

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

IN THE MATTER OF:
Spero, LLC,
t/a Reverie
3210 Grace Street NW
Retailer CR - ANC 2E
License No. 108125
Case #17-PRO-00088
(Application for a New
License)

Wednesday
January 31, 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
BOBBY CATO, JR., Member
DONALD ISAAC, SR., Member
JAMES SHORT, Member
MIKE SILVERSTEIN, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

ANGIE FETHERSTON, Licensee

JOHNNY SPERO, Licensee

KATHLEEN MENDES, Protestant

LISA PALMER, ANC 2E

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

2 9:41 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 is Case No. 17-PRO-00088, Reverie, License No.
5 108125.

6 Would the parties, please, approach
7 and identify themselves for the record, please?

8 MS. PALMER: Hi, Lisa Palmer from ANC-
9 2E.

10 MR. SPERO: Johnny Spero for Reverie
11 Restaurant, Spero, LLC. I believe my partner is
12 actually just making her way through security
13 right now.

14 CHAIRPERSON ANDERSON: Do you want me
15 to recall the case until he comes or --

16 MR. SPERO: Sure. Yeah, I don't want
17 to hold you up, but, yeah.

18 CHAIRPERSON ANDERSON: All right.
19 Well, since you said that your partner --

20 MR. SPERO: Okay.

21 CHAIRPERSON ANDERSON: -- is -- why
22 don't you step back.

1 MR. SPERO: Okay.

2 CHAIRPERSON ANDERSON: And I'll move
3 on with the calendar.

4 MR. SPERO: All right. Thank you very
5 much.

6 CHAIRPERSON ANDERSON: Okay.

7 (Whereupon, the above-entitled matter
8 went off the record at 9:42 a.m. and resumed at
9 10:01 a.m.)

10 CHAIRPERSON ANDERSON: The next case
11 on our calendar is Case No. 17-PRO-00088,
12 Reverie, License No. 108125.

13 Would the parties, please, approach?
14 Can you introduce yourself again for the record?

15 MS. PALMER: Sure. Lisa Palmer, ANC-
16 2E05

17 CHAIRPERSON ANDERSON: Ms. Palmer,
18 good morning.

19 MS. PALMER: Good morning.

20 MS. MENDES: Kathleen Mendes, K-A-T-H-
21 L-E-E-N M-E-N-D-E-S.

22 CHAIRPERSON ANDERSON: And who are

1 you, Ms. Mendes?

2 MS. MENDES: Representing the
3 residential unit owners.

4 CHAIRPERSON ANDERSON: So you are
5 representing the abutting property owners?

6 MS. MENDES: Yes, abutting owners.

7 CHAIRPERSON ANDERSON: Yes?

8 MS. FETHERSTON: Angie Fetherston, F-
9 E-T-H-E-R-S-T-O-N, the licensed applicant.

10 MR. SPERO: Johnny Spero, S-P-E-R-O,
11 also the licensee, sir.

12 CHAIRPERSON ANDERSON: All right. Are
13 there any preliminary matters in this case?

14 MS. FETHERSTON: I think we have a
15 couple of matters, first, as far as the group of
16 residents and concerns. We didn't come to the
17 Roll Call Hearing and I know they can be
18 represented, but don't they have to show up at--

19 CHAIRPERSON ANDERSON: What? What --
20 all right. Standing -- all right. Who protested
21 your license? Tell me who? In your mind, who
22 protested your license?

1 MS. FETHERSTON: We had 10 residents
2 from the building complex that we are in submit
3 protest support.

4 CHAIRPERSON ANDERSON: And they
5 submitted protest as what? As abutting property
6 owner or as protestants, as a Group of Five or
7 More, in your mind?

8 MS. FETHERSTON: They did both.

9 CHAIRPERSON ANDERSON: Which one did
10 they do?

11 MS. FETHERSTON: They did -- according
12 to them in our conversations and poking around,
13 they did it as both.

14 CHAIRPERSON ANDERSON: All right. So
15 tell me, from your perspective, at the Roll Call
16 Hearing, who was granted standing?

17 MS. FETHERSTON: They were granted
18 conditional --

19 CHAIRPERSON ANDERSON: They who? They
20 who?

21 MS. FETHERSTON: The -- this group of
22 abutting property owners were granted conditional

1 standing.

2 CHAIRPERSON ANDERSON: Okay.

3 MS. FETHERSTON: Based on the two
4 people that were representing them there that
5 day.

6 CHAIRPERSON ANDERSON: Okay.

7 MS. FETHERSTON: But for most of these
8 people, we haven't met them or heard from them or
9 have really contacted from each of them.

10 CHAIRPERSON ANDERSON: Okay. Okay.

11 Now, let me hear from the ANC, Ms. Palmer?

12 MS. PALMER: Yes. We have been
13 working with the applicant on a settlement
14 agreement.

15 CHAIRPERSON ANDERSON: So you are the
16 ANC and you were granted standing?

17 MS. PALMER: Yes.

18 CHAIRPERSON ANDERSON: Now, Ms.
19 Mendes, I know that you were not necessarily the
20 representative at the meeting, so from your
21 perspective at the Roll Call Hearing, tell us
22 whether or not you -- I was told that you were

1 granted conditional standing. So explain to me
2 what happened.

