.

2 So I guess --

3 CHAIRPERSON ANDERSON: Ask him a
4 question, Ms. Drew. I know where you are going.
5 Just ask him a question, because you are asking a
6 question and answering yourself. Just ask him
7 the question, let him answer.

8 MS. DREW: Yes. Okay. Thank you.

9 BY MS. DREW:

10 Q So what -- at what time of day were
11 the photos taken and on what day?

12 A These photos were taken on December
13 22, 2017, 8:00 p.m. to 8:30. Now, all the
14 pictures were not taken on that day. And I'm
15 going to tell you which exhibits were taken on
16 that day.

17 Exhibits 1 through 11 were taken on
18 this -- were taken on that day, December 22nd.

19 Q 1 through 11 on December 22nd, which is
20 which day of the week?

21 A Friday.

22 Q Friday at 8:00 p.m., because I noticed

1 the Metrobus driver, that's why I was --

2 MS. YOHANNES: Objection.

3 BY MS. DREW:

4 Q So you don't actually know?

5 MS. DREW: How do I -- sorry, I'm
6 trying to phrase them as questions.

7 BY MS. DREW:

8 Q So you don't actually know the effects
9 personally of the club on the neighborhood?

10 A I, myself, do not.

11 Q Thank you. Did your Investigator make
12 any observations beyond the immediate vicinity of
13 the club?

14 A Other than the violations reported,
15 they did not.

16 Q They made no other observations about
17 patrons --

18 A Are you --

19 Q -- parking? Did the other
20 Investigator make observations beyond the
21 immediate vicinity of the establishment? Did --
22 I don't know who the other Investigator is, so --

1 MS. YOHANNES: Objection.

2 CHAIRPERSON ANDERSON: What's the
3 nature of the objection?

4 BY MS. DREW:

5 Q What's the name of the other
6 Investigator or Investigators?

7 A I don't know if I'm allowed to --

8 MEMBER ALBERTI: She had a question
9 standing. I mean, let's be fair. She had a
10 question standing and it was did the other
11 Investigator or Investigators make a comment
12 about the area, the effects of the club on the
13 area, beyond -- the effects of the club beyond
14 the area -- the immediate area of the club? That
15 was the question.

16 Did anyone comment to him, did any
17 Investigators make comments to him?

18 THE WITNESS: Other than the issues,
19 the limited parking, there was no noise
20 violations. There was no trash witnessed on the
21 ground or littering or nothing outside of the
22 violations that the Investigators found as far as

1 it going to their protest issues.

2 BY MS. DREW:

3 Q And going back to the 12 times, so
4 take out the six times that you were there, so
5 that was six times, how many times did the other
6 Investigator or Investigators go to the club
7 while it was open?

8 A Five.

9 Q And which days were those?

10 A Saturday, December 16th; Sunday,
11 December 17th; December 22nd, Friday; Sunday,
12 December 24th; and Saturday, December 30th.

13 Q So really, is it correct to say, I
14 don't know if I'm wording this correctly so, that
15 there were actually two violations of the five
16 times that the Investigator was at the club when
17 it was open? Is that correct?

18 A Correct.

19 Q Thank you. Did you notice in the --
20 did the other Investigator notice how many
21 parking spaces in the parking lot were taken up
22 by employees?

1 A That was not told to me, so I would
2 say no.

3 Q Did the other Investigators or did you
4 note how far the Metro is from Power Night Club?

5 A Are you asking me to give you a direct
6 like --

7 Q Yes.

8 A I don't know offhand, but there is a
9 bus station directly across the street from Power
10 Night Club.

11 Q And how many buses at that bus station
12 go directly to the Metro? Otherwise, do you
13 know --

14 MS. YOHANNES: Objection.
15 Speculation. Calls for speculation.

16 CHAIRPERSON ANDERSON: Well --

17 MEMBER ALBERTI: He may not know.

18 CHAIRPERSON ANDERSON: -- let -- hold
19 on, Mr. Alberti. If he -- you ask a question.
20 If Mr. Howze doesn't know the answer to the
21 question, then he will say he doesn't know. So I
22 don't -- I'm not -- he might know, so I'm going

1 to overrule the objection. But answer the
2 question, Mr. Howze.

3 THE WITNESS: I do not know.

4 CHAIRPERSON ANDERSON: I'm sorry?

5 THE WITNESS: I do not know.

6 CHAIRPERSON ANDERSON: Okay. Fine.

7 Let's move on.

8 MS. DREW: Thank you.

9 BY MS. DREW:

10 Q Do you know how effective a chain link
11 fence is on noise mitigation?

12 A I do not know.

13 MS. DREW: I don't have any other
14 questions, at this time.

15 CHAIRPERSON ANDERSON: All right.

16 Thank you. Does any Board Members have any
17 questions of Mr. Howze based on the questions
18 that were asked?

19 MEMBER SILVERSTEIN: No.

20 CHAIRPERSON ANDERSON: No? All right.

21 Hearing none --

22 MS. YOHANNES: Can I redirect?

1 CHAIRPERSON ANDERSON: No.

2 MS. YOHANNES: Or can I have -- no?

3 CHAIRPERSON ANDERSON: No.

4 MS. YOHANNES: May I ask based on
5 what?

6 CHAIRPERSON ANDERSON: You went first,
7 then she goes, then I go last. So because -- and
8 if you do, then I have to go back. But if you
9 have a pressing question, you can ask it, but
10 then I'm going to give her an opportunity to
11 cross. So if you have a pressing question, you
12 can go ahead and ask it, before I release the
13 witness.

14 MS. YOHANNES: I do, sir.

15 REDIRECT EXAMINATION

16 BY MS. YOHANNES:

17 Q So out of the other six times in which
18 you were not present, do you have any reason to
19 believe that what the Investigators, the other
20 ABRA Investigators, noted as not finding any
21 violations or not seeing any violations, do you
22 have any reason to believe that that's not

1 correct?

2 A I do not.

3 CHAIRPERSON ANDERSON: That's it?

4 I'll give you one last question, ma'am. Do you
5 have any questions you want to ask him, based on
6 this question that was just asked? Not a new
7 question. It has to be based on this question
8 and this answer.

9 MS. DREW: No.

10 CHAIRPERSON ANDERSON: Okay. Thank
11 you. All right. Thank you, Mr. Howze, for your
12 testimony.

13 THE WITNESS: No problem.

14 CHAIRPERSON ANDERSON: You can step
15 down.

16 (Whereupon, the witness was excused.)

17 CHAIRPERSON ANDERSON: Ms. Yohannes,
18 do you wish to call your first witness?

19 MS. YOHANNES: Yes. I would like to
20 call Mimi Beyene to the stand.

21 CHAIRPERSON ANDERSON: Can you raise
22 your right hand, please?

1 Whereupon,

2 ABEBA BEYENE

3 was called as a witness by Counsel for the
4 Applicant, and having been first duly sworn,
5 assumed the witness stand and was examined and
6 testified as follows:

7 THE WITNESS: I do.

8 CHAIRPERSON ANDERSON: Thank you. And
9 when you speak, please, speak into the
10 microphone, ma'am, so we can hear you. Your
11 witness.

12 DIRECT EXAMINATION

13 BY MS. YOHANNES:

14 Q Can you tell me what is your
15 connection to this application?

16 A I'm the owner of the establishment.

17 CHAIRPERSON ANDERSON: I'm sorry, can
18 you ask her to state her name for the record?

19 BY MS. YOHANNES:

20 Q State your name. Sorry, state your
21 name for the record, please.

22 A First name Abeba, A-B-E-B-A, last name

1 Beyene, B-E-Y-E-N-E.

2 Q And what is your connection to this
3 application?

4 A I'm the owner of the establishment.

5 Q How long have you owned and operated
6 the establishment?

7 A Since May 2017.

8 Q Tell me about your operations. What
9 are the hours of the operation -- of your --
10 Power?

11 A Right now, weekdays 2:00 p.m. to 2:00
12 a.m., weekends 2:00 p.m. to 3:00 a.m.

13 Q And are those the hours that you are
14 currently operating and open?

15 A I normally open 5:00, but, yes, my
16 license is 2:00 p.m.

17 Q Your license is 2:00 p.m., correct?

18 A Yes, yes.

19 Q And what do you currently -- how are
20 you currently operating? What hours and what
21 days are you currently operating?

22 A Right now, I open Friday night and

1 Saturday night only.

2 Q And as the owner of Power, how often
3 are you at the establishment?

4 A I open and close. I'm always there.

5 Q And when you are not there, is there
6 someone else who is there to oversee operations?
7 I know that you said you are always there, but in
8 the event that you are not.

9 A Yes, I never have been, but if in case
10 of emergency, I have my general manager, Mr.
11 Henry, there.

12 Q And regarding your operations, how
13 many employees do you currently have at Power?

14 A About 20.

15 Q Do you have any security personnel?

16 A I have 10 and I schedule -- normally,
17 I schedule between 7 and 10.

18 Q Tell me about your request for a
19 summer garden. What are your plans for the
20 summer garden?

21 A The summer garden, basically, is to be
22 able to open summertime for happy hour.

1 Q And where do you plan to have the
2 summer garden?

3 A The parking lot I have it comes with
4 the building. I wanted to be able to use half of
5 the parking for summer garden. Half of the
6 parking down there.

7 Q And when the application was initially
8 filed --

9 A Um-hum.

10 Q -- what was your intention?

11 A To be able to use the whole parking
12 space. However, we had a meeting with -- I had a
13 meeting with Ms. Janet and also Ms. Jacqueline,
14 the ANC Commissioner, and I heard their concern
15 regarding to the parking and that's when I
16 decided to use half of it instead of the whole
17 parking lot.

18 Q Now, can you describe where, on which
19 side, your -- which side of the summer garden you
20 plan to be the -- so you have your establishment
21 or your -- where exactly do you want your summer
22 garden?

1 A The summer garden, I want the summer
2 garden to be towards -- to the left side of the
3 building and a part of the back side of the
4 building. The opposite side of the residential
5 area.

6 MEMBER ALBERTI: So can I just for
7 clarification, I'm sorry to interrupt, when you
8 say left side, is that facing the building or
9 facing away from the building?

10 THE WITNESS: Facing away from the
11 building.

12 MEMBER ALBERTI: Okay. Thank you.
13 That's all. I'm sorry to interrupt.

14 BY MS. YOHANNES:

15 Q I would like to show you something,
16 it's the Investigator's exhibit that is marked as
17 Exhibit 15.

18 MS. YOHANNES: May I approach, sir?

19 CHAIRPERSON ANDERSON: Sure.

20 MS. YOHANNES: And I believe the Board
21 has it in front of them already.

22 BY MS. YOHANNES:

1 Q If you can take a look at this and
2 tell me what that is?

3 A That's Power Night Club.

4 CHAIRPERSON ANDERSON: Ma'am, you are
5 speaking to us.

6 THE WITNESS: Power Night Club.

7 CHAIRPERSON ANDERSON: You are not
8 speaking to her. So, Ms. Yohannes, can you --
9 yeah. So can you tell us, identify, the
10 document, ma'am?

11 THE WITNESS: It's Power Night Club
12 map and the Bladensburg Road.

13 BY MS. YOHANNES:

14 Q And can you describe where on the map,
15 to the right or the left, will be the summer
16 garden?

17 A To the left.

18 Q And where is the Gateway Association?

19 A The Gateway -- the residential
20 neighborhood is exactly 500 feet from the
21 building.

22 Q And how do you know that?

1 A I looked it up on Google Maps.

2 MS. YOHANNES: And has this document
3 already been entered into evidence by the
4 Investigator? Is this already in evidence?

5 CHAIRPERSON ANDERSON: Well, it's
6 already -- it's the Board's document, so it's--

7 MS. YOHANNES: Okay. So --

8 CHAIRPERSON ANDERSON: -- a part of
9 our record, right.

10 MS. YOHANNES: -- I would just like
11 the Board to note that the -- where the summer
12 garden is.

13 CHAIRPERSON ANDERSON: Well, I mean,
14 I'm not sure --

15 MS. YOHANNES: Based on her testimony.

16 CHAIRPERSON ANDERSON: Well, Mr. Howze
17 says 100. She says 500. I'm not quite sure.
18 And she said based on Google Maps, so I don't
19 know. I don't know where the place is and I
20 don't know, so, I mean, I'll take it for what
21 it's worth.

22 MS. YOHANNES: Well --

1 CHAIRPERSON ANDERSON: But unless we
2 can provide something more to say the testimony
3 that was provided by Mr. Howze is incorrect, I
4 don't -- I just have a witness saying that Google
5 Maps told me it was 500.

6 THE WITNESS: Yes.

7 CHAIRPERSON ANDERSON: I'll take it
8 for what it's worth, but it's not gospel, at
9 least at this juncture.

10 MS. YOHANNES: Understood.

11 CHAIRPERSON ANDERSON: Okay.

12 MS. YOHANNES: All right.

13 MS. DREW: Can I say something?

14 CHAIRPERSON ANDERSON: No, ma'am.

15 MS. DREW: I'm not sure if I'm
16 allowed.

17 CHAIRPERSON ANDERSON: No. Hold on.
18 No. I'm sorry, hold on, hold on, hold on, hold
19 on.

20 MS. DREW: Just to clarify.

21 CHAIRPERSON ANDERSON: What are you
22 trying to clarify, ma'am?

1 MS. DREW: How far it is.

2 CHAIRPERSON ANDERSON: I'm sorry?

3 MS. DREW: How far it is.

4 CHAIRPERSON ANDERSON: I don't know
5 how far it is, ma'am. She has been -- you will
6 get an opportunity to -- you can write that
7 question down.

8 MS. DREW: Um-hum.

9 CHAIRPERSON ANDERSON: She gave her
10 testimony. And so if you want to question her
11 about that, you can. The statement that I just
12 made is that I cannot take something factually
13 because someone just said Google Maps told me
14 this, so unless someone is going to provide some
15 more information to say this is what it is,
16 then --

17 MEMBER SILVERSTEIN: If it's on the
18 Internet, it's got to be --

19 CHAIRPERSON ANDERSON: But anyway, so
20 go ahead, Ms. Yohannes.

21 MS. YOHANNES: Okay.

22 BY MS. YOHANNES:

1 Q So regarding -- well, let's just get
2 back to your establishment.

3 A Um-hum.

4 Q And being that you are there all the
5 time, can you let me know -- let the Board know
6 if there has ever been any complaints about your
7 establishment or the operations from any
8 neighbors?

9 A No.

10 Q Has Gateway ever complained to you
11 about noise or anything else?

12 A No.

13 Q Has the ANC ever complained to you
14 about noise or anything else?

15 A No.

16 Q Have you -- now, moving to community,
17 you said a little bit about community engagement.

18 A Uh-huh.

19 Q Can you tell me about any meetings
20 that you have had with the ANC or with Gateway?

21 A I had several meetings with the ANC.
22 I -- either me or the general manager, we

1 participate in monthly meetings. I also met with
2 Ms. Janet a few times.

3 Q Tell -- where did these meetings
4 occur?

5 A The Gateway is inside a church not far
6 from the establishment.

7 Q Did the ANC or Gateway ever come to
8 your establishment?

9 A Yeah.

10 Q Can you tell me about that?

11 A Initially, the ANC Commissioner
12 brought, I can't tell you exactly how many, I
13 believe, between 10 to 15 people, that include
14 the member of Gateway resident for a walk-through
15 where they did a walk-through. They discussed
16 their concern. Ms. Janet asked, you know, that
17 she -- her concern is the parking lot. And we
18 let her know that we provide valet parking as
19 well as the parking that we have.

20 Another concern she has was trash. We
21 have a company who picked up trash twice a week.
22 Beside that, every night we open, right after

1 closing time I have two employees who clean from
2 establishment all the way to Channing Street,
3 every single night between 3:00 -- start about
4 3:30 to about 4:30, that's all they do clean.

5 Q And these are things that you agreed
6 to do --

7 A I agreed to do.

8 Q -- during those meetings?

9 A Yes. And also I agreed to do a police
10 detail, which I have.

11 Q And do you continue to do this in an
12 effort to mitigate their issues?

13 A Yeah. I wanted to work with the
14 community.

15 Q Okay. Tell me about the most recent
16 Investigator that you -- there is two
17 allegations.

18 A Yes.

19 Q Can you tell me about the cover charge
20 issue?

21 A The cover charge when the Investigator
22 Todd came and let me know that I'm not supposed

1 to charge at the door. I'm not aware of it. So
2 immediately I said okay, I'm going to go -- you
3 need to apply for a cover charge. So I came -- I
4 believe he came on Friday or Saturday, so I came
5 on Monday to apply for cover charge.

6 They informed me -- I got incorrect
7 information saying that I don't think you need a
8 cover charge application, because your
9 establishment should come automatic. The cover
10 charge should be automatic. And then I left.

11 And she said if she find out anything,
12 she will call me.

13 Q So, Mimi, once you -- once the
14 Investigator told you that you needed a cover
15 charge endorsement --

16 A Um-hum.

17 Q -- how long before you applied for a
18 cover charge endorsement?

19 A I'm not 100 percent sure if he came on
20 Friday or Saturday, but that Monday. So when I
21 came and asked to apply for cover charge, the
22 initial information I got is I do not need one.

1 It comes automatically. I said no, Investigator
2 Todd came and said I'm going to -- I have to
3 apply, because I don't have that endorsement.

4 She told me she will find -- she will
5 check. In fact, she went at the back. She said
6 she cannot find my file, so she will look into it
7 and get back to me if I need application.

8 Q So your intent though was to
9 immediately remedy the situation, right?

10 A Yes. And then I haven't heard from
11 her, which is the next day, which is Tuesday, I
12 came back and that's when she said it is not
13 checked on your application. Cover charge, it's
14 not checked, so you have to go through the
15 process and immediately we submit the application
16 for a cover charge.

17 Q So if the Board grants your summer
18 garden endorsement, --

19 A Um-hum.

20 Q -- can you tell me about your plans
21 for community engagement after?

22 A I offer several things for the

1 community, you know, to do their meetings and--

2 Q Whenever you offer --

3 A -- things.

4 Q -- you continue this type of --

5 A Oh, absolutely. I'm going to
6 continue. Like I said, I spoke to Ms. Janet
7 several times. I continue want to work with the
8 community. And it's always been the case and it
9 is going to continue to be that.

10 Q And can I take you back really quick
11 to the walk-through?

12 A Um-hum.

13 Q You said that the community, Gateway
14 and ANC came --

15 A Um-hum.

16 Q -- and did a walk-through your
17 establishment, right?

18 A Um-hum.

19 Q At that time, you said you talked
20 about sound issues?

21 A Um-hum.

22 Q So can you tell me did the community

1 or did the Gateway, at that time, have any
2 concerns regarding sound?

3 A Yes. Actually, that was one of their
4 concerns, so I brought a sound technician. We
5 opened the -- we turned on the music all the way
6 to the level where we cannot go up, all the way
7 to the level and then went outside. They went
8 around, circled the whole building. They said
9 they are okay, because the sound does not come
10 out of the building.

11 Q Okay. And you have had no noise
12 complaints from Gateway, correct?

13 A No.

14 Q Okay. Can you tell me a little bit
15 more about parking and what Power does for
16 parking.

17 A At Power we have -- the building comes
18 with parking, as well as we do have U Street
19 Parking, they do valet.

20 Q So you offer valet?

21 A Yes. A lot of people nowadays they
22 use Uber. Right in front of the door, that's

1 where the bus station is. A lot of people take
2 bus right in front of the building is a bus
3 station.

4 Q So let me take you back to the summer
5 garden.

6 A Um-hum.

7 Q So I know you have explained where the
8 summer garden was and where Gateway was. Is
9 there anything between your summer garden and
10 Gateway?

11 A Yeah, the -- I think now it is called
12 Breakthru, the liquor company.

13 Q And do you plan to have anything
14 surrounding your summer garden? Tell me a little
15 bit more about that. Like do you plan to have
16 anything in terms of noise, to mitigate noise?
17 Will you have a barrier?

18 A Not right now.

19 Q Let's talk a little bit more about
20 your hours. So currently you are operating
21 Friday and Saturday, right?

22 A Yes.

1 Q What hours are you requesting on the
2 application for the summer garden?

3 A To do happy hour, normally happy hour
4 start --

5 Q When do you plan to close?

6 A I will close that, the summer garden,
7 by 11:00.

8 Q So you -- what -- so you applied to
9 close the summer garden at 2:00 a.m. during the
10 week and 3:00 a.m. during the weekends, correct?

11 A No. I'm going to close by 11:00 p.m.

12 Q Right. But when you applied, what you
13 applied for.

14 A Oh, yes.

15 Q Okay.

16 A Yes.

17 Q But your intention now is --

18 A To close early.

19 Q Okay. At 11:00 p.m., correct?

20 A Yeah.

21 Q Okay.

22 MS. YOHANNES: Okay. That's all I

1 have.

2 CHAIRPERSON ANDERSON: Your witness,
3 ma'am.

4 MS. DREW: Thank you.

5 CROSS-EXAMINATION

6 BY MS. DREW:

7 Q First, when you said that you are
8 always -- you talk about the club being open from
9 2:00 p.m. until 2:00 a.m. and you say you are
10 always there. What do you mean by that?

11 A I'm present. I open the door and
12 close the door.

13 Q From 2:00 p.m. until 2:00 a.m.?

14 A Yeah.

15 Q Monday through --

16 A Yeah.

17 Q -- Sunday?

18 A Yeah, if I -- if the door is open, I'm
19 there.

20 Q So if the door is open. So are you
21 open Monday through Thursday?

22 A Not right now. I open Friday and

1 Saturday.

2 Q Friday and Saturday at what time?

3 A 10:00 p.m.

4 Q At 10:00 p.m. So what time then do
5 you think this happy hour will be?

6 A Normally, happy hour it starts at
7 5:00.

8 Q 5:00 p.m. on which days?

9 A I can -- I want to do it as many days
10 as possible.

11 Q Because right now, you are only open
12 really -- didn't you say that you are only open
13 Friday and Saturdays after 10:00 p.m.?