3 MS. MENDES: I can't speak to what
4 exactly happened at that meeting. I know at that
5 meeting I was -- gave my consent, my proxy, I
6 don't know if that's the right term --

7 CHAIRPERSON ANDERSON: Okay.

8 MS. MENDES: -- to Ester to represent,
9 you know, me, because I was not in Washington,
10 D.C. at the time.

11 CHAIRPERSON ANDERSON: That's fine.

12 MS. MENDES: What I was asked to do
13 today, and I'm sorry if this is out of process,
14 your process, I have some additional
15 documentation that I brought from Carl Anderson
16 who is one of the individuals assigned to protest
17 one of the -- who is claiming to be an abutting
18 owner and he has some documentation, which I
19 brought with me, with photos and documentation--

20 CHAIRPERSON ANDERSON: So --

21 MS. MENDES: -- for the Board.

22 CHAIRPERSON ANDERSON: -- the

1 controversy that we are having then is -- all
2 right. So --

3 MS. MENDES: Thank you.

4 CHAIRPERSON ANDERSON: -- as far as
5 the ownership, the licensee, you have an abutting
6 property owner means that there is -- and there
7 is a specific definition in the law what an
8 abutting property owner is.

9 So the Board could grant standing to
10 the abutting property owner. I think the
11 condition -- I think the reason why they were
12 given conditional standing is because are they
13 really abutting property owners? And I think
14 that from what I am told, there are some
15 documents.

16 So and I see there is a Motion to
17 Dismiss to say they are not abutting property
18 owners. So who wants to go first to whether or
19 not we should give the abutting property owner
20 standing based on -- I think you filed -- did you
21 file a motion?

22 MS. FETHERSTON: We filed a motion,

1 yes, sir.

2 CHAIRPERSON ANDERSON: And so what's
3 the nature of the motion that you filed?

4 MS. FETHERSTON: We have a couple of
5 handouts to show. We are part of this larger
6 building complex that has many commercial units
7 as well as condos above.

8 CHAIRPERSON ANDERSON: Okay.

9 MS. FETHERSTON: And our units -- do
10 you have Set 1?

11 MR. SPERO: Yeah. I just have a
12 single copy.

13 MS. FETHERSTON: Okay.

14 CHAIRPERSON ANDERSON: Well, if you
15 are coming to a hearing and you have documents, I
16 mean, you can't come with a single copy. You
17 need to bring copies, so that we can all see. So
18 if you have documents, can you --

19 MS. FETHERSTON: Yes, we're getting
20 copies.

21 CHAIRPERSON ANDERSON: -- get -- yeah.
22 So you can make the argument. Go ahead.

1 MS. FETHERSTON: So our -- the unit
2 that we leased is underneath a large terrace and
3 part of two units, Unit 205 and Unit 206. And
4 those units did not file any protest.

5 CHAIRPERSON ANDERSON: Okay.

6 MS. FETHERSTON: The units that filed
7 protests are elsewhere in the building.

8 CHAIRPERSON ANDERSON: What do you
9 mean elsewhere in the building? Where?

10 MS. FETHERSTON: The building
11 encompasses almost the whole city block.

12 CHAIRPERSON ANDERSON: Right.

13 MS. FETHERSTON: So these units -- I
14 don't have the specific plans besides the area
15 that is directly around and above us, but they
16 are on a different floor. They are on a
17 different side of the block. We don't share an
18 entrance.

19 CHAIRPERSON ANDERSON: So you are --
20 so I know you are not an attorney. So you are
21 saying that because they are not -- they don't
22 touch your building, they are at -- down the

1 block, somewhere else, that they are not abutting
2 property owners? Is that what you are saying?

3 MS. FETHERSTON: Yes, sir.

4 CHAIRPERSON ANDERSON: That's what I'm
5 -- I need you to --

6 MS. FETHERSTON: Okay.

7 CHAIRPERSON ANDERSON: -- I know you
8 are not an attorney, so that's what I need you to
9 tell me. Tell me why it's that we shouldn't
10 grant them standing. That's -- I just explained
11 that.

12 MS. FETHERSTON: We do not share any
13 dividing walls with them.

14 CHAIRPERSON ANDERSON: Okay. Yes,
15 ma'am, go ahead.

16 MS. MENDES: One of the owners who is
17 -- has filed a petition to protest is Unit 207,
18 which is not one of the units you just
19 referenced, and that is -- shares a common wall
20 with the restaurant. His bedroom wall is within
21 5 feet of the restaurant. So I have a photo of
22 his -- you know, I have copies for all and a

1 letter from Carl Anderson, who is one of the
2 protests. So can I -- do I --

3 CHAIRPERSON ANDERSON: You -- yeah.
4 Where did she go? When she comes back, I'll give
5 it to her.

6 MS. MENDES: And this is --

7 CHAIRPERSON ANDERSON: Yeah, go, yeah.

8 MS. PALMER: And if I may just to add,
9 the designated representative, I believe, had to
10 leave the country.

11 CHAIRPERSON ANDERSON: That was passed
12 on, so that's one of the reasons why --

13 MS. PALMER: Okay.

14 CHAIRPERSON ANDERSON: -- if you
15 didn't follow my train of thought, I said she was
16 not at the Roll Call Hearing.

17 MS. PALMER: Yeah.

18 CHAIRPERSON ANDERSON: So I am aware
19 of that.

20 MS. PALMER: Okay. I'm sorry.

21 CHAIRPERSON ANDERSON: Yeah, I'm aware
22 of that. Now, what information are you providing

1 to us?

2 MS. MENDES: I'm sorry?

3 CHAIRPERSON ANDERSON: What
4 information did you just provide to us?

5 MS. MENDES: It was a letter from Carl
6 Anderson.

7 CHAIRPERSON ANDERSON: Okay.

8 MS. MENDES: And a photo. I'm not
9 sure what is the technical --

10 CHAIRPERSON ANDERSON: And who is Mr.
11 Carl Anderson?

12 MS. MENDES: Carl Anderson is --

13 CHAIRPERSON ANDERSON: Henderson?

14 MS. MENDES: -- Carl Anderson is a
15 unit owner of 207 and he is asserting that his
16 unit abuts the Reverie Restaurant.