14 A Um-hum.

15 Q So when is the happy hour going to be?

16 A Well, depending on the summer garden.
17 We open at 5:00 p.m. trying to close 11:00.

18 Q Do you intend to have music outside?

19 A Recorded music.

20 Q Played through speakers?

21 A Yes, two speakers.

22 Q So what effort are you going to take

1 to ensure that the amplified music is not carried
2 into the Gateway community?

3 A Whatever it takes to eliminate any
4 kind of issue with the neighbors.

5 Q And going back to distance, what is
6 the address of your club?

7 A 2335 Bladensburg Road.

8 Q And what is the unit number for
9 Channing Street?

10 A Channing Street, I don't know the
11 unit, but I can tell you the minute you turn from
12 Channing to the first residential is a 100 feet.
13 From the establishment to Channing Street is 400
14 feet. So that make it 500 feet total the
15 distance.

16 Q So how far -- did you know that your
17 club is in a Moratorium Zone?

18 A I don't know what that means.

19 MS. YOHANNES: Objection.

20 CHAIRPERSON ANDERSON: What's the
21 nature of the objection?

22 MS. DREW: I'm sorry, I couldn't hear

1 you.

2 CHAIRPERSON ANDERSON: She said -- Ms.
3 Yohannes raised an objection to your question.
4 I'm asking her what's the nature of the
5 objection.

6 MS. YOHANNES: Relevance.

7 MS. DREW: It has to do with distance.

8 MS. YOHANNES: Whether or not it's in
9 a Moratorium Zone has to do with distance?

10 MS. DREW: Yes.

11 CHAIRPERSON ANDERSON: Well, the
12 question is -- well, she is not an attorney. The
13 question is -- it's relevant, so she can answer
14 the question. So I don't know why she is asking
15 the question, but you can -- she can answer the
16 question. You can answer the question, ma'am.
17 If you don't know the answer, you don't know the
18 answer and then we move on.

19 THE WITNESS: I don't know the answer.

20 CHAIRPERSON ANDERSON: Let's move on.

21 MS. DREW: Okay. Thank you.

22 BY MS. DREW:

1 Q Going to the --

2 MS. DREW: Can I still stay on
3 distance? I don't know. I apologize.

4 CHAIRPERSON ANDERSON: This is your
5 case. You ask whatever questions you want to ask
6 on cross-examination. Now, remember -- well,
7 also, on cross-examination, it's supposed to be
8 you listened to the questions that the other side
9 asked and you raise those questions. So you can
10 ask whatever questions you want to ask. It's
11 your case, so you need to try to --

12 MS. DREW: Thank you.

13 CHAIRPERSON ANDERSON: -- get from her
14 whatever you think you need to get from her to
15 help your case. Okay.

16 BY MS. DREW:

17 Q Did you know that the Moratorium Zone
18 includes a 600 foot radius from Bliss Nightclub
19 on 24th Street --

20 MS. YOHANNES: Objection. Relevance.
21 She's talking about Bliss Nightclub and the
22 Moratorium.

1 MS. DREW: As far as distance.

2 MS. YOHANNES: And the objection is
3 it's also outside of the scope of direct.

4 CHAIRPERSON ANDERSON: All right. Why
5 are you asking this question, ma'am?

6 MS. DREW: To show distance.

7 CHAIRPERSON ANDERSON: What do you
8 mean to show distance?

9 MS. DREW: Because Ms. Abeba is --

10 THE WITNESS: You're fine.

11 MS. DREW: Mimi. Can I call you Mimi?

12 THE WITNESS: Mimi, um-hum.

13 MS. DREW: Thank you.

14 CHAIRPERSON ANDERSON: You are talking
15 to me. Go ahead, ma'am.

16 MS. DREW: Mimi is saying that it is
17 500 feet, but the club and Channing Street are
18 within the 600 foot Moratorium.

19 CHAIRPERSON ANDERSON: That's not the
20 same. You are asking about Bliss, so I'm going
21 to -- so if you are asking about distance, you
22 can ask about distance, but I thought the

1 question was talking about Bliss, so I'm going to
2 sustain the objection.

3 MS. DREW: Okay.

4 CHAIRPERSON ANDERSON: Meaning that
5 you can't ask that question. If you are asking
6 about distance, you can ask her about distance.
7 You were asking her about Bliss. And so just
8 think about the question that you want to ask and
9 ask it to her, please.

10 BY MS. DREW:

11 Q Did you ever measure the distance from
12 the club to Channing Street?

13 A No, I checked Google Maps, that's how
14 I find out.

15 CHAIRPERSON ANDERSON: Ma'am, I can't
16 hear you. You need to speak into -- you are not
17 speaking to her. You are speaking to us. So
18 when you talk, talk in the microphone, so we can
19 hear you up here.

20 THE WITNESS: I'm sorry. How I know
21 the distance is by checking Google Maps, the
22 measurement, that's how I find out the

1 measurement how far it is from the establishment
2 to the first residential home.

3 CHAIRPERSON ANDERSON: All right.

4 MS. DREW: Thank you. I'll move on.

5 BY MS. DREW:

6 Q So talking about the parking --

7 A Um-hum.

8 Q -- you stated that you have 20
9 employees. Is that correct?

10 A Yeah.

11 Q Plus 7 to 10 --

12 A Not necessarily they all scheduled --

13 Q Right.

14 A -- every day.

15 Q Okay.

16 A Every night.

17 Q Plus 7 to 10 security?

18 A Yes, ma'am.

19 Q Where do they park?

20 A Most of them, they don't drive. They
21 take Uber. Those who drive, they park on the
22 street.

1 Q So no one parks in the parking lot
2 prior to it filling up with patrons?

3 A No, that is the valet parking.

4 Q I'm sorry, the --

5 A U Street Parking.

6 Q -- parking lot is valet parking?

7 A Yeah, we use it for valet parking.

8 Q Oh, interesting. So how much does it
9 cost to park in the parking lot?

10 A Depending on the night, most nights
11 it's free. Most other nights it's \$20.

12 Q So the valet parking is free?

13 A Yeah, we do valet parking free.

14 Q And how much is -- you said other
15 nights?

16 A \$20.

17 Q \$20?

18 A Um-hum.

19 Q Okay. And how many spots are in the
20 parking lot?

21 A The spot is 35, but when they park
22 valet, it holds about 50 cars.

1 Q All right. And your club holds how
2 many people?

3 A 299.

4 Q So after the possibly 50 parking spots
5 fill up, where does everybody else park?

6 A They valet U Street Parking have
7 another lot. It holds about 200 cars.

8 Q Where is the lot?

9 A Down the street a block from the
10 establishment.

11 Q And does the U Street Parking share
12 that parking lot, that valet parking lot with
13 other clubs?

14 A I never check that.

15 Q Thank you. Let's see, regarding the
16 cover charge, you said Investigator Todd came to
17 the club?

18 A Um-hum.

19 Q What date was that?

20 A When was it? It's the last week of
21 December. I don't have the exact date in my
22 head.

1 Q Okay. But didn't you have a cover
2 charge violation earlier in the year?

3 A I'm not aware of that one. I told Mr.
4 Todd as well.

5 Q Okay. So you are disputing ABRA's
6 record of the violation?

7 MS. YOHANNES: Objection. Asked and
8 answered.

9 THE WITNESS: I'm not disputing that.
10 And I can explain it --

11 CHAIRPERSON ANDERSON: What's the
12 nature of the objection?

13 THE WITNESS: -- if that's what you
14 want.

15 MS. DREW: I can't hear you.

16 CHAIRPERSON ANDERSON: Hold on, hold
17 on. There is an objection. When there is an
18 objection, everybody stop talking.

19 What's the nature of the objection,
20 ma'am?

21 MS. YOHANNES: Asked and answered.

22 CHAIRPERSON ANDERSON: Well, that's

1 under cross-examination, I mean, and she didn't
2 necessarily -- I don't remember if she asked her
3 that earlier, so you can ask the question.

4 MS. DREW: So --

5 CHAIRPERSON ANDERSON: Yes, what was
6 the question you were asking her?

7 MS. DREW: I'm sorry. I apologize.

8 BY MS. DREW:

9 Q So I asked when Investigator Todd came
10 to the club to explain the -- if I remember
11 correct, I apologize, to explain the -- that you
12 could not charge a cover.

13 A Um-hum.

14 Q And you said that was in July? Or no,
15 sorry, December.

16 A Um-hum, yes, ma'am.

17 Q So then I asked if you were aware of
18 the July or it might be August, I was a little
19 confused by the date, cover charge violation?

20 A No, because when Mr. -- Investigator
21 Kevin, I forgot his last name, came to tell me
22 about violation, he only mentioned why I used the

1 outside space. You need endorsement to use the
2 outside space. I said okay. He never mentioned
3 anything to do with cover charge. If he did, I
4 would have taken care of it immediately.

5 Q Okay. So you were not aware that you
6 could not charge a cover?

7 MS. YOHANNES: Objection.

8 THE WITNESS: No.

9 CHAIRPERSON ANDERSON: I think we have
10 established that there -- so we can move on. We
11 have -- it has been established that there was
12 that cover charge, there is an issue with cover
13 charge. So I think that's clearly established,
14 so let's move on from there.

15 MS. DREW: Thank you.

16 BY MS. DREW:

17 Q Regarding the reimbursable detail.

18 A Um-hum.

19 Q So was there a time when you did not
20 pay for the reimbursable detail?

21 A Yeah, it did happen. It did happen.

22 Q For how long was that?

1 A I believe I missed one time.

2 Q A week?

3 A One time after I dropped the check,
4 they didn't process it on time, so they didn't
5 send police.

6 Q Thank you. Now, you said that, and
7 it's true I was there, we -- that you invited
8 neighbors to the club to listen to the sound and
9 determine the soundproofing.

10 Didn't you also say that this was not
11 the sound system that would be used? It would be
12 a different sound system?

13 A Absolutely not.

14 Q Thank you. I wasn't sure. I wanted
15 to clarify.

16 And have you provided a soundproofing
17 plan for the parking lot that you want to turn
18 into a summer garden?

19 A Can you ask the question again?

20 Q Have you provided a soundproofing or
21 sound mitigation plan for the summer garden --

22 A I didn't provide yet. I did not

1 provide.

2 Q Thank you.

3 MS. DREW: That's all I have right
4 now.

5 CHAIRPERSON ANDERSON: Any questions
6 by any Board Members?

7 MEMBER ALBERTI: Yeah, I have some.

8 CHAIRPERSON ANDERSON: Yes, Mr. Short?

9 MEMBER SHORT: Good afternoon.

10 THE WITNESS: Good afternoon.

11 MEMBER SHORT: How long have you owned
12 this business, this club?

13 THE WITNESS: Since May. I opened
14 May.

15 MEMBER SHORT: May of 2017?

16 THE WITNESS: '17, yes.

17 MEMBER SHORT: Do you have any other
18 businesses other than this?

19 THE WITNESS: I had one. It's sold
20 now.

21 MEMBER SHORT: How long were you at
22 that particular --

1 THE WITNESS: Seven years.

2 MEMBER SHORT: And that was here in
3 Washington, D.C.?

4 THE WITNESS: Yes, sir.

5 MEMBER SHORT: Was that a nightclub
6 also?

7 THE WITNESS: Yes, sir.

8 MEMBER SHORT: Did you ever in those
9 seven years find out if you could have a cover
10 charge at the door at that other establishment?

11 THE WITNESS: It was automatic. I had
12 cover charge. I charged from the day I opened
13 until the day I closed.

14 MEMBER SHORT: So apparently when you
15 bought that business, that previous owner had all
16 of the endorsements?

17 THE WITNESS: Yes, sir.

18 MEMBER SHORT: And you didn't know
19 when you bought this business you had to have the
20 same thing there that you had for seven years?

21 THE WITNESS: Absolutely not.

22 MEMBER SHORT: Did you know you had to

1 have an endorsement to have a summer garden?

2 THE WITNESS: That came after the
3 Investigator told me.

4 MEMBER SHORT: Okay.

5 THE WITNESS: That's when --

6 MEMBER SHORT: The seven years
7 previous to being at your current location, seven
8 years in the nightclub business here in
9 Washington, D.C. --

10 THE WITNESS: Um-hum.

11 MEMBER SHORT: -- and you never knew
12 that you had to have an endorsement for a summer
13 garden?

14 THE WITNESS: No, that doesn't have
15 any outside space.

16 MEMBER SHORT: Seven years at the club
17 previous to this one --

18 THE WITNESS: Yes.

19 MEMBER SHORT: -- were you ever cited
20 for operating after hours?

21 THE WITNESS: No.

22 MEMBER SHORT: Never?

1 THE WITNESS: Never.

2 MEMBER SHORT: So this was the first
3 time with this club?

4 THE WITNESS: I can -- if I can
5 explain it, yes.

6 MEMBER SHORT: Please do.

7 THE WITNESS: Okay. My previous
8 establishment, I never had the privilege to be
9 able to get extended hour what most
10 establishments have in the holiday time. And I
11 honestly thought because of, you know, the
12 voluntary agreement that I have with the
13 neighbors, the previous owner has with the
14 neighbors, that's why I do not get any kind of
15 holiday hours in the previous establishment.

16 So when I moved to this one, I thought
17 because there is no VA, there is no voluntary
18 agreement, I thought it's automatic.
19 Automatically on a holiday weekend, I can open
20 later. So until the Investigator Kevin showed up
21 about 3:15, I thought it was a routine, you know,
22 check. And I said what did I do now? He said

1 why are you still open? I said it's a holiday
2 weekend. I can open until 4:00, that's my exact
3 statement to him.

4 He said no, you're supposed to do --
5 you are supposed to apply for extended hours 30
6 days prior to holiday weekend. I said I'm not
7 aware of it. And that's exactly why.

8 MEMBER SHORT: Okay. From -- give me
9 a -- how well do you know the ABRA, Alcoholic
10 Beverage Regulation Rules for Washington, D.C.?

11 THE WITNESS: Oh, I --

12 MEMBER SHORT: You had a business for
13 seven years, so how well do you know the rules?

14 THE WITNESS: I've been in this Court
15 many times. I thought I knew it all.

16 MEMBER SHORT: How many times were you
17 here before?

18 THE WITNESS: A few times prior that
19 my other establishment mostly for noise
20 violation, because I share wall with residential.
21 We have five condominium right next door, we
22 share wall. So every time you open, there is a

1 complaint about noise.

2 MEMBER SHORT: So you have had no
3 noise complaints at your new location?

4 THE WITNESS: No. No noise come out
5 of that building.

6 MEMBER SHORT: Okay. So how do you
7 plan to mitigate noise should you get a summer
8 garden endorsement?

9 THE WITNESS: Whatever it takes to be
10 able to eliminate any kind of noise to go to the
11 neighborhood, I'm willing to do that.

12 MEMBER SHORT: So right now, you have
13 no natural barriers, you just have a parking lot.

14 THE WITNESS: And a space and another
15 liquor company behind me.

16 MEMBER SHORT: Other than that, it's
17 just wide open?

18 THE WITNESS: Yes, it's an open space.

19 MEMBER SHORT: Okay. So I need to ask
20 this and maybe you know and maybe you don't know.

21 THE WITNESS: Um-hum.

22 MEMBER SHORT: Zoning when they give

1 nightclub licenses, because you have a nightclub
2 there, and that parking lot, made it very
3 reasonable for you to have the number of people
4 that you have inside of your establishment on the
5 inside of your business now.

6 THE WITNESS: Uh-huh.

7 MEMBER SHORT: So when you take away
8 the parking numbers, will that affect your inside
9 numbers at all?

10 THE WITNESS: No, the building has 299
11 capacity --

12 MEMBER SHORT: Um-hum.

13 THE WITNESS: -- before I took over.

14 MEMBER SHORT: I understand that.

15 THE WITNESS: Because establishment
16 was -- okay.

17 MEMBER SHORT: And if you don't know
18 the rules and laws, that's okay.

19 THE WITNESS: Yes.

20 MEMBER SHORT: Because you simply said
21 you don't really know a lot of the laws and
22 rules.

1 THE WITNESS: Yeah, when it comes to
2 zoning, yes.

3 MEMBER SHORT: Yes.

4 THE WITNESS: Yeah.

5 MEMBER SHORT: The Zoning Laws would
6 have given you a larger number inside of your
7 building, because of your parking lot. So when
8 you take away from that parking lot, it may
9 affect the numbers inside. Are you aware of
10 that?

11 THE WITNESS: No, I'm not aware of
12 that, sir.

13 MEMBER SHORT: Maybe you need to
14 check. I know you have very great attorneys.
15 Maybe you need to check. But I'll simply say
16 this, if I were you, since you don't know, have
17 you ever seen a book like this?

18 THE WITNESS: No.

19 MEMBER SHORT: Maybe you should invest
20 in one, because it will tell you all the rules
21 and regulations, the dos and don'ts and most good
22 business owners would want to know all the rules

1 and regulations.

2 THE WITNESS: Yeah. It's a lot, but
3 I would --

4 MEMBER SHORT: And they don't really
5 come in here a lot.

6 THE WITNESS: -- like to. Yes, I
7 would like to know, yes.

8 MEMBER SHORT: Okay. Thank you very
9 much. That's all I have, Mr. Chair.

10 CHAIRPERSON ANDERSON: Mr. Alberti?

11 MEMBER ALBERTI: Yes. Good afternoon,
12 Ms. Beyene.

13 THE WITNESS: Good afternoon, sir.

14 MEMBER ALBERTI: So I want to go to
15 the distance issue and hopefully I can make this
16 simple.

17 The attorneys for the Applicant, could
18 you -- Ms. Yohannes, could you provide Ms. Beyene
19 with Exhibit 15 from the Investigator's report?
20 And just for the record, this is an Agency
21 document that we produced. It's a map of the
22 area around the establishment with the center of

1 the map would be the establishment.

2 (Whereupon, the above-
3 referred to document was
4 marked as ABRA Exhibit No.
5 15 for identification.)

6 MEMBER ALBERTI: So, Ms. Beyene --

7 THE WITNESS: Yes, sir.

8 MEMBER ALBERTI: -- do you see this?

9 Do you see the blue dot?

10 THE WITNESS: Yes, sir.

11 MEMBER ALBERTI: And if I tell you
12 that that is your address, your establishment,
13 does that help you recognize where this map --
14 what this map is depicting?

15 THE WITNESS: I apologize. Can you
16 repeat, sir?

17 MEMBER ALBERTI: Does -- if I tell you
18 that the blue dot is your establishment --

19 THE WITNESS: Um-hum.

20 MEMBER ALBERTI: -- does that help you
21 recognize what this map is showing?

22 THE WITNESS: Yes, sir.

1 MEMBER ALBERTI: Okay. And you know,
2 there is your -- down over to the left of that
3 map up in the corner, would those be the
4 residents, some of the residents in the Gateway
5 Community?

6 THE WITNESS: To the left? No.

7 MEMBER ALBERTI: To the right.

8 THE WITNESS: To the right? You know
9 where you see Channing Street?

10 MEMBER ALBERTI: Yeah.

11 THE WITNESS: Channing?

12 MEMBER ALBERTI: Yes.

13 THE WITNESS: Yeah, I can't pronounce
14 it correctly.

15 MEMBER ALBERTI: Channing.

16 THE WITNESS: Yeah.

17 MEMBER ALBERTI: Yes.

18 THE WITNESS: The residential it start
19 from that street.

20 MEMBER ALBERTI: Okay. And so we see
21 this black circle and just for the record, I will
22 say that the Agency produces this map and the

1 black line there is for -- the edge of that black
2 line is 400 feet distance from your
3 establishment.

4 THE WITNESS: Yes.

5 MEMBER ALBERTI: So you recognize that
6 some of the residents are within that circle,
7 correct?

8 THE WITNESS: On Channing Street, yes.

9 MEMBER ALBERTI: On Channing Street.

10 THE WITNESS: Yes.

11 MEMBER ALBERTI: Okay. I just --

12 THE WITNESS: Yes, sir.

13 MEMBER ALBERTI: -- want to put that
14 out there, so we are all on the same page.

15 THE WITNESS: Yes, sir.

16 MEMBER ALBERTI: And we have it on the
17 record that we have established some benchmarks
18 for distance.

19 THE WITNESS: Okay.

20 MEMBER ALBERTI: Okay. We are going
21 to move on.

22 THE WITNESS: Okay.

1 MEMBER ALBERTI: That was the only
2 purpose. We can move on. All right. Because I
3 know there has been some back and forth about
4 100, 400 feet, so just everybody now has some
5 idea of what we are talking about.

6 So where I'm at a loss here is I'm
7 trying to figure out where this summer garden is
8 going to be.

9 Have you applied to DCRA for a
10 Certificate of Occupancy for the summer garden?

11 THE WITNESS: We are going to.

12 MEMBER ALBERTI: Oh, so you haven't
13 yet?

14 THE WITNESS: Not yet, sir.

15 MEMBER ALBERTI: Okay. Do you have a
16 diagram of where it is going to be?

17 THE WITNESS: Yes.

18 MEMBER ALBERTI: Can you provide that
19 for us before this hearing is over?

20 THE WITNESS: Yes, sir.

21 CHAIRPERSON ANDERSON: Do you guys
22 have a diagram in your exhibits of where a summer

1 garden is going to be?

2 MS. YOHANNES: We don't have a diagram
3 in our exhibits. We have a diagram that was put
4 together before the application was amended or
5 before the idea was --

6 MEMBER ALBERTI: But do you have the
7 diagram that was in the -- was part of the
8 application? Was that -- did you submit a
9 diagram to the Agency? So we have an application
10 without a diagram of where this summer garden is
11 going to be. Is that correct?

12 MS. YOHANNES: That's correct.

13 MEMBER ALBERTI: I'm a little
14 flustered here, because that makes my job very
15 difficult. I mean, you know, to be fair, I
16 should know where this is going to be.

17 Mr. Kline is looking at me like I've
18 got four eyes. I mean, I just think, Mr. Kline,
19 to be fair to this Agency, we should know where
20 it is going to be. Okay.

21 So that's going to --

22 MR. KLINE: For the record, since my

1 name was invoked, I don't think that you have
2 four eyes and I'm not looking at you like you do.

3 MEMBER ALBERTI: All right. All
4 right. I'm sorry, Mr. Short -- Mr. Kline, I'm
5 sorry. I am just flustered that we don't have it
6 and no one thought to provide it. So that's
7 going to make this line of questioning very, very
8 long unfortunately.

9 So tell me exactly where is the summer
10 garden going to be in relationship to that
11 building?

12 THE WITNESS: Towards the left looking
13 out to the left side of and partially the back
14 side of the establishment.

15 MEMBER ALBERTI: Okay. So how many
16 feet along the left side? How many feet from
17 front to back? How many feet wide will it be?

18 THE WITNESS: I don't have it with me.
19 They might have the exact measurement.

20 MEMBER ALBERTI: So you don't know?
21 Do you know how many feet it will extend along
22 the back?

1 THE WITNESS: They have the --

2 MEMBER ALBERTI: You don't know?

3 THE WITNESS: Me personally?

4 MEMBER ALBERTI: It's your summer
5 garden.

6 THE WITNESS: Yes, yes.

7 MEMBER ALBERTI: It's your summer
8 garden. Are you designing the summer garden or
9 is your attorney designing the summer garden?

10 THE WITNESS: I'm designing, sir.

11 MEMBER ALBERTI: Okay. So you don't--
12 but you don't know how long it is going to extend
13 along the back?

14 THE WITNESS: Yes, sir.

15 MEMBER ALBERTI: Yes, what?

16 THE WITNESS: I don't have it.

17 MEMBER ALBERTI: You know?

18 THE WITNESS: I don't have it. I do
19 know it, but I don't have it to show it to you
20 right now.

21 MEMBER ALBERTI: Well, can you tell me
22 how many feet it extends along the back?

1 THE WITNESS: Can I check if I have
2 the drawing with me, please?

3 MEMBER ALBERTI: Sure. If you want to
4 consult with your attorney, that would be fine.

5 CHAIRPERSON ANDERSON: Hold on. Hold
6 on. What is it you are showing her? Hold on.
7 Hold on a minute, ma'am. Hold on.

8 MEMBER ALBERTI: She is just
9 consulting with her attorney --

10 CHAIRPERSON ANDERSON: No.

11 MEMBER ALBERTI: -- at this point.

12 CHAIRPERSON ANDERSON: She is showing
13 her something.

14 MEMBER ALBERTI: All right. She
15 can't? All right.

16 CHAIRPERSON ANDERSON: She can't
17 consult with her attorney, no.

18 MEMBER ALBERTI: All right. All
19 right.

20 CHAIRPERSON ANDERSON: That's why I
21 needed to --

22 MEMBER ALBERTI: All right. So we

1 will just leave it as we don't know. Ms. Beyene
2 has no recollection of what those measurements
3 are, at this point. That's fine. That's fine.

4 As I understand it, you are planning--
5 how are you going -- how is this going to be --
6 how is the summer garden going to be delineated?
7 Now, let me explain that.

8 I mean, how are you going to mark off
9 where the summer garden is, where it begins and
10 ends?

11 THE WITNESS: We did and we have --

12 MEMBER ALBERTI: No, no.

13 THE WITNESS: -- the drawing.

14 MEMBER ALBERTI: Physically on the
15 ground, how are you going to mark off where it
16 begins and where it is going to end?

17 THE WITNESS: We have the measurement.

18 MEMBER ALBERTI: Where -- how on the
19 ground are you going to do this? Will there be a
20 fence around it?

21 THE WITNESS: Oh, it's going to be --

22 MEMBER ALBERTI: Will there be a white

1 line --

2 THE WITNESS: It's going to be --

3 MEMBER ALBERTI: -- and you can't step
4 out this white line?

5 THE WITNESS: -- plants.

6 MEMBER ALBERTI: So what's the answer
7 to my question?

8 THE WITNESS: It's going to be a fence
9 that we put in every time we have an event
10 outside.

11 MEMBER ALBERTI: So it's a moveable
12 fence?

13 THE WITNESS: Oh, yeah.

14 MEMBER ALBERTI: So every time you put
15 it in, we have to trust that you will put it in
16 in the exact correct spot?

17 THE WITNESS: Yes, according to the
18 measurement that we submit to ABRA and DCRA.

19 MEMBER ALBERTI: Well, you haven't
20 sent anything to us yet. And you are asking for
21 an approval of an application, which we haven't
22 seen yet and which hasn't gone before DCRA, so

1 that's interesting.

2 U Street Parking, they use your
3 parking lot?

4 THE WITNESS: They do.

5 MEMBER ALBERTI: Your contract with
6 them, can you tell me anything about your
7 contract with them? Who has use of your parking
8 lot? U Street contracts with you to use your
9 parking lot?

10 THE WITNESS: Yes, when we open Friday
11 and Saturdays.

12 MEMBER ALBERTI: Okay. Can they use
13 it at any other time?

14 THE WITNESS: No, not right now.

15 MEMBER ALBERTI: Okay. So when you
16 are closed --

17 THE WITNESS: Um-hum.

18 MEMBER ALBERTI: -- U Street Parking
19 cannot use your parking lot?

20 THE WITNESS: No. No, they never used
21 it.

22 MEMBER ALBERTI: I'm not saying they

1 never used it.

2 THE WITNESS: Um-hum.

3 MEMBER ALBERTI: Can they? Does your
4 contract allow them to use it when you are
5 closed?

6 THE WITNESS: Our contract is
7 basically when we open the establishment.

8 MEMBER ALBERTI: I don't care what
9 basically is. I want to know what your contract
10 says with U Street. Does it allow them to use
11 your parking lot when you are not open?

12 THE WITNESS: No.

13 MEMBER ALBERTI: No. Okay. Would you
14 be willing, at some point, to supply us with a
15 contract with U Street Parking?

16 THE WITNESS: Yes.

17 MEMBER ALBERTI: Okay. Thank you.
18 Does U Street Parking park any vehicles for
19 customers other than your customers?

20 THE WITNESS: No.

21 MEMBER ALBERTI: Does your contract
22 allow them to park vehicles for anyone else other

1 than your customers?

2 THE WITNESS: U Street has several
3 establishment they provide valet.

4 MEMBER ALBERTI: Yes, I know that.

5 THE WITNESS: But mine, no. They
6 cannot use for other --

7 MEMBER ALBERTI: Okay.

8 THE WITNESS: -- patrons.

9 MEMBER ALBERTI: So they couldn't park
10 Bliss or Echostage customers in your parking lot?

11 THE WITNESS: No way.

12 MEMBER ALBERTI: Okay. Thank you.
13 How many parking spots do you currently have?

14 THE WITNESS: We park 50 cars, but the
15 space -- if you count the spaces it's 35.

16 MEMBER ALBERTI: 35?

17 THE WITNESS: Yes.

18 MEMBER ALBERTI: All right. Do you
19 leave this property or to you own this property?

20 THE WITNESS: I lease this property.

21 MEMBER ALBERTI: Okay. Does your --
22 okay. I see, okay, sort of chain link fences

1 around the border of your property. Is that
2 correct?

3 THE WITNESS: Yes.

4 MEMBER ALBERTI: On three sides there
5 is chain link fences?

6 THE WITNESS: Yes.

7 MEMBER ALBERTI: Is that correct?

8 THE WITNESS: Yes.

9 MEMBER ALBERTI: Okay. Do you -- does
10 your lease give you access to all of that area
11 between the building and those chain link fences?

12 THE WITNESS: Yes.

13 MEMBER ALBERTI: Okay. So any
14 vehicles -- we heard the Investigator say that
15 there are some white vehicles parked there and
16 they are not going to be there. So you are
17 allowing them to be parked there, but you
18 actually control that land. Is that correct?

19 THE WITNESS: Yes, yes.

20 MEMBER ALBERTI: Okay. I wanted to
21 make sure. All right. You understand that if
22 you are granted a summer garden, you cannot pipe

1 music from a DJ outside to the summer garden or
2 you cannot broadcast music from a DJ out to the
3 summer garden. Do you understand that?

4 THE WITNESS: No, sir, I don't
5 understand.

6 MEMBER ALBERTI: Well, I will inform
7 you and maybe you should talk to your attorney
8 before you get in trouble.

9 THE WITNESS: Okay.

10 MEMBER ALBERTI: That if you were
11 allowed to have music on the patio, but not
12 entertainment, you would not be able to take
13 music that is generated by a DJ or other
14 entertainment, live entertainment or any
15 entertainment inside and make that music
16 accessible to the people on your summer garden,
17 I'm telling you that just to be helpful.

18 THE WITNESS: Okay. I'm going to
19 discuss it with my attorney.

20 MEMBER ALBERTI: So you should explore
21 that.

22 THE WITNESS: Yes.

1 MEMBER ALBERTI: So you don't get in
2 trouble.

3 THE WITNESS: Yes, sir.

4 MEMBER ALBERTI: All right. Now, you
5 said that you only plan to open until five -- to
6 let -- you applied for longer hours, of course,
7 but you really only want to open until 11:00 p.m.
8 outside. Is that correct?

9 THE WITNESS: Yes.

10 MEMBER ALBERTI: So --

11 THE WITNESS: For outside, yes, just
12 until 11:00.

13 MEMBER ALBERTI: -- if the Board only
14 granted you hours up to 11:00 p.m., that wouldn't
15 be a burden to you?

16 THE WITNESS: No.

17 MEMBER ALBERTI: All right. Great.
18 Thank you. I have no further questions.

19 CHAIRPERSON ANDERSON: Any other
20 questions by any other Board Members? Yes, Mr.
21 Silverstein?

22 MEMBER SILVERSTEIN: Just a couple

1 quick clarifications. This won't take long.

2 You said, and I'm not sure exactly
3 whether we are talking about one episode or two,
4 there was one time we did not pay for RDO. One
5 time they did not process the check on time or
6 something like that?

7 THE WITNESS: Yes.

8 MEMBER SILVERSTEIN: Was that a single
9 episode --

10 THE WITNESS: The MPD -- two.

11 MEMBER SILVERSTEIN: -- that you are
12 talking about?

13 THE WITNESS: Two different ones.

14 MEMBER SILVERSTEIN: Or were these two
15 separate episodes?

16 THE WITNESS: Two separate episodes.

17 MEMBER SILVERSTEIN: So one time you
18 did not pay?

19 THE WITNESS: Yeah.

20 MEMBER SILVERSTEIN: And the other
21 time it was --

22 THE WITNESS: Yes.

1 MEMBER SILVERSTEIN: Very well. You
2 say you charge \$20 a car for parking on some
3 nights and other nights it is free?

4 THE WITNESS: We don't, yes.

5 MEMBER SILVERSTEIN: Why? Why isn't
6 it free all the time?

7 THE WITNESS: There -- depending on
8 the event. There are events that we do for
9 corporate events and things like that, we don't
10 charge for parking.

11 MEMBER SILVERSTEIN: Okay. But if it
12 was like on weekdays or something? Why would
13 anybody pay \$20 for a parking space?

14 THE WITNESS: People do.

15 MEMBER SILVERSTEIN: That wasn't the
16 question. That is not exactly the answer to the
17 question.

18 THE WITNESS: Okay.

19 MEMBER SILVERSTEIN: Well, is it that
20 there is not parking available nearby or is it
21 that they want to be closer for safety or is it
22 that --

1 THE WITNESS: I'm not sure, sir.

2 MEMBER SILVERSTEIN: On a Friday or
3 Saturday night, how easy is it for them to find
4 parking on the street?

5 THE WITNESS: There is plenty of
6 parking on the street, but some choose to do
7 valet.

8 MEMBER SILVERSTEIN: Plenty of parking
9 on the street, but say again?

10 THE WITNESS: Some people choose to
11 valet their car.

12 MEMBER SILVERSTEIN: To be closer.

13 THE WITNESS: Yes.

14 MEMBER SILVERSTEIN: Right. No
15 further questions.

16 CHAIRPERSON ANDERSON: Any other
17 questions? I just want to -- I mean, currently
18 you are only open on Friday and Saturday?

19 THE WITNESS: Yes, sir.

20 CHAIRPERSON ANDERSON: So if you
21 decide to open other -- seven days a week, are
22 you stating that the summer garden would close at

1 11:00 for the seven days a week?

2 THE WITNESS: Yes, sir.

3 MEMBER ALBERTI: Can I ask one last
4 question when you are done? When you are done.

5 CHAIRPERSON ANDERSON: Well, go ahead,
6 Mr. Alberti.

7 MEMBER ALBERTI: So I'm going to ask
8 a question, I expect I won't get an answer to,
9 but I have to put it out there.

10 How do you expect this Board to judge
11 whether or not your summer garden is appropriate
12 for 60 people if we don't know the size?

13 THE WITNESS: I honestly thought my
14 lawyer submit the diagram for this measurement.

15 MEMBER ALBERTI: Okay. Thank you. I
16 have no further questions.

17 MEMBER ISAAC: I just have a
18 clarification.

19 CHAIRPERSON ANDERSON: Yes, Mr. Isaac?

20 MEMBER ISAAC: A clarification
21 question.

22 CHAIRPERSON ANDERSON: Yes, Mr. Isaac?

1 MEMBER ISAAC: Because I thought
2 originally you said that a garden was going to be
3 open during happy hour?

4 THE WITNESS: Um-hum.

5 MEMBER ISAAC: But now you just
6 indicated that it would be closed at 11:00.

7 THE WITNESS: 11:00.

8 MEMBER ISAAC: So what is going to be
9 the hours of operation?

10 THE WITNESS: Inside the hour of
11 operation remains the same.

12 MEMBER ISAAC: Okay.

13 THE WITNESS: But when it comes to the
14 summer garden --

15 MEMBER ISAAC: Right.

16 THE WITNESS: -- we are willing to
17 close 11:00 p.m. sharp --

18 MEMBER ISAAC: Okay.

19 THE WITNESS: -- every time, seven
20 days a week.

21 MEMBER ISAAC: Thanks.

22 THE WITNESS: Yes.

1 CHAIRPERSON ANDERSON: All right. Ms.
2 Drew, do you have any questions of her based on
3 the questions that the Board asked?

4 MS. DREW: Not at the moment, no.
5 Thank you.

6 CHAIRPERSON ANDERSON: Ms. Yohannes?

7 MS. YOHANNES: Yes. I would like to
8 refresh the witness' recollection. Can I
9 approach?

10 CHAIRPERSON ANDERSON: What are you
11 giving -- what are you handing her to look at?

12 MS. YOHANNES: A diagram, a drafted
13 layout.

14 CHAIRPERSON ANDERSON: Well, okay.
15 Well, we don't have it, so can you show it to --

16 MS. YOHANNES: Sure, absolutely.

17 CHAIRPERSON ANDERSON: -- to her,
18 because this is a new document that no one has.
19 So do you have -- all right. Do you plan to
20 admit this document in evidence?

21 MS. YOHANNES: I do.

22 MS. DREW: I object.

1 CHAIRPERSON ANDERSON: Why do -

2 MS. DREW: This was --

3 CHAIRPERSON ANDERSON: -- you object
4 to it?

5 MS. DREW: -- not provided to us.

6 CHAIRPERSON ANDERSON: We are aware,
7 ma'am, that it was not provided to us, but I
8 think in this particular case, everyone is asking
9 about a diagram. And if there is a diagram, then
10 I'm going to allow us -- I'm going to allow that
11 document.

12 Normally, I would not. Normally, I
13 would agree with your objection, but there has
14 been a lot of discussion about this diagram. And
15 if a diagram exists, then I'm going to allow it
16 to -- at least for her to review the document.
17 And so we can -- and then if we are going to make
18 a decision, at least we have a diagram.

19 So go ahead.

20 MS. YOHANNES: Can I give you a copy
21 or do you want me to wait? All right.

22 CHAIRPERSON ANDERSON: Well, why don't

1 you ask her. You will come to us then. Just let
2 me see where we are going and -- all right. You
3 provided Miss --

4 MS. YOHANNES: I provided --

5 CHAIRPERSON ANDERSON: She has a copy.

6 Okay.

7 MS. YOHANNES: -- Ms. Drew a copy.

8 CHAIRPERSON ANDERSON: Yes, okay.

9 Okay.

10 REDIRECT EXAMINATION

11 BY MS. YOHANNES:

12 Q Mimi, take a look at this? Can you
13 tell me what this is? I would like to -- what's
14 this diagram? I'm just trying to refresh your
15 memory.

16 A This diagram shows --

17 CHAIRPERSON ANDERSON: Remember, Ms.
18 Yohannes, I need you to go back over to the
19 table, because the reason I'm asking you to go
20 back there is because it will force her to speak
21 to us and not to you.

22 THE WITNESS: Okay. This diagram

1 shows the establishment as well as the parking
2 space, also the summer garden diagram.

3 (Whereupon, the above-
4 referred to document was
5 marked as Applicant Exhibit
6 No. 1 for identification.)

7 BY MS. YOHANNES:

8 Q When was this diagram created?

9 A Okay. This created before we had a
10 meeting with Ms. Janet concerning parking. We
11 were going to use the whole parking space for
12 summer garden. Once she explained her concern
13 regarding to the parking, so we decided to cut it
14 in half.

15 Q So was this -- is this a final diagram
16 of what you plan to have?

17 A No.

18 Q Is this an accurate reflection of the
19 parking space area of your property?

20 A Yes.

21 Q And this accurately shows the parking
22 lot and some of the area that you plan to --

1 A The square foot and everything, yes,
2 yes.

3 Q Looking at this, can you tell us which
4 area you plan to use for the summer garden now?

5 A Okay. Facing out from the building,
6 the summer garden is going to be the left side of
7 the building and partially the back.

8 Q Mimi, I believe that there are numbers
9 indicated on the table.

10 A Yeah.

11 Q Do you see the numbers? Can you
12 identify which tables --

13 A The --

14 Q -- you plan to use? And maybe that
15 will clarify the space.

16 A Okay. The space is Table 6, 7, 9, 10,
17 11 and 12. No, 6, 7, 8 --

18 MEMBER ALBERTI: This Table 8, I think
19 it includes.

20 THE WITNESS: -- 9, 10, 11 and 12.

21 MEMBER ALBERTI: Just for the record,
22 8, was 8 included in that?

1 MS. YOHANNES: Yes.

2 MEMBER ALBERTI: Okay. Thank you. I
3 just wanted to make sure it is clear for the
4 record. Okay.

5 BY MS. YOHANNES:

6 Q So that's the area you plan to use,
7 correct?

8 A Yes.

9 Q And just to clarify, this layout was
10 not submitted because there has been changes.
11 Isn't that correct?

12 A Yes.

13 MS. YOHANNES: Can I enter this into
14 evidence, at this point? Can I --

15 CHAIRPERSON ANDERSON: Yes, I'm going
16 to allow. I know that you object to it, ma'am,
17 but I think that it is -- there are several
18 questions about this document. You asked
19 questions about distance. A lot of people -- so
20 normally, I would not object -- I would not allow
21 a document that has not been disclosed or a
22 document that you object to, but, I think in this

1 particular case, I'm going to make an exception
2 and overrule your objection and allow the
3 document come in.

4 I mean, in your closing if you want to
5 argue why I should, the Board should not consider
6 that, I will give you that opportunity in your
7 closing to do that. Okay?

8 MS. DREW: Thank you.

9 CHAIRPERSON ANDERSON: All right. So
10 it is -- this is -- so is this Exhibit 1?

11 MS. YOHANNES: Yes.

12 CHAIRPERSON ANDERSON: Which exhibit
13 is this?

14 MS. YOHANNES: Applicant's Exhibit 1.

15 CHAIRPERSON ANDERSON: Okay.

16 (Whereupon, the above-
17 referred to document was
18 received into evidence as
19 Applicant's Exhibit No. 1.)

20 BY MS. YOHANNES:

21 Q One more thing, looking at the layout,
22 Mimi, in that section that you say that you want

1 the summer garden, isn't it true that -- where is
2 Channing Street in relation to this?

3 A The opposite of the summer garden.
4 Channing Street is to the right side, 400 -- 500
5 feet to the right side of the building. The
6 summer garden is the left side of the building.

7 Q So regarding hours for the summer
8 garden, I just want to clarify. You are
9 currently open on Fridays and Saturdays from --
10 you are currently operating from 10:00 p.m. to--

11 A 3:00 a.m.

12 Q -- 3:00 a.m. Is that correct?

13 A Yeah, yeah.

14 Q Okay. But the license allows you to
15 operate for long hours --

16 A Yes.

17 Q -- or days, isn't that correct?

18 A Yes, yes, from 2:00 p.m.

19 Q Isn't it also right that you plan to
20 operate the summer garden from 5:00 p.m. to 11:00
21 p.m.?

22 A Yes.

1 Q Which is the time -- and, Mimi, you
2 understand that -- let me talk about the
3 occupancy, because I know Mr. Short or Board
4 Member Short asked you about occupancy.

5 So you are aware that you will need --
6 you probably have a Certificate of Occupancy for
7 inside the premises, right?

8 A Yes.

9 Q And you are aware that if the Board
10 approves the summer garden, you will need a
11 Certificate of Occupancy --

12 A Of course.

13 Q -- for the outside? So you plan to --
14 do you plan to go through that process?

15 A DCRA, yes.

16 Q Correct?

17 A Yes.

18 Q With DCRA?

19 A Yes.

20 Q Why haven't you yet applied for DCRA
21 approval? Isn't it --

22 A Well, for -- I thought that ABRA

1 approval has to come first. The endorsement has
2 to come first.

3 Q Isn't it true that in terms of the
4 process, you wanted to go through ABRA first to
5 determine or ensure that you could get your
6 license?