17 CHAIRPERSON ANDERSON: 207. So where
18 is 207? Do you know where 207 is? Is 207 one of
19 the -- so is --

20 MS. MENDES: And excuse me, one other
21 thing. He couldn't be here today because of
22 health reasons.

1 CHAIRPERSON ANDERSON: Yeah.

2 MS. MENDES: So that's why --

3 CHAIRPERSON ANDERSON: No, that's
4 fine.

5 MS. MENDES: -- he couldn't make it.

6 CHAIRPERSON ANDERSON: So where is
7 your restaurant and where is 207, ma'am?

8 MS. FETHERSTON: Our restaurant is
9 below mostly 205, a portion of 206 and my
10 assumption is that 207 is beyond 206.

11 CHAIRPERSON ANDERSON: All right. Did
12 you provide her with a copy of this map?

13 MS. MENDES: I was asked to provide
14 seven copies.

15 CHAIRPERSON ANDERSON: Okay.

16 MS. MENDES: And I don't --

17 CHAIRPERSON ANDERSON: Okay. All
18 right. So we are going to give you a copy of the
19 map that was just given to us. And so you can
20 let us know where your restaurant is and where
21 207 is and whether or not 207 touches your
22 restaurant. So we will share the map with you.

1 MS. FETHERSTON: I think in the floor
2 plans that we provided that encompass even larger
3 than our restaurant, 207 isn't even on it.

4 CHAIRPERSON ANDERSON: All right.
5 Where is the -- your -- where are the floor plans
6 that you provided? I don't have a copy of it.
7 Oh, here it is. Yes, I don't have your floor
8 plans.

9 MS. FETHERSTON: You don't have that
10 either?

11 CHAIRPERSON ANDERSON: No, I have it.
12 Can you share a copy of the floor plans with
13 them, please?

14 So, Ms. Mendes, I'm not sure if you
15 are as bad in reading floor plans as I am, so --

16 MS. MENDES: I think I am.

17 CHAIRPERSON ANDERSON: -- I'll just --
18 huh?

19 MS. MENDES: I think I am. I think I
20 need a magnifying glass.

21 CHAIRPERSON ANDERSON: All right. So
22 but can you guys tell me where 207 is on this

1 floor plan?

2 MS. MENDES: I think 207 is to the
3 left of -- if you are looking at 206, 207 should
4 be to the left.

5 CHAIRPERSON ANDERSON: No, I don't
6 see. On the floor, where is --

7 MS. MENDES: I mean, let me -- I
8 couldn't, you know, 100 percent say.

9 CHAIRPERSON ANDERSON: All right.

10 MS. MENDES: All I know is that our
11 unit is 306.

12 CHAIRPERSON ANDERSON: All right.

13 MS. MENDES: And it's above it.

14 CHAIRPERSON ANDERSON: All right.

15 MS. MENDES: 307 is to the left of it,
16 so I'm assuming that 207 would be to the left of
17 206.

18 CHAIRPERSON ANDERSON: All right.

19 MEMBER ALBERTI: Is 207 on the first
20 floor or second floor?

21 MS. MENDES: Excuse me?

22 MEMBER ALBERTI: Is it on the first

1 floor or second floor?

2 MS. MENDES: Is 206?

3 CHAIRPERSON ANDERSON: 207. What
4 floor is it on?

5 MEMBER ALBERTI: We're talking about
6 207. Is it on the first floor or second floor?

7 MS. MENDES: The second floor.

8 CHAIRPERSON ANDERSON: And what floor
9 is the restaurant on?

10 MS. FETHERSTON: It's the first floor.

11 MEMBER ALBERTI: Okay. Entirely on
12 the first floor?

13 MS. FETHERSTON: Yes, sir.

14 MR. SPERO: Yes, sir.

15 MEMBER ALBERTI: Okay.

16 CHAIRPERSON ANDERSON: And --

17 MEMBER ALBERTI: So what is it
18 directly above? What unit is directly above the
19 restaurant?

20 MR. SPERO: 205 and 206.

21 MS. MENDES: It would be the second
22 floor.

1 CHAIRPERSON ANDERSON: Right. What
2 unit? What unit?

3 MS. MENDES: I'm sorry.

4 CHAIRPERSON ANDERSON: Hold on, hold
5 on, hold on.

6 MR. SPERO: My apologies.

7 CHAIRPERSON ANDERSON: Yes, no.

8 MR. SPERO: So it's the terrace, which
9 is an exterior space.

10 CHAIRPERSON ANDERSON: Right.

11 MR. SPERO: And then 205 and 206.

12 CHAIRPERSON ANDERSON: 205 and 206 are
13 directly above?

14 MS. FETHERSTON: Yes, sir.

15 CHAIRPERSON ANDERSON: So 207 is
16 where?

17 MS. MENDES: Honestly, right now, I
18 couldn't --

19 CHAIRPERSON ANDERSON: What unit do
20 you live in, ma'am?

21 MS. MENDES: I live in 306.

22 CHAIRPERSON ANDERSON: 306?

1 MS. MENDES: Which is upstairs.

2 CHAIRPERSON ANDERSON: So all right.
3 So is 306 -- is 307 -- is the unit next to you
4 307?

5 MS. MENDES: The unit next to us is
6 307 and it's catty -- it's kind of like at an
7 angle. But in this building, every unit is just
8 a little bit different, so I couldn't
9 categorically say exactly where 207 is. And I
10 don't want to misstate anything. And I didn't
11 realize I was going to need --

12 CHAIRPERSON ANDERSON: No. The issue
13 that we are having is that --

14 MS. MENDES: Yeah, I understand. I
15 understand.

16 CHAIRPERSON ANDERSON: The issue that
17 we are having is that on their floor plan, they
18 are saying that the abutting property owners
19 would be 205 and 206.