7 A Yes.

8 Q Regarding music, you understand that
9 you can't have live music in the summer garden,
10 correct?

11 A Yes, meaning band.

12 Q Right. You can't have live
13 entertainment --

14 A Yes.

15 Q -- in the summer garden.

16 A Yes.

17 Q Okay. Do you intend to have live
18 entertainment in the summer garden?

19 A No. I want to have music play
20 outside, the speaker, but not live entertainment.

21 Q Okay.

22 A I'm not interested in doing that.

1 Q Okay.

2 MS. YOHANNES: That's all I have.

3 CHAIRPERSON ANDERSON: All right.

4 Thank you. Thank you very much, ma'am, for your
5 testimony. You may --

6 MEMBER ALBERTI: Can we just ask some
7 more Board questions? I mean, I won't take long.

8 THE WITNESS: Okay.

9 MEMBER ALBERTI: If I may?

10 CHAIRPERSON ANDERSON: Then you know
11 that I have to go back through.

12 MEMBER ALBERTI: I know, but I won't
13 really probably go --

14 CHAIRPERSON ANDERSON: All right. Go
15 ahead --

16 MEMBER ALBERTI: -- through a long
17 line of questions.

18 CHAIRPERSON ANDERSON: -- Mr. Alberti.

19 MEMBER ALBERTI: Just how many parking
20 spots? Can you tell us again what you said about
21 how many spots?

22 THE WITNESS: Right now, the parking--

1 MEMBER ALBERTI: All right. Stop.
2 Let me finish my question.

3 THE WITNESS: Okay. Okay.

4 MEMBER ALBERTI: It will make it
5 easier that way.

6 THE WITNESS: Sorry, sorry.

7 MEMBER ALBERTI: How many parking
8 spaces do you currently have?

9 THE WITNESS: It's 35 counting, but we
10 put 50 cars on valet.

11 MEMBER ALBERTI: Okay. I got that.
12 So but there are actually 35 spots there?

13 THE WITNESS: Yeah.

14 MEMBER ALBERTI: And then you squeeze
15 in a few extra?

16 THE WITNESS: Yes, yes.

17 MEMBER ALBERTI: I got it.

18 THE WITNESS: Yes, sir.

19 MEMBER ALBERTI: No problem. And so
20 it looks like you are going to eliminate at least
21 a third of the parking. Am I correct?

22 THE WITNESS: Yes, until 11:00.

1 MEMBER ALBERTI: Until 11:00, what's
2 that mean?

3 THE WITNESS: 11:00 p.m.

4 MEMBER ALBERTI: What's that --

5 THE WITNESS: Everything we have
6 outside is moveable.

7 MEMBER ALBERTI: Oh, so after 11:00
8 p.m., you would park people on the parking lot?

9 THE WITNESS: Yes.

10 MEMBER ALBERTI: Okay. Okay. But
11 until 11:00 p.m., you would be removing about a
12 third of the parking?

13 THE WITNESS: Yes, sir.

14 MEMBER ALBERTI: Is that correct?
15 Okay. All right. Okay. All right. Do you plan
16 to play music outside when the summer garden
17 isn't open? I mean, you will have people waiting
18 in line.

19 THE WITNESS: No.

20 MEMBER ALBERTI: I could see the
21 temptation to play music and entertain my guests.
22 Do you plan to do that?

1 THE WITNESS: No.

2 MEMBER ALBERTI: Okay. Thank you.

3 THE WITNESS: No.

4 MEMBER ALBERTI: Correct answer.

5 THE WITNESS: Thank you.

6 MEMBER ALBERTI: Thank you. All
7 right. I have no further questions. Thank you.

8 THE WITNESS: Okay. Thank you, sir.

9 CHAIRPERSON ANDERSON: Yes, ma'am, go
10 ahead. Based -- but it's only based on the
11 questions that Mr. Alberti asked. It's not a new
12 line of questioning.

13 MS. DREW: Okay.

14 RE-CROSS-EXAMINATION

15 BY MS. DREW:

16 Q So this is a question about music in
17 the speakers. So where would the music come
18 from? You said it would not be live band. Where
19 would the music come from?

20 A From mixer and CD, amplifier.

21 Q So it would be amplified music?

22 A Um-hum.

1 Q Out in the parking lot?

2 A Is that a question?

3 Q Yes.

4 A Yes, ma'am.

5 CHAIRPERSON ANDERSON: Is that it? Do
6 you have any other questions?

7 MS. DREW: Well, I have a question
8 about one of the residents in relation, because
9 she said that it --

10 CHAIRPERSON ANDERSON: No.

11 MS. DREW: -- wasn't distance to the--

12 CHAIRPERSON ANDERSON: No.

13 MS. DREW: -- any neighbors. Okay.

14 That's --

15 CHAIRPERSON ANDERSON: The question
16 you can ask is just based on --

17 MEMBER ALBERTI: I'll just interject.
18 You saw the diagram that I introduced. Please,
19 rely on that. That's in our record. We consider
20 that accurate.

21 MS. DREW: Right. It was something
22 that she said.

1 MEMBER ALBERTI: I don't care what
2 anyone said. I am looking at that diagram.

3 MS. DREW: Thank you.

4 MEMBER ALBERTI: Just so everybody
5 knows.

6 CHAIRPERSON ANDERSON: Yes, Ms.
7 Yohannes, any questions of her based on the
8 questions that Mr. Alberti asked?

9 MS. YOHANNES: I believe this is
10 within the scope.

11 CHAIRPERSON ANDERSON: I'm sorry, you
12 said what?

13 RE-REDIRECT EXAMINATION

14 BY MS. YOHANNES:

15 Q What is the square footage of the
16 entire area? I know Mr. Alberti asked about
17 parking spaces. Can you tell --

18 A 1,700 square feet.

19 MEMBER ALBERTI: What do you mean?
20 Just the entire area, what does that mean? The
21 entire lot, the entire property?

22 MS. YOHANNES: The parking.

1 THE WITNESS: Parking.

2 MS. YOHANNES: The parking lot area,
3 yes. The entire parking lot area.

4 MEMBER ALBERTI: Not including the
5 building?

6 THE WITNESS: Not including the
7 building.

8 MEMBER ALBERTI: Not including the
9 building. The surface area of the parking lot is
10 1,700 square feet?

11 MS. YOHANNES: Yes.

12 THE WITNESS: Yes, sir.

13 MEMBER ALBERTI: Thank you.

14 CHAIRPERSON ANDERSON: Any other
15 questions? Thank you, ma'am, for your testimony.

16 THE WITNESS: Thank you, sir.

17 CHAIRPERSON ANDERSON: You can step
18 down.

19 (Whereupon, the witness was excused.)

20 CHAIRPERSON ANDERSON: Do you have
21 another witness, ma'am?

22 MS. YOHANNES: Yes. I'm going to call

1 the manager, Henry, to the stand. Akinnuoye.

2 CHAIRPERSON ANDERSON: Can you raise
3 your right hand, sir, please?

4 Whereupon,

5 HENRY AKINNUOYE

6 was called as a witness by Counsel for the
7 Applicant, and having been first duly sworn,
8 assumed the witness stand and was examined and
9 testified as follows:

10 THE WITNESS: Yes, sir.

11 CHAIRPERSON ANDERSON: And what do you
12 have in your hand? No, what -- you can't have
13 any documents until someone gives you a document.
14 You can't have any documents with you, sir.

15 THE WITNESS: My notes?

16 CHAIRPERSON ANDERSON: No, you can't
17 have any notes, too. You can have a seat, sir.
18 Your witness.

19 DIRECT EXAMINATION

20 BY MS. YOHANNES:

21 Q Can you tell me what your connection
22 is?

1 CHAIRPERSON ANDERSON: Have him --

2 BY MS. YOHANNES:

3 Q Can you state your name for the
4 record?

5 A Henry Akinnuoye.

6 Q And can you tell me what your
7 connection is to this application?

8 A I'm a general manager at Power Night
9 Club.

10 Q And what are your responsibilities and
11 duties at Power as a General Manager?

12 A I'm involved in all aspects of the
13 club in conjunction with working with the owner.

14 Q Okay. How often are you working at
15 Power?

16 A I'm at Power whenever we are open.

17 Q So that would be Friday and Saturday?

18 A Friday and Saturday nights, yes.

19 Q Okay. So I would like for you to tell
20 me, being that you are there Fridays and
21 Saturdays from basically open to close, have you
22 received any complaints from any neighbors or

1 anyone in the area about Power?

2 A No, I haven't received any complaints.

3 Q Have you received any complaints from
4 the ANC?

5 A No, I haven't.

6 Q Have you received any complaints from
7 Gateway?

8 A No, I have not.

9 Q How long have you been a manager at
10 Power?

11 A Since we opened in May.

12 Q Okay. So since that time, have you
13 had any involvement with the community, with the
14 ANC, with Gateway?

15 A Yes, I have been fully involved with
16 the community and Gateway, ANC and the Police
17 Department.

18 Q Okay. Can you tell me about your
19 involvement with the ANC and Gateway?

20 A Prior to this opening, we had a
21 meeting with the community just to introduce
22 ourselves.

1 MEMBER SILVERSTEIN: Can you speak up?

2 THE WITNESS: I'm sorry. We had a
3 meeting with the community to go over what the
4 establishment is going to be about and give them
5 our contact information and discuss if and any
6 issues they may have or anticipate. Alongside
7 that, we invited them over to do -- the main
8 concern was sound and, basically, if it would
9 bleed into the neighborhood.

10 We set up a meeting for a different
11 day and we had about 15 of the members who came,
12 including Ms. Janet and the ANC rep. We had
13 music play as loud as we could have it played.
14 They walked around the building and just like
15 Mimi said, they did say there was no issue with
16 sound.

17 And I remember actually walking to
18 Channing Street with one of the residents to, I
19 think, the first home on Channing and we
20 definitely did not have any sound issues.

21 Other than that, like I said, you
22 know, their concerns again were also about

1 loitering, because I think because of clubs in
2 the area already, they had certain issues that
3 they thought, you know, what will we do to
4 mitigate some of those problems.

5 And I said well, you know, there was--
6 another thing I said was make sure you call the
7 police if there is any issues and here is my
8 information, if you have any problems, especially
9 with sound or trash or anything like that.

10 BY MS. YOHANNES:

11 Q So at that time, they were given your
12 contact information as well as Mimi's contact
13 information?

14 A Yes.

15 Q They had your telephone number?

16 A And the email.

17 Q And email?

18 A Correct.

19 Q Okay. Did anybody ever contact you
20 regarding the concerns?

21 A No. I also actually, in addition to
22 that, offered to install video cameras on some of

1 the homes.

2 Q Can you tell me a little bit more
3 about that?

4 A There is a provision by the D.C.
5 Government to reimburse homeowners on video
6 cameras outside their homes. And in addition to
7 calling the police, I wanted the neighbors to
8 have the opportunity to actually record some of
9 these incidents, if they do occur.

10 And since I, you know, was capable I
11 said well, you know, some of the residences were
12 of the elderly and I said if they do get those
13 cameras, let us know, contact me directly and
14 I'll make sure they get installed.

15 Q Okay. Tell me about the two MPD
16 meetings that you went to. Was the ANC there?
17 Was Gateway there? Tell me a little bit more
18 about that.

19 A The first one I went to was at the
20 ANC. That was organized by the ANC at the local
21 precinct. And basically, our conversations were
22 just about the general crime, uptick of crime in

1 the area, police presence and how to mitigate
2 traffic issues.

3 So it was a general conversation, not
4 directed towards anybody, but there was everybody
5 who was represented there from all the clubs and
6 all the establishments that were in the area.

7 Q Have you ever heard any specific
8 issues about Power being told to you by Gateway
9 or ANC?

10 A No.

11 Q During that time and during every
12 other meeting, all you have heard is -- are
13 general issues regarding their concerns generally
14 about the neighborhood, right?

15 A That's correct. The second meeting
16 was not too long ago at a library and that was
17 more community-based. And you know, there was --
18 the Police Department wanted to talk about
19 statistics, which they did talk about, and their
20 concern. And to us, members of the neighborhood
21 was to try and get the local Government to make
22 that corridor an Entertainment Corridor, so that

1 way they could allocate more police presence.

2 And that was to everybody and we --
3 and that was actually more community-based. That
4 wasn't the businesses. So, I mean, I think Ms.
5 Janet was there, maybe some other people were
6 there from the neighborhood.

7 Q Okay. Going back and talking about
8 that walk-through, because like you said, you had
9 about 15 people who did a walk-through, correct?

10 A Correct.

11 Q When you did the sound test, was
12 everybody pleased?

13 A Yes, we didn't have any -- yes.

14 Q Okay. Do you -- so if a summer garden
15 is approved, do you plan to use the same noise
16 test to make sure that to mitigate any sound or
17 noise coming from the summer garden?

18 A The plan just like Mimi said, the plan
19 is for just recorded music, so we don't plan on
20 having live entertainment. And the music is not
21 for dancing, it's just ambiance music. So
22 basically, it's going to be low enough so they

1 can speak and listen to each other. So I doubt
2 very seriously there will be any disturbances.
3 But if there are any, we will address that at the
4 time.

5 Q And you will do a very similar sound
6 check like you did for the opening?

7 A They are open to do anything, yes.

8 MS. YOHANNES: That's all I have.

9 CHAIRPERSON ANDERSON: Ms. Drew, do
10 you have any questions for him?

11 MS. DREW: Yes, thank you. Hold on
12 just a second. Thank you.

13 CROSS-EXAMINATION

14 BY MS. DREW:

15 Q Regarding the loitering, can you talk
16 about the loitering? What kind of loitering are
17 you seeing in and around the club?

18 A Could you say that question again?

19 Q You talked about loitering. Have you
20 seen any loitering?

21 A No.

22 Q And -- okay. And what, if anything,

1 can you or the non-MPD security detail do about
2 loitering, say on my Channing Street while the
3 club is open?

4 A We don't have any authority to control
5 loitering.

6 Q So does your security detail go --

7 A The security detail cannot make people
8 move off the streets.

9 Q So they do not -- oh, they don't --

10 A They cannot.

11 Q -- make anyone move off the streets --

12 A We cannot.

13 Q -- in Bladensburg?

14 A No, they cannot. Just around our
15 establishment. They can't be in the streets and
16 they -- that's public space, so they can't --
17 they have no jurisdiction over that.

18 Q Okay. So --

19 A Even the police cannot make people
20 move.

21 Q -- you believe they are unable to
22 leave club property?

1 A Say that again, ma'am.

2 Q They are unable to leave the club
3 property? Is that correct?

4 A That's correct.

5 Q Thank you. You talked about the crime
6 meeting and the uptick in crime. Can you,
7 please, describe that?

8 A What exactly do you need me to
9 describe?

10 Q I'm not sure. You talked about the
11 crime meeting at the library.

12 A Right.

13 Q And that there was concerns about the
14 uptick in crime.

15 A Correct.

16 Q And can you, please, describe some of
17 the concerns that were raised?

18 A It wasn't concerns.

19 MS. YOHANNES: Objection.

20 THE WITNESS: There weren't concerns.

21 BY MS. DREW:

22 Q Okay. There were no concerns about --

1 A There were concerns.

2 Q -- an uptick in crime?

3 A What I said was the police had a
4 statistics meeting with the community. At that
5 meeting, they did say there was an uptick in
6 certain crimes in the area. The -- when I say
7 crimes, I can't remember verbatim what particular
8 crimes.

9 But there were certain things that
10 they brought to our attention, which was all the
11 community, and I think their concern was so we
12 are aware, so we will know that, you know, to be
13 careful and make any kind of actions to make sure
14 we are safe in the neighborhood, so they brought
15 that out to our attention.

16 But to be specific, I couldn't tell
17 you exactly what.

18 Q Thank you. Now, regarding the summer
19 garden. So you said that you believe there are--
20 did you say that you believe there are plans for
21 sound mitigation or sound proofing?

22 A From what I can ascertain, the plan

1 was to put the summer garden on the left side of
2 the building. We have no neighbors on that side,
3 which is the reason why we chose that side. It
4 is only going to be that side and a partial part
5 of the back of the building. So that side of the
6 building is where the if and any music we have
7 will be on that side of the building.

8 If at that time and like my attorney
9 said, if we do have a test and a sound check with
10 the neighbors and there is a concern, we will
11 address that at that time.

12 Q So you are planning to test?

13 A Yes.

14 Q Okay. And do you know at what decibel
15 level 60 plus people will make?

16 A No, ma'am.

17 Q Thank you.

18 MS. DREW: No further questions.

19 CHAIRPERSON ANDERSON: Any questions
20 by any Board Members? Yes, Mr. Short?

21 MEMBER SHORT: Good afternoon.

22 THE WITNESS: Good afternoon.

1 MEMBER SHORT: You are the general
2 manager and you have been there since the
3 opening, May of 2017?

4 THE WITNESS: Correct.

5 MEMBER SHORT: Have you any other
6 business experience with nightclubs before that?

7 THE WITNESS: Yes.

8 MEMBER SHORT: Do you mind telling us
9 about it? Give us some dates and times and your
10 experience and you --

11 THE WITNESS: I had worked with Mimi
12 at the other establishment for about two years
13 before she -- before I moved on to other
14 business.

15 MEMBER SHORT: Which one was that?

16 THE WITNESS: The other -- old club
17 she had, I worked there for two years.

18 MEMBER SHORT: Do you know the name?

19 THE WITNESS: At the time, it was Mood
20 Lounge, at the time.

21 MEMBER SHORT: Okay. Any others?

22 THE WITNESS: That was the only club

1 I worked in. I worked at a restaurant which
2 actually converted to -- had an entertainment
3 endorsement in Dupont Circle and that's Tropea,
4 that was the name of that Tropea in Dupont
5 Circle.

6 MEMBER SHORT: Okay. How well do you
7 know the ABRA Laws and the DCRA and Fire Code
8 that deals with nightclubs and the proper way to
9 run one, the safe way to run?

10 THE WITNESS: I'm somewhat versed
11 with, but I can't say I'm an expert.

12 MEMBER SHORT: Okay. Well, let me ask
13 you this. Were you working at this establishment
14 with the licensee who is before us today on July
15 5, 2017?

16 THE WITNESS: Yes, I was.

17 MEMBER SHORT: Anything difficult
18 happen that day or in your mind?

19 THE WITNESS: Difficult?

20 MEMBER SHORT: Yeah, on the 5th of
21 July.

22 THE WITNESS: I don't understand what

1 you --

2 MEMBER SHORT: That's when the --

3 THE WITNESS: -- mean by difficult.

4 MEMBER SHORT: -- summer garden was
5 operating.

6 THE WITNESS: Correct.

7 MEMBER SHORT: And was shutdown.

8 THE WITNESS: Correct.

9 MEMBER SHORT: And were you there that
10 day?

11 THE WITNESS: Yes, I was.

12 MEMBER SHORT: Tell me what you know
13 about summer gardens before that incident
14 happened.

15 THE WITNESS: I wasn't aware before
16 that incident that we needed a license. And the
17 reason why was because it was on the premises. I
18 was wrong. And like I -- like Mimi testified
19 earlier, the club we -- that I helped -- worked
20 at, at the time, did not have any public space.
21 So I didn't have any public -- well, sorry, did
22 not have any outdoor space. So there was no

1 prior experience in that regard.

2 MEMBER SHORT: Okay. So that wouldn't
3 happen again under your watch?

4 THE WITNESS: That's correct.

5 MEMBER SHORT: Okay. Were you there
6 on December 16, 2017?

7 THE WITNESS: Yes.

8 MEMBER SHORT: And that was the
9 incident with the cover charge?

10 THE WITNESS: Yes.

11 MEMBER SHORT: And you didn't know,
12 you had no idea that you could not have a cover
13 charge without an endorsement from this Agency?

14 THE WITNESS: I was under the
15 impression that we had the cover charge
16 endorsement included in the licensing when that
17 was requested for and applied for.

18 MEMBER SHORT: Okay. Now, you opened
19 in May of 2017. You didn't have this incident
20 until December?

21 THE WITNESS: That's correct.

22 MEMBER SHORT: So between May and

1 December, were you charging at the door and
2 didn't know it?

3 THE WITNESS: On the days that we may
4 have charged, that might be correct, because
5 there are some events we don't charge at the
6 door.

7 MEMBER SHORT: Do you charge at the
8 door now?

9 THE WITNESS: We don't charge at the
10 door now.

11 MEMBER SHORT: Okay. Were you there
12 on December 24, 2017?

13 THE WITNESS: Yes, I was.

14 MEMBER SHORT: And that time, someone
15 cited you for operating after hours, correct?

16 THE WITNESS: Correct, correct.

17 MEMBER SHORT: What was -- can you
18 tell me what happened? Were you the manager that
19 night?

20 THE WITNESS: Yes, I was. We had
21 music playing. They -- actually, the lights were
22 on. The bar had actually stopped serving drinks

1 at that time.

2 MEMBER SHORT: But you had patrons.

3 You had patrons?

4 THE WITNESS: Oh, we had patrons. We
5 had patrons there and just like Mimi said, we
6 were under the impression that the hours were
7 extended because it was a holiday. And because
8 under normal circumstances, everything would be
9 shut down and the patrons asked to leave the
10 premises at that time.

11 So they were not -- the bar was
12 closed. The music was still on a little bit. It
13 was more -- a little lower, but the lights were
14 on, which meant we were edging people out, but we
15 did not force them out, not at that point.

16 MEMBER SHORT: So you haven't had that
17 problem any time since that time?

18 THE WITNESS: No, we have not.

19 MEMBER SHORT: Okay. Again, you say
20 you are pretty familiar with the laws and rules.
21 Have you seen this ABRA publication?

22 THE WITNESS: I have seen it, but I

1 don't have one of those.

2 MEMBER SHORT: Would you have a
3 problem getting into one? I mean, you are
4 managing --

5 THE WITNESS: Not after this meeting.

6 MEMBER SHORT: -- someone's business
7 and you --

8 THE WITNESS: Not after this meeting.
9 I do not.

10 MEMBER SHORT: How is that?

11 THE WITNESS: I said not after this
12 meeting, I will definitely get a copy.

13 MEMBER SHORT: Okay. Thank you very
14 much. It sounds very encouraging. Thank you,
15 Mr. Chair, that's all I have.

16 CHAIRPERSON ANDERSON: Any other
17 questions by any other Board Members? All right.
18 Hearing none, Ms. Drew, do you have any questions
19 of him based on the questions that were asked by
20 the Board?