20 MS. MENDES: Yeah, I got -- and they
21 are not protesting and 207 is.

22 CHAIRPERSON ANDERSON: Right.

1 MS. MENDES: And the thing is --

2 CHAIRPERSON ANDERSON: And so what
3 they are saying is that 207 is nowhere close to
4 the restaurant.

5 MS. MENDES: Well, 207 is to the left
6 of 206, that I know, but I don't know exactly
7 what angle it would be at.

8 CHAIRPERSON ANDERSON: All right.

9 MS. MENDES: Just because of the way
10 these are configured in the building.

11 CHAIRPERSON ANDERSON: All right. And
12 so I'm coming, Mr. Silverstein. And so what I'm
13 being told is that 207 -- if 207 is to the left
14 of 206, that 207 doesn't touch the restaurant.
15 And so that's like too far away to say that you
16 are an abutting property owner. I think that's
17 what I'm being told.

18 MS. MENDES: I mean, I --

19 CHAIRPERSON ANDERSON: But I know you
20 are not an expert, so you can't --

21 MS. MENDES: Yes, I believe it is if
22 it's -- if the second floor is the same as the

1 third floor, it's to the left of it.

2 CHAIRPERSON ANDERSON: Right.

3 MS. MENDES: That's all I can say.

4 CHAIRPERSON ANDERSON: Okay. Yes, Mr.
5 Silverstein?

6 MEMBER SILVERSTEIN: I would ask both
7 sides where does the restaurant end? Does it end
8 at the end of 206 or does it end in the middle of
9 206 somewhere?

10 MS. FETHERSTON: It -- I think you can
11 see it in the floor plan, it ends about maybe a
12 third into 206 and then there is the rest of 206
13 and then 207.

14 MEMBER SILVERSTEIN: All right. So
15 how far would you say it would be?

16 MS. FETHERSTON: Into 206?

17 MEMBER SILVERSTEIN: To the -- how
18 much of 206 is not covered by the restaurant?

19 MS. FETHERSTON: 75 percent.

20 CHAIRPERSON ANDERSON: Yes, Mr.
21 Alberti?

22 MEMBER ALBERTI: Mr. Silverstein, just

1 let me interject here. So just so we are all on
2 solid ground here, your diagram doesn't provide
3 measurements.

4 MS. FETHERSTON: Okay.

5 MEMBER ALBERTI: But I'm sure since
6 you have these diagrams, you probably have an
7 architectural drawing with measurements on it.
8 And it would be incredibly helpful for us if we
9 had measurements that tell us exactly the
10 dimensions of your restaurant and the dimensions
11 of the apartments or the units above.

12 I mean, if we had that, then I can
13 read plans. I mean, I can understand these
14 plans, but I'm at a loss because either it's not
15 legible or they are not -- those dimensions are
16 not here.

17 And, Chairman Anderson, I would feel
18 more comfortable if we held our judgment until we
19 got that information and both parties are more
20 than invited to supply that information. But I
21 think we need that information to make this
22 determination.

1 MS. MENDES: I'm not --

2 CHAIRPERSON ANDERSON: Hold on, ma'am.

3 Hold on. Yes, ma'am?

4 MS. MENDES: I'm sorry. I believe
5 that Ester had sent in some -- emailed some
6 information to the Board and I think actually I
7 made -- have made some copies. I have made some
8 copies of some things first thing this morning,
9 before I came. And it had some diagrams in it
10 and I don't know if that's what those -- I don't
11 know if those architectural drawings have the
12 information.

13 CHAIRPERSON ANDERSON: Let me see it.
14 I mean, the reason why we are having this
15 conversation here is that the Board will make a
16 decision whether or not we are going to dismiss
17 the protest from the abutting property owner.

18 MS. MENDES: Right, right.

19 CHAIRPERSON ANDERSON: So that's where
20 that is.

21 MS. MENDES: Right, right.

22 CHAIRPERSON ANDERSON: The ANC, there

1 is no issues with the ANC, because they have
2 standing. So it's whether or not -- for the
3 abutting property owner, whether or not they are
4 going to have standing to move forward. And so
5 that's why we are having this conversation.

6 MS. PALMER: May I ask a clarifying
7 question?

8 CHAIRPERSON ANDERSON: Yes, ma'am.

9 MS. PALMER: In order to be -- could
10 you define abutting?

11 CHAIRPERSON ANDERSON: Ms. Randall,
12 where in the law can I find that definition?
13 What has been the Board's definition, Mr.
14 Alberti, since you have been here the longest,
15 what has been the Board's definition of what is
16 considered an abutting property owner?

17 MEMBER ALBERTI: All right. Our
18 policy, and I will tell you that probably in
19 upcoming legislation we are going to map this
20 out, but right now it's our policy that you have
21 to have contiguous, immediately adjacent, the
22 property lines have to be immediately adjacent.

1 So for things that aren't in the same
2 building, the property line means the actual --
3 not the building, but it means the actual
4 property line. All right?

5 But in this case, the property lines
6 would be the rising walls or floors. So unless a
7 unit's walls or floors are shared with the
8 restaurant, then they are not abutting property.

9 MS. MENDES: They are not. If the
10 floors are shared, they are not?

11 MEMBER ALBERTI: If the floors are
12 shared, they are.

13 MS. MENDES: They are? Okay.

14 MEMBER ALBERTI: But they have to be
15 immediate. I mean, you can't be at the other end
16 of the building.

17 MS. MENDES: Right.

18 MEMBER ALBERTI: You have to be --

19 MS. MENDES: But let me, and if the
20 walls are shared, then they are?

21 MEMBER ALBERTI: -- shared. Right.

22 MS. MENDES: But there is --

1 MEMBER ALBERTI: And it could be just
2 a corner.

3 MS. MENDES: Oh, yes. I was going to
4 say there is no --

5 MEMBER ALBERTI: It could be just a
6 corner.

7 MS. MENDES: -- minimum?

8 MEMBER ALBERTI: It could just be one
9 point at a corner if it touches and I would
10 consider that abutting.

11 MS. MENDES: Okay.

12 MEMBER ALBERTI: But if there is any
13 distance between those walls or floors that --

14 MS. MENDES: And that is what the --

15 MEMBER ALBERTI: -- in the building,
16 then they --

17 MS. MENDES: That is what Carl is
18 asserting.

19 MEMBER ALBERTI: That what?

20 MS. MENDES: That is what Carl
21 Anderson is asserting.

22 MEMBER ALBERTI: Is asserting what?

1 MS. MENDES: That there is
2 commonality.

3 MEMBER ALBERTI: And that's why I need
4 distances.

5 MS. MENDES: Yeah, I -- certainly.

6 CHAIRPERSON ANDERSON: This is what --

7 MEMBER ALBERTI: Oh, this is what they
8 provided today? Okay. So let me see.

9 CHAIRPERSON ANDERSON: It's a stretch.

10 MEMBER ALBERTI: 205, 202, 206. Where
11 is 205 on this? On this diagram, where is 205?
12 Is this your diagram?

13 CHAIRPERSON ANDERSON: Yeah, it was
14 from -- it's from the abutting property owner,
15 Ms. Mendes.

16 MEMBER ALBERTI: Ms. Mendes, I think
17 you submitted this?

18 MS. MENDES: Yes, Ester had sent that
19 in.

20 MEMBER ALBERTI: Yeah.

21 MS. MENDES: I haven't --

22 MEMBER ALBERTI: You don't know where

1 205 is? I can see 203, 202, 207, I think, 206.
2 I'm not sure that is 205. I would assume that it
3 is. Do we know where the restaurant is?

4 CHAIRPERSON ANDERSON: It's on the
5 next page.

6 MEMBER ALBERTI: Oh, the next page.

7 CHAIRPERSON ANDERSON: Yes.

8 MEMBER ALBERTI: Do we all have copies
9 of this?

10 CHAIRPERSON ANDERSON: Yes, we all
11 have. That was just given to us.

12 MEMBER ALBERTI: I'm sorry.

13 CHAIRPERSON ANDERSON: Do you have a
14 copy of the document that was submitted to us,
15 which is the document that the first page says
16 "Underground, upper and lower boundaries." Do
17 you have a copy of that?

18 MS. MENDES: I'm sorry?

19 CHAIRPERSON ANDERSON: The front page.
20 Do you have a copy of this document? The
21 document says "Underground, upper and lower
22 boundaries," do you have that?

1 MS. MENDES: No, I do not.

2 CHAIRPERSON ANDERSON: Oh. That was
3 given to us recently.

4 MS. MENDES: If I do, I don't know it.

5 MEMBER ALBERTI: So where is the
6 restaurant on here?

7 CHAIRPERSON ANDERSON: If you look at
8 the last document, the last document shows where.

9 MEMBER ALBERTI: Where is it?

10 CHAIRPERSON ANDERSON: The last -- so
11 the restaurant is here.

12 MEMBER ALBERTI: Oh, this is the
13 restaurant here?

14 CHAIRPERSON ANDERSON: Yeah.

15 MEMBER ALBERTI: So, okay, help me
16 out. Where is the front of the building?

17 MS. MENDES: I --

18 MEMBER ALBERTI: On these maps.

19 MEMBER ALBERTI: Is that where --

20 CHAIRPERSON ANDERSON: She doesn't
21 have a copy.

22 MS. MENDES: I don't have.

1 CHAIRPERSON ANDERSON: She doesn't
2 have a copy of it.

3 MEMBER ALBERTI: Are you on the front
4 of the building?

5 MS. FETHERSTON: We are not. No, we
6 are on the side of the building.

7 MS. MENDES: No, no.

8 MEMBER ALBERTI: The side of the
9 building.

10 MS. FETHERSTON: In the alley.

11 MEMBER ALBERTI: On the alley. Okay.
12 Have you seen this?

13 MR. SPERO: We have not seen that.

14 MEMBER ALBERTI: Can somebody get them
15 a copy, because I'm really curious. It says --
16 what surrounds you? So the alley is on one side.
17 What's --

18 MS. FETHERSTON: We have an alley on
19 one side and then other properties across like we
20 have like an outdoor area. I don't know if
21 that's the alley. Let's say it's our property
22 and then there is just the townhouses.