21 MS. DREW: No. Thank you.

22 CHAIRPERSON ANDERSON: Ms. Yohannes?

1 MS. YOHANNES: Yes, I have a few.

2 REDIRECT EXAMINATION

3 BY MS. YOHANNES:

4 Q Regarding your former place, what type
5 of license did you have? Did you have a
6 nightclub license?

7 A Yes.

8 Q Are you aware that a nightclub license
9 does not need an entertainment endorsement?

10 A That's correct.

11 Q And you now know that an entertainment
12 endorsement is needed for a Tavern License,
13 correct?

14 A Correct.

15 Q But before you didn't know that,
16 right?

17 A That's correct.

18 MS. YOHANNES: That's all I have.

19 CHAIRPERSON ANDERSON: Thank you.

20 Thank you, sir, for your testimony. You can step
21 down.

22 (Whereupon, the witness was excused.)

1 CHAIRPERSON ANDERSON: Do you have any
2 other witnesses?

3 MS. YOHANNES: No, no other witnesses.

4 CHAIRPERSON ANDERSON: So do you rest?

5 MS. YOHANNES: Yes, we rest.

6 CHAIRPERSON ANDERSON: All right. Ms.
7 Drew, do you wish to call your first -- well, we
8 can -- let's take a break until 4:30.

9 MS. DREW: Thank you.

10 CHAIRPERSON ANDERSON: And then --

11 MS. DREW: I need a drink of water.

12 CHAIRPERSON ANDERSON: -- you -- well,
13 see -- so we will be in recess until 4:30. All
14 right. Okay.

15 (Whereupon, the above-entitled matter
16 went off the record at 4:17 p.m. and resumed at
17 4:33 p.m.)

18 CHAIRPERSON ANDERSON: Okay. We're
19 back on the record. Do you wish to call your
20 first witness, ma'am?

21 MS. DREW: Thank you. Kevin Mullone.

22 CHAIRPERSON ANDERSON: Mr. Mullone,

1 can you raise your right hand, please?

2 Whereupon,

3 KEVIN MULLONE

4 was called as a witness by the Protestant, and
5 having been first duly sworn, assumed the witness
6 stand and was examined and testified as follows:

7 MR. MULLONE: Yes, I do.

8 CHAIRPERSON ANDERSON: Have a seat.

9 Your witness, ma'am.

10 DIRECT EXAMINATION

11 BY MS. DREW:

12 Q Would you state your name and address
13 for the record?

14 A My name is Kevin Mullone. And the
15 spelling of my last name is M-U-L-L-O-N-E. And I
16 live at 2203 Evarts Street, N.E., Washington,
17 D.C. 20018.

18 Q And how long have you been in the
19 community?

20 A I have lived in the neighborhood for
21 seven years.

22 Q And what has your experience been with

1 the mega-clubs?

2 A In 2016, I pursued --

3 MS. YOHANNES: Objection.

4 CHAIRPERSON ANDERSON: What's the
5 nature of your objection?

6 MS. YOHANNES: Relevance as to the
7 testimony about clubs, mega-clubs.

8 CHAIRPERSON ANDERSON: Why is that
9 relevant, ma'am? Why are you asking that
10 question?

11 MS. DREW: It would go to parking and
12 noise and the effects on the community.

13 CHAIRPERSON ANDERSON: Well, I'm going
14 to overrule the objection. I'm going to give you
15 some -- just a little leeway. However, this is
16 not about mega-clubs. This is about this one
17 establishment. So I'll just give you some leeway
18 to maybe ask some preliminary questions on mega-
19 clubs, but the nature of this testimony should
20 not be about mega-clubs. It should be about this
21 particular establishment.

22 MS. DREW: Thank you.

1 CHAIRPERSON ANDERSON: Okay. So you
2 can answer the question, sir, if you remember
3 what the question was. Mr. Mullone?

4 THE WITNESS: So in 2016, we pursued
5 a Liquor License Moratorium on nightlife
6 establishments because of the adverse issues on
7 the surrounding community.

8 BY MS. DREW:

9 Q Can you, please, tell me about the
10 moratorium and the Moratorium Zone?

11 MS. YOHANNES: Objection. Relevance.

12 CHAIRPERSON ANDERSON: I'm going to
13 overrule the objection for the same reason. I'm,
14 as I said before, giving her some leeway. I'm
15 trying to see where we are going here, so I don't
16 disagree with the objection, but I'm going to
17 overrule it just to maybe get some background
18 information before we move forward.

19 But remember, you can't have all the
20 testimony be about -- we need to start --

21 MS. DREW: Correct.

22 CHAIRPERSON ANDERSON: -- being

1 specific to this establishment. You can answer
2 the question.

3 THE WITNESS: One of the reasons that
4 the Board granted the Langdon Park Moratorium
5 Zone was because of the parking needs. The
6 Board's opinion was that the community was
7 exacerbated by the existing conditions of the
8 present nightclubs.

9 Power was not part of that initial
10 request. They came -- Power applied for and was
11 approved for a liquor license while the
12 Moratorium Zone was under review.

13 BY MS. DREW:

14 Q And were you under the impression that
15 summer garden, I'm going to botch this question,
16 endorsements were going to be a part of the
17 moratorium?

18 MS. YOHANNES: Objection.

19 CHAIRPERSON ANDERSON: I'm going to
20 overrule that objection. I think that is
21 relevant, that's at least for this particular
22 case, because this is about a summer garden.

1 MS. YOHANNES: And his opinion as to
2 whether --

3 CHAIRPERSON ANDERSON: I know where --
4 if you look at -- I know where -- if you look at
5 her agenda, I know where they are going. So I'll
6 -- go ahead, answer the question.

7 THE WITNESS: In the moratorium, we
8 requested from the Board that they prevent or
9 prohibit the expansion of liquor licenses into
10 adjoining spaces, unless it was for the sole
11 purpose to increase parking for the
12 establishment.

13 We also asked the Board to prevent the
14 transference of liquor licenses from, when a
15 business is sold, a previous owner to a new owner
16 for that reason.

17 So when this establishment applied for
18 a summer garden, I was actually completely caught
19 off guard.

20 BY MS. DREW:

21 Q And what effect, parking-wise, do you
22 believe this summer garden will have on the area?

1 A So if you -- if we look at Bladensburg
2 Road, there are some -- lots of challenges. Part
3 of it is the Metrobus employees, the Metrobus
4 Barn, which takes up roughly two and a half
5 blocks from 24th Place to 26. The Metrobus
6 employees park along Bladensburg Road 24 hours a
7 day to include when the other establishments,
8 nightlife establishments are in operation, they
9 too park on Bladensburg Road to go into the
10 community.

11 And there is a limited available
12 amount of parking that is offered by TagB, which
13 is another valet operator. And most recently,
14 one of the locations that the valet operator --

15 MS. YOHANNES: Objection. Relevance.
16 When is this going to get to Power?

17 CHAIRPERSON ANDERSON: Well, you can't
18 object to the man's answer. If we --

19 MS. YOHANNES: So --

20 CHAIRPERSON ANDERSON: Well, let him--

21 MS. YOHANNES: -- can we limit the
22 scope? Limit it?

1 CHAIRPERSON ANDERSON: Well, he asked
2 -- she asked a question and he is responding to
3 the question, so we can't object during his
4 question -- during his answer. So go ahead and
5 answer the question, sir.

6 THE WITNESS: As I was saying, there
7 is already limited parking, limited parking that
8 is free. The valet parking that is available,
9 obviously, it is for a cost. Increasing capacity
10 through a summer garden makes that even more
11 challenging.

12 And what I was trying to say is 2130
13 Queens Chapel Road, which was used to valet
14 vehicles, has been leased by D.C. Government. So
15 that facility can no longer provide parking.

16 2000 Bladensburg Road, which is
17 currently TEFCU Credit Union is used to provide
18 valet parking. It is going to be torn down and
19 converted into a self-storage where there will be
20 absolutely no parking available for nightlife
21 establishments.

22 So since Power is not the only

1 establishment in the area, when the other
2 operators are open, it's a competition to find
3 parking. And it is a challenge. Increasing
4 capacity through a summer garden, only makes that
5 -- only heightens that challenge.

6 BY MS. DREW:

7 Q Do you know how many parking spaces,
8 I'm going to go with combined, are currently
9 available at the 2330 Queens Chapel Road and the
10 credit union? Do you have an idea of how many?

11 A I do not, because those two locations
12 have been taken off-line.

13 Q Oh, they have?

14 A They are no longer available for
15 parking. 2130 -- actually, D.C. Government moves
16 into 2130 next month.

17 Q Oh.

18 A And as I stated, 2000 Bladensburg
19 Road, which is across from 2130 Queens Chapel,
20 that is getting ready to be torn down. And so
21 that will be --

22 Q And that is the credit union?

1 A That is the credit union. They will
2 not be able to provide parking to any of the
3 establishments.

4 Q Thank you. How far is the Metro from
5 Power Night Club?

6 A The closest Metro is Rhode Island
7 Metro, which is about 2 miles from that
8 establishment.

9 Q And we have been told that there is a
10 bus stop on Bladensburg Road, and there is, and
11 does that bus stop bus -- do the buses that stop
12 at that stop go to the Rhode Island Metro?

13 A No, they do not.

14 Q Do you know where they go?

15 A I don't, but they do not go to the
16 Rhode Island Metro.

17 Q Thank you. Are you familiar with U
18 Street Parking? We have been told that Power
19 Night Club uses U Street Parking. Are you aware
20 of this valet company?

21 A I'm not aware of U Street Parking.
22 Only TagB Parking.

1 Q Do you know if they are owned by the
2 same person?

3 A I'm not aware of that.

4 Q Thank you.

5 MS. DREW: No further questions.

6 CHAIRPERSON ANDERSON: Your witness,
7 ma'am.

8 CROSS-EXAMINATION

9 BY MS. YOHANNES:

10 Q Mr. Mullone, I heard you give some
11 testimony regarding your concerns that the summer
12 garden will increase the overall occupancy and,
13 therefore, have an adverse effect on parking. Is
14 that what you were testifying to?

15 A Yes.

16 Q Okay. So how do you feel about 299
17 total occupancy of Power currently, if that
18 limitation was given to include the summer
19 garden, how would you feel about that? Will you
20 still believe that it would create --

21 A So --

22 Q -- an adverse effect on parking?

1 A Yes. So in 2016 when I appeared
2 before the Board to pursue a moratorium, it was
3 to prevent new establishments from coming to the
4 area. We were already exacerbated by the current
5 establishments as part of that moratorium
6 process.

7 Unfortunately, during that year
8 review, Power was able to come in, that was out
9 of my control. So my feeling is that any
10 addition of patrons with vehicles, given that
11 unlike other parts of the city where there is
12 public transportation options, it's just a real
13 serious challenge to expect that the neighboring
14 communities are to endure additional vehicles,
15 particularly when, whether it be Gateway,
16 Woodridge South, Langdon Park, those communities
17 don't have zone restricted parking for the
18 neighbors.

19 And so back to your question, it's
20 going to be a burden.

21 Q So you understand that currently the
22 occupancy is 299 for inside the premises?

1 A I -- yes.

2 Q All right.

3 A I agree with you, but I also know that
4 the Board has already written an opinion about
5 future establishments before Power came into the
6 neighborhood.

7 MS. YOHANNES: Objection. I'm going
8 to move to strike that.

9 CHAIRPERSON ANDERSON: Let's move on.

10 BY MS. YOHANNES:

11 Q So you know that it is already 299.
12 And my question to you is if it stayed 299, would
13 the summer garden and the granting of the summer
14 garden increase parking?

15 A Yes.

16 Q Okay. And so really right now, your
17 complaint is not about occupancy increasing.
18 It's about just the granting of the license
19 generally, which has already been done. Am I
20 correct?

21 A Well, you are essentially increasing
22 the occupancy if you are going to open a summer

1 garden.

2 Q Again, if we open the summer garden
3 and total occupancy inside and outside was 299,
4 if that is what was agreed to is 299, would that
5 have an adverse effect on parking?

6 A I still think it would.

7 MS. YOHANNES: I have no further
8 questions.

9 CHAIRPERSON ANDERSON: Any questions
10 by the Board? Yes, Mr. Short?

11 MEMBER SHORT: Good afternoon, Mr.
12 Mullone.

13 MR. MULLONE: Good afternoon.

14 MEMBER SHORT: Mr. Mullone, are you
15 familiar with or can -- I would like to ask a few
16 questions from Exhibit No. 16.

17 CHAIRPERSON ANDERSON: You can ask
18 whatever questions you want to ask.

19 MEMBER SHORT: Can he be provided with
20 a copy of this?

21 MS. DREW: I can --

22 MEMBER SHORT: Exhibit 16?

1 MEMBER ALBERTI: 16 from the
2 Investigator's report. Do you have the
3 Investigator's report there?

4 MS. DREW: 16?

5 MEMBER ALBERTI: Exhibit 16.

6 MEMBER SHORT: Well, he is going to--

7 MEMBER ALBERTI: She is going to get
8 it.

9 MS. DREW: Oh, you are --

10 CHAIRPERSON ANDERSON: That's it.
11 That's it.

12 MS. DREW: Okay. Gotcha, gotcha.

13 MEMBER ALBERTI: That's it right
14 there. Thank you. Oh, we have an extra copy
15 right there.

16 MS. DREW: Thank you. Do you want me
17 to give it to him?

18 CHAIRPERSON ANDERSON: Yes, please.

19 MEMBER SHORT: Thank you.

20 MS. DREW: Um-hum, you're welcome.

21 MEMBER SHORT: Mr. Mullone, give us
22 your address one more time, please.

1 THE WITNESS: I live at 2230 -- I
2 mean, sorry, 2203 Evarts Street, N.E.,
3 Washington, D.C.

4 MEMBER SHORT: Okay. So you are not
5 within the circle that is around -- that is
6 provided by this 400 radius that is provided on
7 this diagram that you have before you, correct?

8 THE WITNESS: Um --

9 MEMBER SHORT: Evarts is the very top
10 and it's where 28th Street comes in, so your block
11 wouldn't be --

12 THE WITNESS: Yeah, my block is not
13 affected.

14 MEMBER SHORT: No. But I said that
15 for another reason. Now, looking at this Exhibit
16 16, if you could -- are you a former ANC
17 Commissioner?

18 THE WITNESS: I'm a current ANC
19 Commissioner.

20 MEMBER SHORT: You're a current ANC
21 Commissioner?

22 THE WITNESS: And I'm also the

1 president of the Langdon Park Community
2 Association.

3 MEMBER SHORT: Okay. Well, looking at
4 this Exhibit 16, I see on here Echostage,
5 Stadium, Bliss, Breakfast Beverages Washington,
6 Capital Eagle, Inc., Sid's, XS Lounge, Young Won
7 Trading and Constantine Wines and Premium Wines
8 and Drops at the very top.

9 Can you, as an ANC Commissioner and a
10 member of this community, give me, as a Board
11 Member, your assessment of all these
12 establishments that are depicted on here with the
13 glass beside them. Any history you have that
14 might be relevant to his hearing.

15 THE WITNESS: I have history with the
16 -- with all of the nightlife establishments.

17 MEMBER SHORT: Can you elaborate?

18 THE WITNESS: So I've been to this
19 Board before to protest Stadium Nightclub.

20 MEMBER SHORT: Stadium is identified
21 within this circle?

22 THE WITNESS: Yes.

1 MEMBER SHORT: Okay. Now --

2 THE WITNESS: For the renewal of their
3 liquor license. And despite our best efforts,
4 they were granted a liquor license.

5 MEMBER SHORT: What is the -- do you
6 have any idea, being an ANC Commissioner, what is
7 the occupancy load for Stadium?

8 THE WITNESS: I don't know off the top
9 of my head, but I'm pretty sure it's close to
10 1,000.

11 MEMBER SHORT: What about Echostage?

12 THE WITNESS: Echostage is a little
13 over 1,000 and Bliss is about 1,000.

14 MEMBER SHORT: Just speaking of those
15 three --

16 THE WITNESS: And I'm sorry, Mr.
17 Short, the one establishment that is not
18 identified in this circle, but that is there, it
19 was the former Scene, The Scene.

20 MEMBER SHORT: Oh, yeah.

21 THE WITNESS: It is currently
22 operating as Karma and it is not identified in

1 this circle, but it, too, is part of the circle
2 on Adams Street, which is right off of Queens
3 Chapel Road. So really just about probably 20
4 steps from Echostage.

5 MEMBER SHORT: Okay. You have been in
6 the neighborhood for seven years?

7 THE WITNESS: That's correct.

8 MEMBER SHORT: Inside venues versus
9 outside venues, summer gardens, etcetera, how
10 many of these locations have summer gardens?

11 THE WITNESS: Currently none.

12 MEMBER SHORT: Have you had any --

13 THE WITNESS: In that circle.

14 MEMBER SHORT: -- experiences with
15 noise from these locations?

16 THE WITNESS: So Stadium Club had a
17 day party one time during Howard's homecoming and
18 they did not seek an endorsement to have an
19 outdoor summer garden or -- and to play amplified
20 music. And because of my connection to the
21 Gateway community, I was made aware of the issue
22 with Power with having their outdoor events

1 without an endorsement.

2 And I believe that, and don't quote me
3 on this, Bliss was issued a warning for the same
4 thing.

5 MEMBER SHORT: How recent?

6 THE WITNESS: I don't recall how
7 recent.

8 MEMBER SHORT: Okay. So that's all
9 the information you have about all of these ABC
10 establishments within that 400 circle that we
11 have here?

12 THE WITNESS: Correct.

13 MEMBER SHORT: Okay. And you are here
14 today because you are stating that -- is there
15 any way you could live with anything that could
16 happen that should this Board give a summer
17 garden endorsement to this particular venue?

18 THE WITNESS: Well, in my capacity,
19 I'm here to speak to whatever Mrs. Drew is
20 needing to ask me. But I think that question
21 should be left up to the residents who have to
22 endure whatever it is they want to present to you

1 today.

2 I, of course, can't take action
3 against Power, because it's out of the bounds and
4 scope of the Langdon Park Community, so I have
5 one side of Bladensburg, they have the other side
6 of Bladensburg and I had intimate knowledge of
7 what it took to get us the moratorium.

8 MEMBER SHORT: Okay. I thank you very
9 much. That's all I have, Mr. Chair.

10 CHAIRPERSON ANDERSON: Any other
11 questions by any other Board Members?

12 MEMBER SILVERSTEIN: Mr. Chair?

13 CHAIRPERSON ANDERSON: Mr.
14 Silverstein?

15 MEMBER SILVERSTEIN: Thank you, Mr.
16 Mullone.

17 THE WITNESS: Yes.

18 MEMBER SILVERSTEIN: Let's talk about
19 residential parking in your neighborhood. Are
20 there hours where people have to get home before
21 a certain amount of time?

22 Let me explain what I'm saying. I

1 live a block off Dupont Circle. It is a no-go
2 for me to leave my place between 4:30 and 7:00,
3 because I'm going to get stuck in traffic. I'm
4 not going to go anywhere.

5 In your neighborhood, you say that
6 there are all of these clubs and that, you know,
7 the people who go to these clubs have trouble
8 parking.

9 What about residents? What about
10 people who work the late shift and come home?

11 THE WITNESS: So you -- so that's part
12 of the issue. All right. So when Echostage,
13 which is located on Queens Chapel Road, when
14 Stadium is open, which is next door to Echostage,
15 and when Karma is open, which is sort of in the
16 crosshairs from both of those establishments, a
17 lot of patrons will bypass the valet companies
18 that are charging upwards of \$50 sometimes, not
19 always, but --

20 MEMBER SILVERSTEIN: Up to \$50 a
21 night?

22 THE WITNESS: Upwards of \$50.

1 MEMBER SILVERSTEIN: Oh.

2 THE WITNESS: As low as \$20. They
3 will bypass, go over the Queens Chapel Bridge
4 Road and park on Lafayette Avenue, 21st Place, 20th
5 Street, Bryant Street, Channing Street and 22nd
6 Street all -- where there is a mix of auto
7 industry, single family homes and multi-dwelling
8 units.

9 So -- and they will park all the way
10 up Queens Chapel until Evarts. So you know, I am
11 not persuaded to say well, the valet companies,
12 they offer parking. But when you are charging
13 \$50, you are not encouraging parking there. You
14 are dissuading people to park, because they will
15 walk blocks and have free parking versus going to
16 valet parking.

17 And in my neighborhood, we have a lot
18 of seniors and retirees who depend on caretakers,
19 so it's difficult for the caretakers to come in
20 and find parking, because I would say, probably
21 from 10:00 p.m. until 4:00 a.m., you move, you
22 snooze.

1 MEMBER SILVERSTEIN: Okay. That
2 answered my question. No further questions.

3 CHAIRPERSON ANDERSON: Mr. Alberti?

4 MEMBER ALBERTI: Mr. Mullone, I'm
5 going to ask some questions about parking. I'm
6 going to pick your brain, because you seem to
7 know a lot about where available parking is in
8 the neighborhood. All right.

9 We have so far mentioned 1, 2, 3, 4,
10 I think 5 nightlife establishments: Karma,
11 Bliss, Echostage, Stadium Club and XS, all within
12 the vicinity of Channing Street.

13 Your last, I will for the record,
14 discussion of who gets impacted was not so much
15 about the neighborhood we are talking about, but
16 was the neighborhood sort of --

17 THE WITNESS: Where I live.

18 MEMBER ALBERTI: -- on the other side
19 of this and we are aware.

20 THE WITNESS: Right.

21 MEMBER ALBERTI: But that brings me to
22 we also -- I am vaguely aware that there are

1 properties where these clubs utilize, that these
2 clubs and the parking companies that they
3 contract with, to park people.

4 Are you aware of -- do you have
5 knowledge of where those properties are? I think
6 you mentioned some already.

7 THE WITNESS: So one of them --

8 MEMBER ALBERTI: You mentioned some
9 already.

10 THE WITNESS: -- 2130 Queens Chapel
11 Road.

12 MEMBER ALBERTI: 2130 Queens Chapel.
13 Okay.

14 THE WITNESS: That is at the base.

15 MEMBER ALBERTI: So that's -- all
16 right.

17 THE WITNESS: That is the base of
18 Bladensburg Road right at the corner.

19 MEMBER ALBERTI: Okay.

20 THE WITNESS: And Queens Chapel.

21 MEMBER ALBERTI: Okay.

22 THE WITNESS: That property has been

1 leased by D.C. Government and they have taken the
2 valet parking off-line, because the Government is
3 moving into that space. It is currently under
4 construction. The Government is moving in the
5 first or second week of February.