1 MEMBER ALBERTI: Yeah, okay, no, but
2 in the building itself.

3 MS. FETHERSTON: Oh, to the west there
4 is another office space.

5 MEMBER ALBERTI: So that's --

6 CHAIRPERSON ANDERSON: Yes, that's
7 406.

8 MEMBER ALBERTI: -- so the alley is to
9 the east, the office space is to the west?

10 MS. FETHERSTON: Yes.

11 MEMBER ALBERTI: What's to the north?

12 MS. FETHERSTON: Hallway.

13 MEMBER ALBERTI: Hallway.

14 MS. FETHERSTON: And then --

15 MEMBER ALBERTI: What's to the south?

16 MS. FETHERSTON: The south is that
17 outdoor area and those townhouses.

18 MEMBER ALBERTI: Okay. I gotcha.

19 CHAIRPERSON ANDERSON: All right.

20 MEMBER ALBERTI: Okay. Okay. I got
21 you. Can we get a similar description of where
22 205 and 206 is?

1 CHAIRPERSON ANDERSON: She is unable
2 to.

3 MS. MENDES: I mean, I, at this
4 point --

5 MEMBER ALBERTI: Well, with respect to
6 the alley, where is --

7 MS. MENDES: -- don't want to
8 represent anything on a diagram, because I'm
9 not --

10 CHAIRPERSON ANDERSON: Oh, you have a
11 map there.

12 MEMBER ALBERTI: Oh, okay.

13 CHAIRPERSON ANDERSON: There you have
14 it.

15 MEMBER ALBERTI: Okay. So would 205
16 be on this map here --

17 MS. MENDES: I'm sorry?

18 MEMBER ALBERTI: On this map here.

19 MS. MENDES: Yes.

20 MEMBER ALBERTI: Would 205 be to the
21 left or to the right of 207, as I'm looking at
22 that?

1 MS. MENDES: 205? If you are looking
2 at -- let's see. I'm at 306. If I look at the
3 Potomac to the right is -- it would be 305. So
4 I'm assuming 205 -- I'm just not --

5 MEMBER ALBERTI: Is 205 --

6 MS. MENDES: -- I'm being very honest.
7 I am not totally familiar with the second floor,
8 so I'm not --

9 MEMBER ALBERTI: Well, we need -- I
10 mean, it's -- I know that the individual isn't
11 here, but I mean you are representing him and we
12 really do need this information. I mean, we need
13 to know where that unit is.

14 MS. MENDES: Yeah, I understand what
15 you are saying.

16 MS. MENDES: 205 --

17 MEMBER ALBERTI: I'll ask the -- do
18 you have any idea, the people from Reverie?

19 MS. FETHERSTON: Yes, sir.

20 CHAIRPERSON ANDERSON: So where is 205
21 on this map?

22 MS. FETHERSTON: As far as I can see

1 from here, 205 is where the corners of the yellow
2 line meet.

3 MEMBER ALBERTI: So as I'm facing
4 this, it's to the right?

5 MS. FETHERSTON: Yeah, to the
6 southeast.

7 MEMBER ALBERTI: To the right. All
8 right. To the south.

9 MS. FETHERSTON: Um-hum.

10 MEMBER ALBERTI: Okay. Closer to the
11 alley?

12 MS. FETHERSTON: Yes, sir.

13 CHAIRPERSON ANDERSON: No, you have
14 this map.

15 MR. SPERO: The packet we just got
16 has --

17 MS. PALMER: So is 205 next to Cherry
18 Lane?

19 MR. SPERO: I still don't have.

20 CHAIRPERSON ANDERSON: You don't have
21 this map?

22 MR. SPERO: I have these two and

1 that's --

2 MS. PALMER: Is 205 next to Cherry
3 Hill Lane?

4 MS. MENDES: Yes.

5 MEMBER ALBERTI: All right. So 205
6 and then 206, we will assume that 206 is between
7 205 and 207?

8 MS. MENDES: Yes.

9 MEMBER ALBERTI: That is a safe
10 assumption, I guess.

11 MS. MENDES: Yes.

12 MS. FETHERSTON: And I think
13 actually --

14 MS. MENDES: It's on our map, yeah.

15 MS. FETHERSTON: It is marked.

16 MEMBER ALBERTI: Yeah, I got that. I
17 see that from here.

18 MS. FETHERSTON: Okay.

19 MR. SPERO: Can you just mark it where
20 205 is?

21 MS. MENDES: 205 must be to the left.

22 MS. PALMER: And then Cherry Hill Lane

1 would be here.

2 MS. MENDES: Right.

3 MEMBER ALBERTI: You know, I have to
4 tell you, Chairman Anderson, I have to tell you
5 just from visually from this map here --

6 CHAIRPERSON ANDERSON: Yes.

7 MEMBER ALBERTI: -- I can't see how
8 207 would have --

9 CHAIRPERSON ANDERSON: Be abutting.

10 MEMBER ALBERTI: -- be abutting in any
11 manner, because unless Reverie goes much farther
12 back than is indicated by any of the diagrams
13 that we have or 205 and 206 are much smaller than
14 I imagine they are, I would have to say that my
15 impression is that 207 is not abutting.

16 CHAIRPERSON ANDERSON: All right. Any
17 other questions by any of the Board Members?
18 Yes, Mr. Silverstein?

19 MEMBER SILVERSTEIN: I have a question
20 for both sides. Who submitted this document to
21 us?

22 CHAIRPERSON ANDERSON: The abutting

1 property -- one of the -- the abutting property
2 owner.

3 MEMBER SILVERSTEIN: The document is
4 part of your condominium declaration?

5 CHAIRPERSON ANDERSON: Yes, it was
6 submitted. It was submitted to us by the
7 designated representative. Not by Ms. Mendes,
8 but by the representative.

9 MEMBER SILVERSTEIN: And it is -- are
10 you telling us that because the common elements
11 on the property are owned by all the property
12 owners and are indivisible, that therefore it's
13 your contention that all resident owners are
14 abutting property owners?

15 CHAIRPERSON ANDERSON: I'm not sure
16 she can answer that question --

17 MS. MENDES: I'm not --

18 CHAIRPERSON ANDERSON: -- Mr.
19 Silverstein.

20 MS. MENDES: -- going there right now.

21 CHAIRPERSON ANDERSON: All right.

22 MS. MENDES: Yeah.

1 CHAIRPERSON ANDERSON: So what's the
2 point you are trying to make, Mr. Silverstein?

3 MEMBER SILVERSTEIN: What was what I
4 was trying to get. What is the -- do the condo--

5 MS. MENDES: I think probably the --

6 MEMBER SILVERSTEIN: -- documents
7 essentially --

8 MS. MENDES: -- abutting property
9 owners --

10 MEMBER SILVERSTEIN: -- trump
11 everything here and say that -- is it your
12 contention that the condominium documents give
13 everyone the status of being an abutting property
14 owner, because they own part of the common
15 elements that border on the applicant's property?