6 MEMBER ALBERTI: Okay.

7 THE WITNESS: 2000 Bladensburg Road,
8 which is currently TEFCU Credit Union --

9 MEMBER ALBERTI: Is what?

10 THE WITNESS: TEFCU, T-E-F-C-U.

11 MEMBER ALBERTI: And it's 2000
12 Bladensburg Road?

13 THE WITNESS: Yes, sir.

14 MEMBER ALBERTI: Can you sort of --

15 THE WITNESS: That is right across
16 from the 2130 Queens Chapel. So at that
17 intersection, there is a credit union.

18 MEMBER ALBERTI: Oh, okay.

19 THE WITNESS: So it's kind of hard --

20 MEMBER ALBERTI: So it's right across
21 from --

22 THE WITNESS: -- to see it on this

1 map.

2 MEMBER ALBERTI: -- Queens Chapel on
3 Bladensburg? Is that what you are saying?

4 THE WITNESS: Yes.

5 MEMBER ALBERTI: All right.

6 THE WITNESS: So if Bladensburg is
7 this way and you got Queens Chapel this way --

8 MEMBER ALBERTI: Yes, coming in,
9 right.

10 THE WITNESS: -- intersect. So the
11 side of the credit union faces the front of 2130
12 Queens Chapel.

13 MEMBER ALBERTI: Okay. So that --
14 okay. I see it. So that is sort of across the
15 property.

16 THE WITNESS: Right.

17 MEMBER ALBERTI: The other property
18 you mentioned.

19 THE WITNESS: So both of those used to
20 be available for patron parking --

21 MEMBER ALBERTI: All right.

22 THE WITNESS: -- by TagB. And TagB

1 also has a contract with the Holiday Inn Hotel.

2 MEMBER ALBERTI: Okay. Which is

3 across --

4 THE WITNESS: Which is the corner of--

5 MEMBER ALBERTI: -- New York Avenue?

6 THE WITNESS: Yes.

7 MEMBER ALBERTI: South of New York

8 Avenue?

9 THE WITNESS: Right, which is at

10 Bladensburg and New York Avenue.

11 MEMBER ALBERTI: Yes.

12 THE WITNESS: And they also have a

13 contract with the McDonald's which is on this

14 side of Bladensburg Road and New York Avenue.

15 MEMBER ALBERTI: This side you mean

16 north of New York Avenue?

17 THE WITNESS: Yeah.

18 MEMBER ALBERTI: Okay.

19 THE WITNESS: Yes, sir. So but you

20 also have to remember one club, I should say that

21 is not in this picture now that I'm thinking

22 about it, but I think it is part of the 400

1 radius is Aqua, which is at New York Avenue and
2 Montana.

3 MEMBER ALBERTI: Okay.

4 THE WITNESS: And their patrons also
5 park at the McDonald's and the Holiday Inn and
6 they are right now illegally parking across the
7 street in front of the Douglas Development New
8 City Project.

9 MEMBER ALBERTI: Okay.

10 THE WITNESS: They park there
11 illegally at night.

12 MEMBER ALBERTI: So do you know how
13 many spots were in the two places that are
14 disappearing from being available for parking?

15 THE WITNESS: I think with 2130 Queens
16 Chapel, roughly 50 spaces.

17 MEMBER ALBERTI: Okay.

18 THE WITNESS: And I'm not sure about
19 the credit union at all. I'm not sure about the
20 credit union.

21 MEMBER ALBERTI: Any guess?

22 THE WITNESS: If I had to guess, I

1 would say probably also 50 to 60 spaces.

2 MEMBER ALBERTI: Okay. So it's not
3 200.

4 THE WITNESS: Yeah, because the valet
5 companies, they can maximize the parking --

6 MEMBER ALBERTI: Yeah, right, okay.

7 THE WITNESS: -- when they do it. And
8 directly next door to Echostage, that building is
9 used for parking, which is still available.

10 Wells Fargo, which is their neighbor
11 on Bladensburg Road --

12 MEMBER ALBERTI: Um-hum.

13 THE WITNESS: -- they used to allow
14 parking on their property, but they were having
15 so many issues, they stopped it.

16 MEMBER ALBERTI: Okay. All right. So
17 we have lost some parking. We have lost or will
18 lose soon some parking in that neighborhood.

19 THE WITNESS: And you are going to
20 lose more.

21 MEMBER ALBERTI: Why do you say that?

22 THE WITNESS: 2215-2219 Adams Place.

1 MEMBER ALBERTI: Um-hum.

2 THE WITNESS: Which is Karma's next
3 door neighbor.

4 MEMBER ALBERTI: Um-hum.

5 THE WITNESS: They are going to come
6 off-line because the D.C. Department of Fire and
7 Emergency Services is moving into that building.

8 MEMBER ALBERTI: How much parking do
9 you think was there?

10 THE WITNESS: That's a pretty big
11 warehouse, so I would say roughly 70 to 80
12 vehicles maybe.

13 MEMBER ALBERTI: Sir, I'm just trying
14 to get an idea. So we are losing parking in that
15 vicinity of Echostage.

16 THE WITNESS: Right.

17 MEMBER ALBERTI: And we are well-aware
18 of what goes on there. And I'm trying to assess.
19 I mean, we are losing parking there, it's going
20 to put pressure -- it's going to push people up
21 Bladensburg, I mean, because they can't go south.
22 So there is really no place to go across

1 Bladensburg Road down south.

2 THE WITNESS: Right.

3 MEMBER ALBERTI: So all right. So I
4 am just trying to get an idea of what the
5 pressures of parking would be.

6 All right. You are not at all
7 familiar -- you are not like intimately familiar
8 with the Gateway neighborhood around Channing?

9 THE WITNESS: My connection with
10 Gateway is we formed a group called The Greater
11 Woodridge-Gateway Group, so there are five
12 presidents.

13 MEMBER ALBERTI: Okay.

14 THE WITNESS: And we formed a
15 leadership group --

16 MEMBER ALBERTI: Okay.

17 THE WITNESS: -- to talk about the
18 issues and potentially pool resources, but --

19 MEMBER ALBERTI: All right. So I'll
20 hold my questions about --

21 THE WITNESS: Yes,

22 MEMBER ALBERTI: -- impacts of

1 nighttime parking when I get to the residents.

2 Thank you. You have been very helpful.

3 THE WITNESS: Okay.

4 MEMBER ALBERTI: Thank you.

5 CHAIRPERSON ANDERSON: Any other

6 questions for any --

7 MEMBER SHORT: I just had one follow-
8 up.

9 CHAIRPERSON ANDERSON: Yes, Mr. Short?

10 MEMBER SHORT: Mr. Mullone or
11 Commissioner Mullone, I've been around the city
12 for a long time and I have seen different
13 neighborhoods go through different changes. And
14 a community is some kind of way to find ways to
15 morph in.

16 One neighborhood in particular 10th and
17 U Street, in that new U Street Corridor, most of
18 the community there now have residential parking
19 stickers. And so at certain hours, there is
20 always parking in front of residential homes.

21 Is there any Ward 5 residential
22 parking?

1 THE WITNESS: So DDOT changed its
2 policy and process with regard to residential
3 parking. So right now the RPP, Residential
4 Parking Program, you have to apply and you have
5 to get a petition started, 51 percent of the
6 block to start it.

7 And then DDOT will come out to do an
8 assessment. Just because you are signing the
9 petition does not mean you will be granted the
10 RPP.

11 After being in that program for a
12 year, which is their pilot phase, you then apply
13 for the extended hours.

14 So during the first year, it does
15 nobody any good, because you can still park. And
16 it's not the hours that you need to protect the--
17 for residential parking.

18 So it's not until year two that you
19 apply for extended hours. The problem with both
20 of those scenarios is DDOT no longer issues the
21 red and white signs which is purely residential
22 parking, so then you have an enforcement issue.

1 So even if DDOT grants the green signs
2 with extended RPP, you have not got to depend on
3 DPW to come out and enforce by issuing tickets.

4 MEMBER SHORT: So I have to ask you
5 this, because in my neighborhood we have
6 residential parking. I have a residential
7 parking sticker.

8 MEMBER ALBERTI: What time does it go
9 to? What time is the latest that it restricts?

10 MEMBER SHORT: But well, it's just
11 different in different neighborhoods.

12 MEMBER ALBERTI: I know, but --

13 THE WITNESS: What you -- you have to
14 make the distinction between the green and white
15 signs, which allows two hours of parking, even if
16 it's residential.

17 MEMBER SHORT: Right.

18 THE WITNESS: Versus the red and white
19 signs, which is purely residential.

20 MEMBER SHORT: Well, I understand
21 that, but you have to start somewhere if you are
22 going to do it. And if other neighborhoods

1 working on it, I know in Georgetown they do it
2 also and I know in Adams Morgan they do it.

3 THE WITNESS: So I can tell -- I can't
4 speak for Gateway, but I can tell you that area
5 where the vehicles are currently parking where at
6 -- at 2000 Channing, the 2500 Block of 22nd
7 Street, 21st Place, Bryant Street, Lafayette
8 Avenue, we are actively pursuing that right now.

9 And I will say we submitted
10 applications six months ago, so DDOT -- we are
11 waiting on DDOT to do that.

12 MEMBER SHORT: And your Councilmember
13 McDuffie, what is he doing?

14 THE WITNESS: Sir, I can only speak to
15 what I'm doing.

16 MEMBER SHORT: No comment, no comment,
17 no comment.

18 THE WITNESS: But here is what the
19 Board also needs to know.

20 MEMBER SHORT: I understand.

21 THE WITNESS: So while the residents
22 have that possibility of applying for residential

1 parking, and that's a good thing, the adverse
2 piece of that is the residents have to end up
3 going to DMV and paying the \$35 for the decal.

4 And I know you have to compromise.

5 MEMBER SHORT: Yeah.

6 THE WITNESS: It's a give and take
7 situation. But I'm just saying that --

8 MEMBER SHORT: You are living in a
9 changing city.

10 THE WITNESS: That's correct.

11 MEMBER SHORT: Everything is changing,
12 so if \$35 is going to get you a parking in front
13 of your house --

14 THE WITNESS: I understand that.

15 MEMBER SHORT: -- and you don't have
16 to --

17 THE WITNESS: I understand that.

18 MEMBER SHORT: Okay. That's -- well,
19 thank you very much. Thank you very much. Okay.

20 CHAIRPERSON ANDERSON: All right. Ms.
21 Yohannes, questions based on the questions that
22 were asked by the Board?

1 MS. YOHANNES: Just for clarification.

2 RECROSS-EXAMINATION

3 BY MS. YOHANNES:

4 Q So are you here to testify on behalf
5 of the ANC?

6 A I am not.

7 Q Regarding valet, you made mention that
8 some of the valets in the area are charging \$50.

9 A Upwards.

10 Q Did you --

11 A Upwards of \$50.

12 Q All right. Are you aware that Power
13 at times does not charge for valet parking?

14 A I think initially and I cannot speak
15 to my experience with U Street Parking. I can
16 only speak to what I have seen TagB do.

17 Q Okay. Well, I'm referring to Power.
18 So with Power, are you --

19 A I --

20 Q -- aware that --

21 A -- am not aware of Power charging
22 upwards of \$50.

1 Q So regarding Stadium, I know that you
2 discussed your objections there and protesting
3 there. Weren't you, at that time, protesting or
4 objecting to a license for nude dancing, a nude
5 dancing club?

6 A No, that's not why we were protesting
7 Stadium.

8 Q Okay. Are you aware that Stadium also
9 has a summer garden?

10 A Stadium does not have a summer garden
11 nor do they have an endorsement for a summer
12 garden.

13 Q Okay. Regarding the moratorium, isn't
14 it true that Power's application here was -- or
15 application for the establishment, that that was
16 approved before the moratorium went into effect?

17 A That is correct.

18 Q That is correct.

19 A I was unable to protest Power during
20 the moratorium phase, because that's -- I don't
21 have that side of Bladensburg Road as part of my
22 bylaws for the association. And it was the

1 association that pursued the moratorium.

2 Q And so --

3 A So when Power applied for a liquor
4 license --

5 Q -- they were --

6 A -- during the moratorium phase, I
7 would not be granted standing to protest Power,
8 because it is outside of the purview of my
9 community.

10 Q So you did not protest, correct?

11 A I could not protest.

12 Q You did not, right?

13 A I did not and could not protest.

14 Q Okay. And the Board approved the
15 application, correct?

16 A During the moratorium phase, correct.

17 Q Okay.

18 MS. YOHANNES: That's all.

19 CHAIRPERSON ANDERSON: Ms. Drew?

20 MS. DREW: Nothing further. Thank
21 you.

22 CHAIRPERSON ANDERSON: You have no

1 further questions?

2 MS. DREW: No.

3 CHAIRPERSON ANDERSON: Thank you very
4 much for your testimony. You can step down.

5 (Whereupon, the witness was excused.)

6 CHAIRPERSON ANDERSON: I have never
7 seen a witness jump out of the hot seat that
8 quickly.

9 (Laughter)

10 CHAIRPERSON ANDERSON: All right. Do
11 you have another witness, ma'am?

12 MS. DREW: Yes.

13 CHAIRPERSON ANDERSON: Who is your
14 next witness?

15 MS. DREW: Gilbert Smith, a resident.

16 CHAIRPERSON ANDERSON: Mr. Smith, I
17 see you have some documents in your hand, sir, so
18 can you leave them? You can't take them with
19 you, sir.

20 MR. SMITH: May I approach?

21 CHAIRPERSON ANDERSON: Yes, sir.

22 MR. SMITH: So I was informed that I

1 was to provide a testimony, a written testimony.
2 And I was also informed by our president that I
3 was to bring seven copies of the testimony.

4 CHAIRPERSON ANDERSON: Well, the way--
5 you are not -- you can't give a written
6 testimony. She has to ask you questions. She
7 has to ask you questions and then --

8 MS. DREW: My inexperience.

9 CHAIRPERSON ANDERSON: -- you answer.
10 So yes, you have -- she can use your written
11 testimony to --

12 MR. SMITH: That's what I'll do.

13 CHAIRPERSON ANDERSON: Well, you can
14 give it to her. She can utilize it.

15 MS. DREW: But he can't read it?

16 MR. SMITH: That's fine.

17 CHAIRPERSON ANDERSON: She can -- no,
18 no. She can utilize it to ask you questions.

19 MEMBER SHORT: There we go. There we
20 go.

21 MS. DREW: Okay.

22 CHAIRPERSON ANDERSON: But he can't

1 read it. Can you raise your right hand, please,
2 sir?

3 Whereupon,

4 GILBERT ANDREW SMITH

5 was called as a witness by the Protestant, and
6 having been first duly sworn, assumed the witness
7 stand and was examined and testified as follows:

8 THE WITNESS: Yes.

9 CHAIRPERSON ANDERSON: Thank you.

10 Have a seat. Your witness.

11 DIRECT EXAMINATION

12 BY MS. DREW:

13 Q Please, state your name and address
14 for the record.

15 A My name is Gilbert Andrew Smith. My
16 address is 2915 Adams Street, N.E.

17 Q And how long have you been in the
18 community?

19 A I have been in the community for over
20 26 years.

21 Q Where is your house in relation to
22 Power Night Club?

1 A If you are facing Power Night Club
2 from Bladensburg Road towards the direction that
3 is considered north, my house is to the north of
4 the nightclub, Power Night Club.

5 MS. DREW: Can I interject? I have a
6 picture of his house. I am not a good
7 photographer.

8 CHAIRPERSON ANDERSON: Is it a part of
9 the --

10 MS. DREW: Yes.

11 CHAIRPERSON ANDERSON: So what exhibit
12 is that?

13 MS. DREW: I provided three pictures.
14 It is looking up. I apologize. I don't have
15 that, the number in front of me.

16 CHAIRPERSON ANDERSON: You submitted
17 a PIF. Is it in your PIF?

18 MS. DREW: Yes.

19 CHAIRPERSON ANDERSON: So what number
20 is it in your PIF, ma'am?

21 MS. DREW: Hold on. I've got to
22 locate my PIF.

1 CHAIRPERSON ANDERSON: Take your time.

2 MS. DREW: I'm sorry. Oh, right on
3 top. Oh, shoot, I apologize. I have two copies
4 of the PIF, but no exhibit.

5 CHAIRPERSON ANDERSON: Do you have the
6 cover page of your PIF?

7 MS. DREW: I don't have the right page
8 of my PIF. I stapled the wrong pages together.
9 So it would be -- and I just don't have the list
10 in front of me, so I apologize. But it would
11 probably be Exhibit 2, 3 or 4.

12 CHAIRPERSON ANDERSON: I don't think
13 so.

14 MS. DREW: No, you are -- I'm sorry,
15 I was wrong. So it would be 5, 6 or 7. There is
16 one looking up, not a good picture, but it shows
17 the distance.

18 CHAIRPERSON ANDERSON: There is no --

19 MS. DREW: He is on a hill.

20 CHAIRPERSON ANDERSON: -- 6. I don't
21 know if there is a --

22 THE WITNESS: So can I? May I attempt

1 to explain?

2 CHAIRPERSON ANDERSON: You can explain
3 where your house is, sir.

4 THE WITNESS: So for the Board, there
5 is an exhibit that you all have been using, that
6 exhibit is in front of me.

7 CHAIRPERSON ANDERSON: I'm sorry?

8 THE WITNESS: May I use Exhibit 16 to
9 explain where I'm at?

10 CHAIRPERSON ANDERSON: All right.

11 MEMBER SHORT: Exhibit 16?

12 MEMBER ALBERTI: 16 from -- that has
13 already been entered?

14 THE WITNESS: Yes.

15 CHAIRPERSON ANDERSON: Which? What is
16 16?

17 MS. DREW: It's that -- okay.

18 MEMBER ALBERTI: From the protest
19 report.

20 CHAIRPERSON ANDERSON: All right. Go
21 ahead.

22 THE WITNESS: Yes.

1 CHAIRPERSON ANDERSON: Go ahead.

2 THE WITNESS: So the way this diagram
3 is, if you're looking up, that I would consider
4 north, so you have XS Lounge at 2235 Bladensburg
5 Road. To the east of XS Lounge, you will see or
6 you may see or should see Adams Street, N.E.

7 CHAIRPERSON ANDERSON: Okay.

8 MEMBER ALBERTI: Um-hum.

9 THE WITNESS: So I am in the very end
10 of Adams Street, N.E. In this case, that would
11 be a little southeast from this diagram of XS
12 Lounge.

13 MEMBER ALBERTI: So, Chairman
14 Anderson, could I make a suggestion?

15 CHAIRPERSON ANDERSON: What is that?

16 MEMBER ALBERTI: Could we have the
17 witness -- he has a copy of Exhibit 16. Could we
18 have him mark it with an X where his residence is
19 and submit that and provide it to both parties?

20 MS. DREW: Do you need a pen?

21 THE WITNESS: I have a pencil.

22 MEMBER ALBERTI: That would be great.

1 And then we will try to get copies for both
2 parties, if we could.

3 MEMBER SHORT: Hand it to your
4 attorney. Hand it to her.

5 MS. DREW: I'm sorry, what am I
6 supposed to do? Do I submit it?

7 CHAIRPERSON ANDERSON: Did he mark on
8 Exhibit 16 where his house is?

9 MS. DREW: Yes, he did.

10 CHAIRPERSON ANDERSON: All right.

11 MS. DREW: And may I --

12 MEMBER SHORT: Walk it over to --

13 CHAIRPERSON ANDERSON: No, hold on,
14 hold on. No, no, hold on, hold on. I'm
15 directing this.

16 Can you show it to them, please?

17 MS. DREW: Yes.

18 CHAIRPERSON ANDERSON: Thank you, sir.

19 MS. DREW: Absolutely.

20 CHAIRPERSON ANDERSON: Once you show
21 it to them, you can give us a copy.

22 MS. DREW: May I approach? Thank you.

1 MEMBER ISAAC: Let me see where the X
2 is.

3 CHAIRPERSON ANDERSON: We all have it.
4 I think we can mark it.

5 MEMBER ALBERTI: We can -- then we can
6 probably, yes. Okay. Mr. Short will mark it and
7 then we will be able to tell and we can continue,
8 I guess.

9 CHAIRPERSON ANDERSON: Go ahead.

10 MEMBER ALBERTI: Yes, that's what I
11 thought.

12 MS. DREW: Me? Oh, thank you.

13 CHAIRPERSON ANDERSON: He is your
14 witness, ma'am.

15 BY MS. DREW:

16 Q And can you describe if this area is
17 flat or on an elevation?

18 A The area being my house?

19 Q Yes.

20 A That -- my house is elevated.

21 Q And can you see the club roof from
22 your house?

1 A Yes.

2 Q And how -- do you have any idea how
3 far away it is?

4 A I would say less than 500 feet.

5 Q And can you hear club noise at night?

6 A Yes.

7 Q When the club is open?

8 A Yes.

9 Q Please describe.

10 A The club noise tends -- well, let me
11 make -- in explaining the noise, let me explain
12 my sleep pattern, which helps understand the
13 noise. I tend to go to sleep from as early as
14 8:00 p.m. I get up.

15 MEMBER SHORT: Please, speak directly
16 into the mike. Would you speak up?

17 THE WITNESS: I tend to go to bed at
18 8:00 a.m. I tend to get up at 4:00 a.m. each and
19 every morning.

20 CHAIRPERSON ANDERSON: You mean 8:00--

21 BY MS. DREW:

22 Q I'm sorry, 8:00 p.m.?

1 CHAIRPERSON ANDERSON: You mean 8:00
2 p.m.?

3 THE WITNESS: 8:00 p.m. I get up at--

4 CHAIRPERSON ANDERSON: You said 8:00
5 a.m.

6 THE WITNESS: I'm sorry. I'm sorry.
7 I go to sleep 8:00 p.m. I tend to rise each and
8 every morning by 4:00 a.m., seven days a week.