16 MS. MENDES: I would refer to our
17 attorneys on that. I don't --

18 MEMBER SILVERSTEIN: Then you are not
19 prepared to argue that.

20 MS. MENDES: I think there is --

21 CHAIRPERSON ANDERSON: All right. Any
22 other questions by any of the Board Members?

1 I am prepared to make a recommendation
2 to the Board for the next steps regarding whether
3 or not we should give full standing to the
4 abutting property owner. Does anyone have any
5 questions?

6 All right. Hearing none, I then make
7 a motion that we dismiss the abutting property
8 owner, because we don't believe that -- it's our
9 view that they do not have standing to challenge
10 this matter. Is there a second?

11 MEMBER SHORT: Second.

12 CHAIRPERSON ANDERSON: Mr. Short has
13 seconded the motion.

14 MEMBER ALBERTI: May I make a comment?

15 CHAIRPERSON ANDERSON: Yes, Mr.

16 Alberti.

17 MEMBER ALBERTI: Just with respect to
18 Mr. Silverstein's comments, you have 10 days to
19 appeal.

20 MS. MENDES: I'm sorry, I --

21 MEMBER ALBERTI: You have 10 days to
22 appeal my --

1 CHAIRPERSON ANDERSON: Let's have the
2 vote and then you can say that.

3 MEMBER ALBERTI: Okay. All right.
4 Then I'll speak.

5 CHAIRPERSON ANDERSON: Yeah. So all
6 those in favor say aye.

7 MEMBER SHORT: Aye.

8 CHAIRPERSON ANDERSON: Aye.

9 MEMBER ALBERTI: Aye.

10 MEMBER ISAAC: Aye.

11 MEMBER WAHABZADAH: Aye.

12 MEMBER CATO: Aye.

13 CHAIRPERSON ANDERSON: All those
14 opposed?

15 MEMBER SILVERSTEIN: Nay.

16 CHAIRPERSON ANDERSON: I'm sorry?

17 MEMBER SILVERSTEIN: Nay.

18 CHAIRPERSON ANDERSON: The matter
19 passed 6-1 not to grant standing to the abutting
20 property owner with Mr. Silverstein opposing.

21 Yes, go ahead, Mr. Alberti.

22 MEMBER ALBERTI: So I was going to say

1 that I would encourage you to seek legal counsel.

2 MS. MENDES: I'm sorry, I can't --

3 MEMBER ALBERTI: To seek legal
4 counsel. I am unsure. Right now, I'm not
5 persuaded by this argument that the condominium
6 owners are -- share common status here as owners
7 of all the units. But I'm willing to listen to
8 legal arguments in that regard. So you have 10
9 days to appeal and I would encourage you if you
10 think you have grounds, that you seek out a
11 lawyer who can articulate --

12 MS. MENDES: Yes, we are already
13 involved in some litigation, so --

14 MEMBER ALBERTI: Okay. But it would
15 be helpful, you know, if you want, I mean --

16 MS. MENDES: And I'll make sure --

17 MEMBER ALBERTI: We are not closed
18 off, so if you can give someone -- if you have a
19 legal argument that can be articulated, we will
20 listen to it and the other side will have a
21 chance to speak to it also.

22 So that's -- you do have that

1 opportunity.

2 CHAIRPERSON ANDERSON: Yes, Mr. Short?

3 MEMBER SHORT: Yes, and I would also
4 like to piggyback on the remarks of Board Member
5 Alberti.

6 MS. MENDES: Okay.

7 MEMBER SHORT: Apparently you are not
8 prepared today to inform this Board why you
9 figure the persons in the 207 are abutting.
10 There has not been enough evidence provided to
11 me, as a Board Member, and apparently with the
12 other votes that just occurred, you have not
13 provided us ample information to make a decision
14 in your favor of being an abutting -- 207 being
15 an abutting property.

16 MS. MENDES: Right. Yeah, yeah.

17 MEMBER SHORT: You have 10 days to
18 appeal this decision.

19 MS. MENDES: To buttress that case.

20 CHAIRPERSON ANDERSON: I'm sorry?

21 MS. MENDES: I have 10 days to either
22 enhance that case --

1 CHAIRPERSON ANDERSON: You have -- we
2 are going to -- this is what we are going to --
3 this is what -- we voted not to grant you
4 standing.

5 MS. MENDES: But that --

6 CHAIRPERSON ANDERSON: You have 10
7 days from today to submit something in writing
8 appealing our decision --

9 MS. MENDES: Right.

10 CHAIRPERSON ANDERSON: -- for us to
11 reconsider.

12 MS. MENDES: Right.

13 CHAIRPERSON ANDERSON: Okay. So you
14 have 10 days from today --

15 MS. MENDES: Right.

16 CHAIRPERSON ANDERSON: -- to say to
17 the Board why you disagree, because 207 is an
18 abutting property owner. Okay?

19 MS. MENDES: Okay.

20 CHAIRPERSON ANDERSON: All right.

21 MS. MENDES: Thank you.

22 CHAIRPERSON ANDERSON: All right.

1 MS. MENDES: Thank you for your time.

2 CHAIRPERSON ANDERSON: All right.

3 This matter is not over yet. Yes, Mr.

4 Silverstein?

5 MEMBER SILVERSTEIN: I would like to

6 explain my negative vote here. And this is a

7 difficult case for all of us and we all

8 understand that.

9 Abutting property owners are given

10 specific rights under the law, because there may

11 be concerns that they have that are not apparent

12 to people in the general community.