9 There are occasions when there are
10 noise coming from various clubs that will awaken
11 me in the middle of the night. The noise is such
12 of a decibel reverberation that it rattles our
13 windows. Now, granted we have older framed
14 windows, but it does rattle our windows.

15 So therefore, I am awakened in the
16 middle of the night. The noise has been such of
17 a situation or occurrence that I have notified my
18 association chair and other members of the
19 association of noise that has occurred in the
20 prior evening. So that is the nature of the
21 noise.

22 Let me also add that my wife, Cindy

1 Smith, is also in the audience and she has
2 experienced it. Her sleep pattern tends -- she--
3 and this is part why I go to sleep a little bit
4 earlier than she does, she tends to stay up until
5 11:00 a.m. or 11:00 p.m.

6 CHAIRPERSON ANDERSON: P.m.?

7 THE WITNESS: P.m., sorry. 11:00 p.m.
8 So she does not come to bed until 11:00 p.m. and
9 generally awakens around 5:00 or so. So she
10 experiences the noise as well.

11 BY MS. DREW:

12 Q Are you -- I'm sorry, are you. Sorry.
13 Is your house located near an alley that leads to
14 Bladensburg Road and can you, please, describe?

15 A The answer is yes. There is an alley
16 that is directly, essentially, in front of my
17 house that I could come down my steps, my
18 elevated steps and walk straight into the alley.
19 The alley is on an incline. It goes passed the
20 beverage establishment that has a closed fence
21 parking lot. If I go down to the end of the
22 alley and make a left, I will then be at

1 Bladensburg Road.

2 If I -- once I get to the end of that
3 part of the alley and I make another left, I will
4 then be going towards XS Lounge after I go passed
5 the beverage parking lot.

6 Q Okay. Have you experienced noise from
7 club patrons using the alley or the streets, 30th
8 Street and you are on Adams Street?

9 A I have heard noise from individuals in
10 the alley. I cannot say whether they are club
11 patrons or not, but I have heard noise.

12 Q At what hours?

13 A Anywhere from midnight to 3:00,
14 sometimes after 3:00 a.m.

15 Q Okay.

16 A In the morning.

17 Q Have you noticed an increase in
18 parking along 30th Street, Adams Street, other
19 streets in the neighborhood since Power Night
20 Club has opened?

21 A Yes.

22 Q Could you, please, describe?

1 A I noticed an additional amount of
2 parking throughout those streets that you just
3 named. I have also noticed an increase of
4 violation of those vehicles along those streets.
5 I have also noticed an increase of violation of
6 those vehicles along those streets. And the
7 reason why I know this -- that is because there
8 is broken glass that tends to be along the street
9 usually during the weekend time frame.

10 Q Can you, please, explain why broken
11 glass is significant?

12 A Well, it's significant in that my
13 neighbors have informed me that they actually
14 have seen individuals break into cars along those
15 streets and break the glass in order to break
16 into the cars.

17 Q Was this a problem prior to Power
18 Night Club opening?

19 MS. YOHANNES: Relevance. Objection.
20 Relevance.

21 CHAIRPERSON ANDERSON: What's the
22 relevance?

1 MS. YOHANNES: The entire line of
2 questioning --

3 CHAIRPERSON ANDERSON: No.

4 MS. YOHANNES: -- that's not --

5 CHAIRPERSON ANDERSON: No, I'm asking
6 her. You have --

7 MS. DREW: I'm sorry?

8 CHAIRPERSON ANDERSON: Why is this
9 relevant? Why is this line of questioning
10 relevant?

11 MS. DREW: We raised concerns about
12 peace and order in the neighborhood and this goes
13 directly to peace and order in the neighborhood.

14 CHAIRPERSON ANDERSON: I'll allow it.
15 I'll overrule the objection, but I -- Ms. Drew,
16 this is about Power and so I need the testimony
17 and evidence to talk about the impact Power is
18 going to have on peace, order and quiet in the
19 neighborhood. So I'll ask -- you can ask this
20 one question, but I need moving forward for us to
21 focus on the issue at hand in this case and how
22 providing a summer garden to Power will impact

1 peace, order and quiet in the neighborhood and
2 trash.

3 MS. DREW: Thank you. Can he answer
4 the question?

5 CHAIRPERSON ANDERSON: Yes, he can
6 answer the question.

7 BY MS. DREW:

8 Q Do you remember the question?

9 A You can restate it just to make sure
10 I'm clear.

11 Q I don't remember. I apologize.

12 CHAIRPERSON ANDERSON: Well, then
13 let's move on then. Ask another question.

14 MS. DREW: Another question? Okay.

15 THE WITNESS: Well --

16 BY MS. DREW:

17 Q Go ahead.

18 A I vaguely remember the question.

19 CHAIRPERSON ANDERSON: Sorry, if you
20 don't remember the question, you can't answer a
21 question you vaguely remember, sir. So we need
22 to move on.

1 THE WITNESS: Okay.

2 CHAIRPERSON ANDERSON: So ask another
3 question.

4 THE WITNESS: That's fine. What would
5 you like to ask me?

6 BY MS. DREW:

7 Q Your home overlooks Power Night Club,
8 correct?

9 A Yes.

10 Q And do you believe that an open summer
11 garden, the noise emanating from an open summer
12 garden, would impact your -- you and your peace
13 and quiet in your home and at your house?

14 A Yes.

15 MS. YOHANNES: Objection.

16 CHAIRPERSON ANDERSON: What's the
17 nature of the question -- the objection?

18 MS. YOHANNES: The question is vague.

19 CHAIRPERSON ANDERSON: I'm going to
20 overrule. I mean, she asked him a direct
21 question. He answered it to say it's going to
22 impact his peace, so I'll allow him. I'll

1 overrule the objection, since he -- so let's move
2 on.

3 MS. DREW: Okay.

4 THE WITNESS: Already answered.

5 CHAIRPERSON ANDERSON: He answered the
6 question already.

7 THE WITNESS: Yes.

8 CHAIRPERSON ANDERSON: He said the
9 answer was yes. So let's ask another -- let's
10 move on, please.

11 BY MS. DREW:

12 Q Do you believe that an additional 60
13 plus people outside without sound mitigation and
14 the possibility of amplified music will
15 negatively impact your ability to enjoy your
16 quiet in your home?

17 A Yes.

18 Q Please describe.

19 A So I will go back to describe it from
20 the standpoint there was a reference made with
21 regard to the Howard University outside event at
22 the Bliss Nightclub. And this is relevant as it

1 relates to XS Lounge, because of the closeness in
2 proximity of an outside activity.

3 My family heard the Howard event. I
4 vividly remember the Howard event and the impact
5 that event had from a noise perspective. And so
6 the reason why I do believe having an outside
7 garden, nightclub, whatever you want to call it
8 at XS Lounge is that it will bring that sort of
9 noise closer to my home and add a similar sort of
10 impact in terms of disturbance.

11 Q Thank you.

12 MS. DREW: I don't have any further
13 questions.

14 CHAIRPERSON ANDERSON: Ms. Yohannes?

15 MS. YOHANNES: I don't have any
16 questions.

17 CHAIRPERSON ANDERSON: Any questions
18 by any Board Members? Hearing none, thank you,
19 sir, for your testimony. You can step down.

20 (Whereupon, the witness was excused.)

21 CHAIRPERSON ANDERSON: Do you have
22 another witness, ma'am?

1 MS. DREW: Yes, one more.

2 CHAIRPERSON ANDERSON: Okay. Who is
3 that?

4 MS. DREW: Leslie Bournes, a resident
5 of Gateway and also the Gateway Community
6 Association Treasurer.

7 CHAIRPERSON ANDERSON: Can you raise
8 your right hand, please, ma'am?
9 Whereupon,

10 LESLIE BOURNES
11 was called as a witness by the Protestant, and
12 having been first duly sworn, assumed the witness
13 stand and was examined and testified as follows:

14 THE WITNESS: I do.

15 CHAIRPERSON ANDERSON: Thank you.
16 Your witness. Go ahead.

17 DIRECT EXAMINATION

18 BY MS. DREW:

19 Q Please, state your name and spell it
20 and address for the record.

21 A Good afternoon. My name is Leslie
22 Bournes, L-E-S-L-I-E B-O-U-R-N-E-S. My address

1 is 3012 Adams Street, N.E., Washington, D.C.

2 Q And how long have you been in the
3 Gateway Community?

4 A Over 25 years.

5 Q Thank you. And what has been your
6 experience with the clubs in the neighborhood?

7 MS. YOHANNES: Objection.

8 CHAIRPERSON ANDERSON: I'll give --
9 I'm going to overrule the objection.

10 To start off, I'll give some leeway,
11 but if we are going far afield and talking about
12 clubs in the neighborhood, I'm going to sustain
13 your objection. But to ask -- but I think you
14 should realize by now, I'm going to give some
15 leeway to start, but that doesn't tell you is --
16 that you shouldn't object moving -- as we go
17 farther afield.

18 So I'm overruling the objection. You
19 can go ahead and answer the question.

20 THE WITNESS: My experience has been
21 their -- first, I have been involved in a number
22 of voluntary agreements, protests, applications

1 for the various clubs in the neighborhood.

2 Specifically to Power, which was
3 previously called XS Lounge, which I believe came
4 into the neighborhood in November of 2016, we met
5 the club owners. They came to our community
6 association. We expressed the concerns of that
7 property had been quiet, because it was
8 previously, prior to the establishment coming in,
9 a catering company.

10 So that operation was during the day.
11 There was no impact to the neighborhood because
12 the company catered food.

13 We expressed two XS our concerns about
14 the peace and tranquility, the problem of the
15 effects that we have experienced when there was a
16 previous club there and the problems that we
17 experienced with the current clubs in the
18 neighborhood.

19 We did meet with the -- both owners.
20 The residents met at community meetings. We have
21 -- I think we have been at several community
22 meetings. So residents were able to express

1 their concerns.

2 The club did do some improvements to
3 their establishment when they were XS, because
4 the noise, people complained about the noise. If
5 the doors were open, you could hear the noise.

6 At night, my experience at night is
7 when you are -- it was explained that the
8 residents came in. We turned the music up loud.
9 During the day, when you turn music up with all
10 of the traffic that is in the area and other --
11 different activities that kind of mask the noise,
12 you cannot hear the noise from the clubs.

13 But at 12:00 to 3:00 in the morning
14 when traffic has settled down, you can hear the
15 noise from the street levels and the noise rises.

16 My impact has been that I have called
17 when there is booming noise from the various
18 clubs in the neighborhood. We have referenced
19 the Howard University event that was outside and
20 that noise could be heard as far as the Fort
21 Lincoln Community.

22 So with the Power Club, they have

1 events now. There are -- I have witnessed
2 patrons that park on Channing Street, because I
3 get off late. So I'm driving through Bladensburg
4 Road to turning right onto Channing Street, right
5 onto 30th and left onto Adams Street to get to my
6 house and I have witnessed patrons that park
7 their vehicles in the neighborhood and walk to
8 the club.

9 I have also witnessed where there is
10 glass in the neighborhood on occasions on
11 weekends where someone has broken into vehicles.
12 And what that is a result of is people are --
13 it's not necessarily the patrons breaking into
14 the clubs, but people are driving around the
15 neighborhood watching the patrons put their
16 purses in their cars, in the backs of their
17 trunks or leaving items in their cars and then
18 they come through, someone comes through and
19 breaks into cars.

20 That's -- I have been involved in
21 writing voluntary agreements. I was previously
22 the president of Gateway Community Association.

1 And I have been actively active in my community
2 the 25 years that I have lived there.

3 BY MS. DREW:

4 Q Thank you. Can you describe the
5 demographics with the seniors and others living
6 in the neighborhood?

7 A Yes. In our Gateway Community
8 Association, we have, approximately, 175 homes.
9 And there is at least 50 percent, if not greater,
10 of residents that are seniors. The residents
11 that live on Channing Street and 30th Street is
12 more than half that are seniors.

13 Some of our older seniors are as old
14 as 91 years-old, that hear the noise at night, as
15 we were talking about the alley and 30th Street
16 where people are parking. Residents get anxious
17 on Friday evening, because they are not sure what
18 is going to happen on Friday night or Saturday.

19 So they are a little at -- uneasy and
20 they are not comfortable calling the police at --
21 to say that there has been a crime. They are
22 fearful of that as well. We do report issues to

1 our police officers when they come to our
2 community association meetings, so that's
3 probably why there are not a lot of reports, but
4 we need to probably do a better job to do the
5 complaints.

6 Q Can you describe some of the comments
7 that the MPD officers attending our neighborhood
8 association meeting have talked about with
9 problems with parking and crime, especially on
10 Channing and 30th Street?

11 MS. YOHANNES: Objection.

12 MS. DREW: And Douglas.

13 CHAIRPERSON ANDERSON: Why is this
14 question relevant?

15 MS. DREW: She was talking about MPD
16 coming and I think it is relevant that we provide
17 information on how this has impacted the rising
18 possible crime and parking issues have impacted
19 our neighborhood, especially closest to the club.

20 CHAIRPERSON ANDERSON: I'm going to
21 sustain the objection. Remember, we are talking
22 about this establishment, so you need to talk

1 about -- these questions, we now need to be
2 focusing on the impact that adding a summer
3 garden is going to have on peace, order and quiet
4 in the neighborhood.

5 So we have had plenty of discussion
6 regarding generally what is going on in the
7 neighborhood. Now, we need to focus on providing
8 this establishment with a summer garden. So you
9 need to ask a different question, ma'am.

10 MS. DREW: Thank you.

11 BY MS. DREW:

12 Q What are your concerns that there is
13 no sound mitigation or soundproofing plan
14 established yet for or even I think not talked
15 about really, other than that they have a plan?
16 How do you think this will impact the
17 neighborhood?

18 A My concern is that the noise levels
19 will increase. The concern is will that draw
20 additional patrons to the club that would not
21 normally patronize the club? The outdoor area,
22 we don't know what the control will be for that

1 outdoor area. It is a temporary facility or
2 plan.

3 We are concerned that the noise,
4 again, levels will increase, that we will hear
5 the music, that they will draw larger crowds to
6 the location. And the concern about what
7 residents -- what can residents do about this?

8 We have -- it's almost until something
9 happens, that we have to -- you know, that a flag
10 will be raised.

11 When Power or XS Lounge first came,
12 one of their comments was that this would be
13 older crowd that would attend the establishment.
14 We have witnessed younger patrons that are under
15 30, so that has changed. We just heard testimony
16 that they will have a hip-hop night and that
17 wasn't the type of entertainment that was
18 presented to us.

19 So we are concerned that this will
20 wharf into something else larger and we are
21 really concerned about, you know, how that
22 impacts people that are sleeping at night.

1 I know the city is changing, but our
2 area is residential. It is that Bladensburg Road
3 is commercialized, but there are -- you see the
4 homes in that radius, so it's not a mixed-use
5 area.

6 And again, you know, that there is the
7 peace and tranquility. We don't have the impact
8 of crime. The police officers do not have enough
9 persons to canvas our neighborhood. We have
10 worked with MPD and occasionally we will get a
11 police officer parked at 30th and Channing on
12 nights that there are events to prevent crime
13 from happening. They can't do that throughout
14 the entire time that this establishment is open,
15 so those are concerns.

16 Q Thank you. No further questions.

17 CHAIRPERSON ANDERSON: Any questions,
18 Ms. Yohannes?

19 MS. YOHANNES: Yes, just one question.

20 CROSS-EXAMINATION

21 BY MS. YOHANNES:

22 Q Isn't there a giant warehouse between

1 your house and the establishment Power?

2 A The warehouse that's a lower level,
3 yes. Um-hum, the warehouse is not high, so it's
4 actually -- first, there is -- so if we look at
5 the diagram --

6 Q The question has been answered.

7 A If we look at the diagram, there is a
8 parking lot behind Power and then a warehouse.

9 Q There is a warehouse. Thank you.

10 A Um-hum.

11 CHAIRPERSON ANDERSON: All right.

12 That's it?

13 MS. YOHANNES: Yes, that's it.

14 CHAIRPERSON ANDERSON: Any questions
15 by any Board Members? You do, Mr. Alberti?

16 MEMBER ALBERTI: Yes, I do.

17 CHAIRPERSON ANDERSON: Mr. Alberti?

18 MEMBER ALBERTI: So, Ms. Bournes, well
19 just I'm going to go with that last question.

20 THE WITNESS: Um-hum.

21 MEMBER ALBERTI: So we heard that Mr.
22 Smith's house is elevated above the warehouse,

1 because he can see the roof of --

2 THE WITNESS: Right.

3 MEMBER ALBERTI: -- the establishment.

4 Are you -- is your -- are you and your neighbors,
5 are they elevated?

6 THE WITNESS: Not as high as Mr.
7 Gilbert.

8 MEMBER ALBERTI: Okay. Can you see
9 the roof of the warehouse?

10 THE WITNESS: No, I cannot.

11 MEMBER ALBERTI: Okay. So do you have
12 concerns about the availability of parking in
13 your neighborhood?

14 THE WITNESS: Yes, I do.

15 MEMBER ALBERTI: Okay. And Mr. Smith
16 articulated that, in his opinion, whatever
17 parking concerns, pressures that were exasperated
18 or became worse, I'll say when -- after the club
19 opened.

20 THE WITNESS: Correct.

21 MEMBER ALBERTI: Is that -- do you
22 share that same opinion?

1 THE WITNESS: I do.

2 MEMBER ALBERTI: Okay. How much
3 worse? I mean, is it a lot worse or just
4 marginally?

5 THE WITNESS: Well, the Thursday or
6 Fridays and Saturdays, which the establishment is
7 open, the street on Channing Street, which has
8 less than 10 homes, some of the residents may
9 have two cars, but most of them have one, are
10 filled with parking when you make a left onto 30th
11 or a right onto 30th.

12 If you go right on 30th, there is one
13 house that the address is 30th Street.

14 MEMBER ALBERTI: Um-hum.

15 THE WITNESS: That block can be
16 filled. And to the right, that block is filled
17 with cars.

18 MEMBER ALBERTI: So is it fair to say
19 your concern is that if you increase this -- the
20 occupancy of the club by 60 people, that will
21 create additional pressures in the neighborhood?

22 THE WITNESS: Yes, because --

1 MEMBER ALBERTI: Parking pressures?

2 THE WITNESS: Yes, because they won't
3 be able to valet park in the current lot, so
4 those spaces will be taken by the summer garden
5 and so that will increase.

6 MEMBER ALBERTI: All right. Are you
7 concerned at all about noise?

8 THE WITNESS: Yes, I am.

9 MEMBER ALBERTI: Okay.

10 THE WITNESS: Very much so.

11 MEMBER ALBERTI: Are you bothered by
12 noise from the club?

13 THE WITNESS: I can hear the boom of
14 the bass. I don't hear noise per se from the
15 patrons, because I'm not on Channing Street or
16 30th Street. I only witness when I come home that
17 patrons are parking there and walking --

18 MEMBER ALBERTI: Okay.

19 THE WITNESS: -- to the establishment.
20 As well as on Bladensburg Road.

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

1 CHAIRPERSON ANDERSON: Any other?

2 Yes, Mr. Short?

3 MEMBER SHORT: Yes. Ms. Bournes,
4 thank you for taking the full day to be with us.
5 I noticed you have been here most of the day.

6 THE WITNESS: Um-hum.

7 MEMBER SHORT: And I asked this
8 question earlier and I should have asked it of
9 Mr. Smith also, but I didn't.

10 And I'm very familiar with your
11 neighborhood.

12 THE WITNESS: Um-hum.

13 MEMBER SHORT: It used to be a very
14 quiet neighborhood years and years ago, but I
15 remember George's used to be down there, that's
16 where I bought my first TV.

17 THE WITNESS: Yeah.

18 MEMBER SHORT: Quiet is was, you know.

19 THE WITNESS: Yeah.

20 MEMBER SHORT: But things change.

21 THE WITNESS: Sammy's Liquor Store is
22 still there.

1 MEMBER SHORT: So I would like to ask
2 the same question to you that I asked of the ANC
3 Commissioner Mullone that was here.

4 THE WITNESS: Uh-huh.

5 MEMBER SHORT: Is there residential
6 parking there in the 30th Street and Adams Street
7 and 31st Place?

8 THE WITNESS: So on Channing Street
9 there is two hour residential parking until 8:30
10 p.m. On 30th Street, there is residential parking
11 until 8:30. 30th Street going right. I don't
12 remember if 30th Street going left. Not -- 30th
13 Street going left, not 30th Street going right,
14 but all the -- but Channing Street has the
15 residential parking.

16 It -- people still park there, even
17 though we have two hour. And we have to
18 constantly call the parking DP --

19 MEMBER SHORT: Parking enforcement?

20 THE WITNESS: Parking enforcement.
21 Not only are we bombarded by the parking of -- we
22 are also bombarded by parking of Metro, because

1 that's a 24-hour operation, so those -- that also
2 impacts our area.

3 MEMBER SHORT: You talking about the
4 Metro workers?

5 THE WITNESS: Um-hum, yes, because the
6 bus barn is across the street directly across
7 from the establishment.

8 MEMBER SHORT: Now, how many years
9 have you been in the neighborhood?

10 THE WITNESS: 25. Over 25 years.

11 MEMBER SHORT: Okay. Well, I'll just
12 say this to you and I made this reference earlier
13 and I know Councilmember McDuffie and I know
14 pretty much -- well, I guess the election is
15 coming around.

16 THE WITNESS: Um-hum.

17 MEMBER SHORT: If U Street was able to
18 settle most of their problems with the
19 residential parking stickers in Adams Morgan and
20 a few other neighborhoods, Capitol Hill --

21 THE WITNESS: Right.

22 MEMBER SHORT: -- the Councilmember

1 has a lot of sway with the District Government.
2 And if parking becomes inhibited because -- and
3 enforcement really kicks in --

4 THE WITNESS: Um-hum.

5 MEMBER SHORT: -- with residential
6 parking, the businesses learn how to deal with it
7 and so do the citizens. So the businesses are
8 there. I mean, it's --

9 THE WITNESS: Right. That doesn't
10 address the noise though.

11 MEMBER SHORT: And it doesn't really
12 address things, but just saying if you get the
13 residential parking, I think that it would solve
14 a lot of the issues. And what happens is along
15 with that extra residential parking that Mr.
16 Mullone was talking about, then you get a special
17 spot that comes for parking restrictions.

18 I do know on U Street there are
19 certain neighborhoods you can't park in until
20 after 10:30, 11:00 at night.

21 THE WITNESS: Okay.

22 MEMBER SHORT: So --

1 THE WITNESS: Well, that is definitely
2 what we will take under consideration.

3 MEMBER SHORT: Yes.

4 THE WITNESS: And address with the
5 neighbors, because some of those areas are
6 already paying for the RPP for the two-hour.

7 MEMBER SHORT: Yes, extend it.

8 THE WITNESS: So -- um-hum.

9 MEMBER SHORT: But I'll just simply
10 say this, too, again, I'm a person that I think
11 businesses should survive in the city and
12 businesses here.

13 THE WITNESS: Um-hum.

14 MEMBER SHORT: Our tax is up and I was
15 hearing a lot of things about how well the city
16 is doing financially. But that means we have
17 more parking enforcement than we have ever had
18 before and those stickers and those things do
19 work.

20 And a lot of times what happens, then
21 the community can -- and what is it the Gateway?

22 THE WITNESS: Community Association.

1 MEMBER SHORT: Pretty much, I would
2 think that collectively if you guys put your
3 heads together, you could come up with some
4 solutions. And then the onus goes back to the
5 business side, because you have got to work it
6 out.

7 THE WITNESS: Right.

8 MEMBER SHORT: They are there, so --

9 THE WITNESS: Well, like I said, we
10 met with the establishment when they first came
11 into the community. We were able to go on-site.
12 Again, it is -- in addition to parking, it's also
13 the impact of the noise and peace and tranquility
14 for the residents in the community.

15 MEMBER SHORT: Okay. And my --

16 THE WITNESS: And the safety.

17 MEMBER SHORT: -- last question for
18 you is have you ever called ABRA's hotline about
19 the noise? Because there is a law.

20 THE WITNESS: Um-hum.

21 MEMBER SHORT: If the ABRA Inspector
22 comes out and you allow him to come into your

1 home or her to come into your home and they can
2 hear the noise inside of your house --

3 THE WITNESS: Um-hum.

4 MEMBER SHORT: -- and they go back and
5 identify that club, then action gets taken, all
6 right, immediately about the noise.

7 THE WITNESS: Yes. So we are -- we
8 have had ABRA at one of our community meetings.
9 We have advised residents to do that. We --
10 Janet, as a matter of fact, has had ABRA come
11 into her home, but some residents are not
12 comfortable at 1:00 or 2:00 or 3:00 in the
13 morning, even though that is a remedy to --

14 MEMBER SHORT: Oh, it works.

15 THE WITNESS: -- cite. So we will
16 continue to bring that to our residents and
17 will --

18 MEMBER SHORT: The H Street Corridor
19 is a very great example of that, the new -- I
20 mean, Noise Abatement Task Force --

21 THE WITNESS: Um-hum.

22 MEMBER SHORT: -- which is our ABRA

1 person and somebody from DCRA with a meter and
2 somebody from MPD. Once they go into a club and
3 if you allow them to come into your home and they
4 hear the noise and identify that club, that noise
5 stops right now.

6 THE WITNESS: And how long does it
7 take? I mean --

8 MEMBER SHORT: I really couldn't tell
9 you how long it takes, but I'll just simply say I
10 do know it works from hearing testimony and
11 seeing changes on H Street.

12 THE WITNESS: Um-hum, because of that.

13 MEMBER SHORT: Some of the loudness,
14 because what happens is the businesses realize
15 they want to function there, so then they have to
16 do something about --

17 THE WITNESS: Comply.

18 MEMBER SHORT: -- noise reduction.

19 THE WITNESS: Okay. I appreciate
20 that.

21 MEMBER SHORT: Okay. Thank you very
22 much for taking the time to be with us today.

1 THE WITNESS: Thank you.

2 CHAIRPERSON ANDERSON: Any other
3 questions by any other Board Members? Ms.
4 Yohannes?

5 MS. YOHANNES: No questions.

6 CHAIRPERSON ANDERSON: Ms. Drew, any
7 other final questions based on the questions that
8 were asked by the Board?

9 MS. DREW: No.

10 CHAIRPERSON ANDERSON: Thank you.
11 Thank you for your testimony, ma'am.

12 THE WITNESS: Thank you for the
13 opportunity.

14 MS. DREW: Thank you, Leslie.

15 CHAIRPERSON ANDERSON: Do you have any
16 other witnesses?

17 MS. DREW: No, that's all. Thank you.

18 CHAIRPERSON ANDERSON: You rest?

19 MS. DREW: I rest.

20 CHAIRPERSON ANDERSON: Do you guys
21 have any documents that you want to admit into
22 the evidence since we have not --

1 MS. DREW: Testimonies.

2 CHAIRPERSON ANDERSON: I'm sorry?

3 MS. DREW: Our witness testimonies.

4 CHAIRPERSON ANDERSON: What witness'
5 testimonies?

6 MR. SMITH: I have 10 copies of --

7 CHAIRPERSON ANDERSON: Oh.

8 MR. SMITH: -- my testimony that is in
9 evidence.

10 CHAIRPERSON ANDERSON: All right. No,
11 not you, sir. I have to -- you can talk to her
12 and then she can talk to me.

13 MR. SMITH: Okay.

14 CHAIRPERSON ANDERSON: So the only
15 documents we can move into evidence are documents
16 that are in the PIF.

17 MS. DREW: Oh.

18 CHAIRPERSON ANDERSON: So are these
19 documents in the PIF?

20 MS. DREW: Yes.

21 CHAIRPERSON ANDERSON: If they are not
22 in the PIF, those are the documents that -- the

1 only documents that I have. So what I'm asking
2 you is seven days prior to the hearing, both
3 sides were supposed to submit documents. So what
4 I'm saying is that are there documents that were
5 disclosed seven days before, that you want to
6 move into evidence?

7 MS. DREW: No.

8 CHAIRPERSON ANDERSON: You don't have
9 any documents?

10 MS. DREW: I don't know. So I'm --

11 CHAIRPERSON ANDERSON: What documents
12 did you submit when preparing for this evidence,
13 ma'am?

14 MS. DREW: What documents did I
15 submit?

16 CHAIRPERSON ANDERSON: Yes.

17 MS. DREW: I submitted our Gateway
18 Community Association agreement with XS Lounge.

19 CHAIRPERSON ANDERSON: Okay.

20 MS. DREW: Photos of the club parking
21 lot, three of them. Photos regarding the
22 distance, so that you could see the distance

1 between the residents' houses and the club and
2 the club parking lot.

3 CHAIRPERSON ANDERSON: All right.

4 MS. DREW: Photos of street litter on
5 Channing Street on January 3rd.

6 CHAIRPERSON ANDERSON: Okay.

7 MS. DREW: I don't have the video,
8 because I couldn't figure out how to get it into
9 MP4 format.

10 CHAIRPERSON ANDERSON: All right.

11 What other documents do you have?

12 MS. DREW: And the -- I have 12, 13
13 and 14 are printouts of the club events charging
14 cover.

15 MEMBER SHORT: Actually, if I could
16 make a comment?

17 CHAIRPERSON ANDERSON: What is that?

18 MEMBER SHORT: With those videos, if
19 you call ABRA and talk with our staff, they can
20 help you.

21 MS. DREW: Oh, okay. Okay. Because
22 they told me --

1 MEMBER SHORT: So then you can --

2 MS. DREW: -- I had to --

3 MEMBER SHORT: -- when you can display
4 them on the screen that you have, the screen that
5 you see here.

6 MS. DREW: They told me I had to
7 convert it into MP4. And I'm --

8 MEMBER SHORT: We have a technician
9 here that --

10 MS. DREW: -- technologically-
11 challenged.

12 MEMBER SHORT: So just push a little
13 harder. Bring it here and they can put it on for
14 you.

15 MS. DREW: Thank you.

16 MEMBER SHORT: Um-hum.

17 MS. DREW: Those are the exhibits in
18 the exhibit list.

19 MS. YOHANNES: We're going to make an
20 objection, at this time, to all of the exhibits
21 that have just been mentioned, because none of
22 them have been identified, none of them have any

1 foundation. There is nothing for them. And her
2 testimony has already rested.

3 CHAIRPERSON ANDERSON: I'm sorry, I
4 didn't hear you, ma'am. I didn't hear what you
5 said.

6 MS. YOHANNES: Oh, I said that I
7 wanted to object to the -- objection to all of
8 those into evidence. They have not been
9 identified. We don't know what they are. And
10 her testimony was already, I believe, at -- she
11 has already rested.

12 MEMBER ALBERTI: All right. The one
13 exhibit that I think that we do probably have is
14 the map of Mr. -- with Mr. Smith's residence
15 marked on it.

16 CHAIRPERSON ANDERSON: That's a part
17 of it, because that's a Board exhibit. So
18 basically, that's no --

19 MEMBER ALBERTI: Oh, that's a Board
20 exhibit?

21 CHAIRPERSON ANDERSON: That's a Board
22 exhibit.

1 MEMBER ALBERTI: Okay.

2 CHAIRPERSON ANDERSON: That --

3 MEMBER ALBERTI: I just wanted to make
4 sure we were --

5 CHAIRPERSON ANDERSON: That's a Board
6 exhibit.

7 MEMBER ALBERTI: Okay.

8 CHAIRPERSON ANDERSON: And because he
9 just marked --

10 MEMBER ALBERTI: Okay.

11 CHAIRPERSON ANDERSON: -- his
12 location, so that's No. 16.

13 I don't -- I have to agree with
14 counsel, because we have documents, but they have
15 not been identified, so I'm not going to
16 introduce them into evidence.

17 MS. DREW: I apologize. I was
18 answering your question, so that's why I was
19 listing, because you asked which exhibits were
20 submitted with the PIF.

21 CHAIRPERSON ANDERSON: Right.

22 MS. DREW: And so that's why I was

1 reading them off.

2 CHAIRPERSON ANDERSON: All right. So
3 I'm not going to -- I mean, outside of No. 16,
4 which is a part of the Board's documents that was
5 identified, that's the only document that I'm
6 going to allow in evidence.

7 (Whereupon, the above-
8 referred to document was
9 marked as Protestant Exhibit
10 No. 16 and was received into
11 evidence.)

12 CHAIRPERSON ANDERSON: Okay. So which
13 is -- so I will -- whatever the testimony is on
14 No. 16, which was a circle, I mean, that's the
15 only document that I will -- that will be --
16 that's the only document that I will -- all
17 right, that will be moved into evidence.

18 Now, on behalf of the Applicant or the
19 licensee, I mean, outside of -- the only exhibit
20 that I have for the Applicant is the one that --
21 Exhibit 1 that I allowed, which is a diagram of
22 the parking lot. That's the only document that--

1 unless there is another document here that we had
2 testimony and that you want to move in?

3 MS. YOHANNES: No, that's correct,
4 that's the only document.

5 CHAIRPERSON ANDERSON: I'm sorry?

6 MS. YOHANNES: That's correct, that's
7 the only document.

8 CHAIRPERSON ANDERSON: All right.
9 That's the only document. Okay. So all right.
10 All right. Is the Applicant ready to move
11 forward with its closing?

12 MS. YOHANNES: Yes.

13 CHAIRPERSON ANDERSON: And then you
14 are going to have -- after that you do your
15 closing argument. Yes, go ahead, please.

16 MS. YOHANNES: We have an application
17 here for a summer garden endorsement. Initially,
18 the requested occupancy was 96. The request and
19 the intention of the request had changed after
20 various communications and conversations and now
21 the request that is being made to the Board is
22 that the Board approve a summer garden

1 endorsement for 60 seats.

2 The Board has heard testimony from the
3 operator of the establishment, the owner of the
4 establishment and we have provided testimony and
5 evidence to show that adding the summer garden
6 will not have a negative impact on peace, order
7 and quiet.

8 The operators have shown that they are
9 involved, that they are at the establishment
10 daily and that they are willing to work with the
11 community.

12 I would like to point out that what
13 the protestant has done here, Gateway
14 Association, is -- this is a group that doesn't
15 want any establishments in the area. This entire
16 night we have sat here and we have heard
17 testimony that has been given by the protestant
18 that addresses general issues and general
19 problems in the neighborhood and just general
20 things, nothing in the testimony regarding Power
21 itself.

22 Kevin Mullone testified regarding the

1 neighborhood. We heard a lot of information
2 regarding the moratorium. We listened to the
3 community, the history of the community, but
4 nothing that he said was specific in regarding
5 Power.

6 We heard testimony from Mr. Smith. He
7 testified regarding various clubs in the
8 neighborhood. He -- his testimony did not
9 identify that Power was the cause or created any
10 issues to adverse impact in the neighborhood.

11 All noise concerns, parking concerns
12 were related generally to the area, to the
13 neighborhood, nothing specific to Power.

14 Leslie Bournes testified that she
15 didn't hear -- she said she didn't hear any noise
16 from Power. She testified regarding noise, but
17 she said that her house was far enough to where
18 she couldn't hear any noise.

19 So we have Gateway here who is
20 protesting the license or protesting the summer
21 garden endorsement as a result of just general
22 issues. They provided no evidence to indicate

1 that granting the summer garden would have an
2 adverse impact on peace, order and quiet.

3 On the other hand, we have Applicants
4 here who have done and have gone above and beyond
5 to try to speak with the community, with the ANC,
6 with Gateway to try to mitigate any concerns that
7 they have.

8 So the application that is before the
9 Board now, there has been sort of some
10 modifications. They are coming to the Board now,
11 they are asking for 60 seats. They are asking
12 for a reduced -- preferred reduced hours or not
13 reduced hours, but they are cutting back the
14 hours that were initially requested.

15 So initially, we requested Friday and
16 Saturday -- we requested to be open 2:00 a.m.
17 during the week and 3:00 a.m. during the
18 weekends. And that's what the application calls
19 for.

20 Now, Power is requesting or is
21 agreeing or is requesting to be open only until
22 11:00 p.m., so that also significantly decreases

1 any potential impact that that could have on
2 parking and on the community.

3 So additionally, the hours that --
4 just addressing occupancy, addressing parking
5 needs, Power has been in operation Saturdays and
6 Sundays from 5:00 p.m. until 3:00 a.m.

7 What is being requested is from -- I'm
8 sorry, from 10:00 p.m. to 2:00 a.m. and 10:00
9 p.m. to 3:00 a.m.

10 What is currently being requested is
11 from 5:00 p.m. -- a summer garden from 5:00 p.m.
12 to 11:00 p.m., plus that should not add or cause
13 any additional problems for parking. This would
14 be a move -- you know, a summer garden with
15 tables and chairs that can be removed.

16 So if the summer garden is open from
17 5:00 to 11:00 p.m., come 11:00 p.m., these items
18 could be removed and that therefore increases or
19 it takes away from, decreases the issues with
20 parking.

21 Additionally regarding occupancy, the
22 total occupancy of Power currently is 299, that's

1 what the Certificate of Occupancy says. So as of
2 now, not only is the establishment willing to cut
3 back on the hours, to cut back on the 90 -- from
4 the 96 to 60, at this point, they are also
5 willing to keep the 299 as a total occupancy.

6 So that would be -- this is the third
7 sort of shift where we initially requested 96.
8 We then requested 60. And now to mitigate any
9 other additional issues, they are even willing to
10 go to 299 or to keep 299 total, that way, you
11 know, to show that the amount of people would not
12 affect or have adverse effect on parking.

13 So just to remind or just to state
14 that the issue today and the issue before the
15 Board is whether the summer garden endorsement,
16 in granting the summer garden endorsement would
17 have adverse impact on peace, order, quiet or
18 parking.

19 The issue before the board is not
20 whether granting this license would have adverse
21 impact. This license has already been granted.
22 And the community here, the protestant here just

1 is not wanting to have any establishments in the
2 area, any additional summer gardens or spaces
3 period and would like the moratorium to, in
4 effect, govern this establishment and that's just
5 not the case.

6 So I think that additionally under the
7 appropriateness test, the Board should also
8 consider the efforts that have been made by Power
9 to alleviate the needs or alleviate the
10 operational concerns of the protestant.

11 So in conclusion, I believe that the
12 evidence has shown that the granting of the
13 summer garden endorsement will not adversely
14 effect peace, order, quiet or residential parking
15 and that it is appropriate for the neighborhood
16 and I don't believe that protestant has showed
17 any evidence that Power in itself would have any
18 adverse effects.

19 So we request the granting of the
20 summer garden endorsement.

21 CHAIRPERSON ANDERSON: All right.

22 Thank you. Yes, ma'am?

1 MS. DREW: Thank you. We continue to
2 raise concerns that there has been no adequate
3 planning for this summer garden. All of the
4 paperwork that I have says 96 seats. There is no
5 sound mitigation plan. It would take away
6 parking.

7 And suddenly things are shifting, so
8 suddenly we have -- oh, and it would go until
9 3:00 a.m. But suddenly we are shifting to 60
10 seats and 11:00 p.m. We still don't have any
11 idea what this sound mitigation plan might be.
12 The -- it sounds like this would occur during the
13 outdoor summer garden would host happy hour, but
14 we don't know when the happy hours are.

15 It would remove parking spaces. They
16 have admitted to it. This is a problem. As we
17 have seen, we are going to be losing even more
18 parking just over the next few months, so I don't
19 see how any reasonable person can say it's not
20 going to add to the parking on the streets in our
21 neighborhood, if you are removing parking.

22 Also, there have been two violations

1 just in the time that the club owner and manager
2 knew that the club was going to be inspected due
3 to this protest. So I have concerns that they
4 don't really pay as close attention as they
5 should to ensure that ABRA Rules and Regulations
6 are followed.

7 We -- on those grounds, because we
8 believe that it would add to the parking problem,
9 add to the noise and take away from our peace and
10 tranquility, that the summer garden should not be
11 granted. Thank you.

12 CHAIRPERSON ANDERSON: Okay. Thank
13 you. Do the parties wish to file proposed
14 findings of fact and conclusions of law or just
15 rest on the testimony and -- the testimony that
16 we have had today?

17 MS. YOHANNES: We --

18 MS. DREW: Well, I did raise it--

19 CHAIRPERSON ANDERSON: Go ahead, Ms.
20 Yohannes, what?

21 MS. YOHANNES: We are going to rest.

22 MS. DREW: I did raise a couple of --

1 now, I've got to find my --

2 CHAIRPERSON ANDERSON: A couple of
3 what?

4 MS. DREW: A couple of previous Board
5 findings. Is this when I talk about them?

6 CHAIRPERSON ANDERSON: No, no.
7 Basically, the case is -- this is what I was
8 asking is that one could say we issue the
9 transcript, you read the transcript, this is what
10 you say that the testimony showed or you can just
11 say you know what, we will rest on the testimony
12 that was given today and we will make a decision
13 on that. And that's what I was asking.

14 So whatever our find -- whatever Board
15 decisions that you have, where we -- our
16 decisions, so we will make our decision based on
17 that. So and they have decided that they don't
18 want to file any other documents and we will just
19 make our decision on what is presented today.

20 MS. DREW: We will rest.

21 CHAIRPERSON ANDERSON: Okay. All
22 right. Fine.

1 As Chairperson of the Alcoholic
2 Beverage Control Board for the District of
3 Columbia and in accordance with DC Official Code
4 Section 2-574(b) of the Open Meetings Act, I move
5 that the ABC Board hold a closed meeting for the
6 purpose of seeking legal advice from our counsel
7 on Case No. 17-PRO-00056, Power Night Club,
8 pursuant to DC Official Code Section 2-574(b)(4)
9 of the Open Meetings Act and deliberating upon
10 Case No. 17-PRO-00056, Power Night Club, for the
11 reasons cited in DC Official Code Section 2-
12 574(b)(13) of the Open Meetings Act. Is there a
13 second?

14 MEMBER SHORT: Second.

15 CHAIRPERSON ANDERSON: Mr. Short has
16 seconded the motion. I will now take a roll call
17 vote on the motion before us now that it has been
18 seconded.

19 Mr. Silverstein?

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON ANDERSON: Mr. Short?

22 MEMBER SHORT: I agree.

1 CHAIRPERSON ANDERSON: Mr. Alberti?

2 MEMBER ALBERTI: I agree.

3 CHAIRPERSON ANDERSON: Mr. Isaac?

4 MEMBER ISAAC: I agree.

5 CHAIRPERSON ANDERSON: Mr. Anderson?

6 I agree.

7 As it appears that the motion has
8 passed, I hereby give notice that the ABC Board
9 will recess this proceeding to hold a closed
10 meeting in the ABC Board conference room pursuant
11 to Section 2-574(b) of the Open Meetings Act.

12 I want to thank both parties for their
13 presentation today. The Board will take this
14 matter under advisement and issue a decision
15 within 90 days. Thank you very much.

16 MS. YOHANNES: Thank you.

17 MS. DREW: Thank you.

18 CHAIRPERSON ANDERSON: All right.

19 Thank you. All right. Let me -- all right. I
20 am going to now -- now, don't get too -- don't
21 leave, Mr. --

22 MEMBER ALBERTI: No, we're going to do

1 the agenda.

2 CHAIRPERSON ANDERSON: Don't leave,
3 Mr. -- all right.

4 MEMBER ALBERTI: We're off the record?

5 CHAIRPERSON ANDERSON: No. The case
6 is over, but I need to do the rest of the agenda.

7 MEMBER SILVERSTEIN: I'm just asking
8 if you wanted to do a legal brief. You don't.

9 CHAIRPERSON ANDERSON: All right.

10 (Whereupon, the Protest Hearing was
11 concluded at 6:07 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: 2335, LLC
t/a Power Night Club/Lounge/
Restaurant (Formerly: XS Lounge)

Before: DC Alcoholic Beverage Control Board

Date: 01-10-18

Place: Washington, DC

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

Neal R Gross

Court Reporter

NEAL R. GROSS

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