13 There may be no noise at all outside

14 or no problems at all outside, but if it's an

15 abutting property owner, there may be a thump,

16 thump, thump against the wall that may make it

17 impossible for that person to enjoy -- to have

18 the peaceable enjoyment of their property.

19 Therefore, they are given this

20 specific right that others are not to protest on

21 their own. And their protest cannot be subsumed

22 by an ANC.

1 The question is what is an abutting
2 property owner? And it is a difficult question
3 when you are in the same building. Is a person
4 who is not directly abutting, but is separated by
5 a small broom closet an abutting property owner?

6 Under what the intent of the law is,
7 one would think perhaps they are because the
8 outside world would not hear what they hear and
9 yet it may make their life intolerable.

10 But the question is does that mean
11 that someone on the sixth floor halfway around
12 the block is an abutting property owner of
13 something that occurs a good distance away that
14 shouldn't be bothering them?

15 Where do we draw the line? And the
16 difference that I have with the Board on this
17 case is I'm not sure that we have the
18 information, at this point, to draw that line.
19 My contention is this is still unsettled law and
20 that we will have to continue to refine and
21 revisit this.

22 And I think my colleagues agree. We

1 will have to revisit this at other times and
2 perhaps codify the language. But this is a
3 difficult case and the old adage is that bad
4 cases make bad law.

5 Since we do not know for sure what the
6 dimensions are, we do not know for sure how far
7 you are. There are still things here that are
8 unsettled. If you do appeal this, we will
9 certainly look at that.

10 MS. MENDES: Can I just make one
11 statement?

12 CHAIRPERSON ANDERSON: Go ahead. Yes,
13 ma'am.

14 MS. MENDES: I'm sorry?

15 CHAIRPERSON ANDERSON: Go ahead.

16 MS. MENDES: Our unit is 306. It is
17 above where this restaurant is going to be. Yes,
18 it is true that our property does not touch the
19 restaurant, but the quality of life will be
20 severely impacted. It is a very small building.

21 The -- so in terms of what Mr.
22 Silverstein is saying, in terms of abutting, it

1 will have an incredible impact on the quality of
2 our overall experience.

3 And so in terms of the definition of
4 abutting, I understand the legalities, but I also
5 understand the more general concept of the
6 quality of life. This is a very small building.
7 It's not a huge high-rise and, you know, taking
8 up city blocks. So I appreciate your statement
9 and I, you know, will certainly forward your
10 comments and the overall, you know, sentiment.

11 CHAIRPERSON ANDERSON: All right. But
12 let me also say this to you. Okay. These are
13 the groups that are granted standing. The ANC
14 has standing, a Group of Five or More. So the
15 apartment, the condominium residents could apply
16 for standing as a group. The difference that I
17 see, which I think this group is trying to
18 overcome, if you have a Group of Five or More and
19 if there is a settlement agreement with the ANC,
20 if the Group of Five or More -- if they are not
21 part of the settlement agreement, then they are
22 dismissed.

1 And so I think what the -- what was
2 being tried to attempt is to get your own
3 standing. So therefore, if there is a settlement
4 agreement with the ANC, then you will still move
5 forward.

6 But rights are not taken away from you
7 as a resident. You could still -- you could have
8 also applied for standing as a group to say yes,
9 we live here and it is going to impact us. But I
10 think what the -- whoever filed this was trying
11 to say well, I'm afraid that the ANC is going to
12 do a settlement agreement and I might not agree
13 with the ANC and because I'm going to lose
14 automatically, so therefore I'm going to try to
15 get my own standing.

16 And so that's the issue. So your
17 concerns are addressed. You, as a resident in
18 306, could find five other residents and get
19 standing as a Group of Five or More.

20 However, if the restaurant, the
21 licensee signs a settlement agreement with the
22 ANC, and if you don't want to go along with it,

1 then you fall out. And I think that's the issue.

2 But we have made our decision and I
3 think at least for the rest of the Board Members,
4 we are clear. You have 10 days from the date
5 that we issue the order, not from today. So we
6 will issue a written order.

7 So we will issue a written order what
8 our position is to say why standing is denied.
9 And you have 10 days from that date to appeal the
10 matter. And the Board will revisit it and make a
11 decision.

12 MS. PALMER: May I ask one other
13 question?

14 CHAIRPERSON ANDERSON: Yes, ma'am.

15 MS. PALMER: Is the common areas
16 argument a persuasive argument for the Board?

17 CHAIRPERSON ANDERSON: Not as -- I
18 guess not as an abutting, but maybe as a group,
19 so that's -- yeah. So yeah, so that's a
20 different --

21 MS. PALMER: It's not.

22 CHAIRPERSON ANDERSON: Yeah. So

1 that's -- there is a difference and once -- the
2 Omnibus Bill that is currently, I think it's
3 about -- it's going through its process --

4 MS. PALMER: Um-hum.

5 CHAIRPERSON ANDERSON: -- it will
6 define what an abutting property owner is. So we
7 are not going to have this discussion any more.
8 So at least for the -- as far as the Board is
9 concerned, we have now defined what an abutting
10 property owner is. So therefore, we shouldn't
11 have this discussion any more that we are sitting
12 here and trying to decide if this person is or is
13 not.

14 Okay. So let me move forward. This
15 matter then is scheduled for a Protest Hearing
16 with the ANC and that Protest Hearing is
17 scheduled for February 14th at 4:30.

18 Now, do I need to read the
19 instructions about the process or are you guys
20 understand that if you have any questions moving
21 forward, please, contact our Assistant General
22 Counsel, Ms. April Randall. Her number is (202)

1 442-4353.

2 MS. PALMER: If we were to submit a
3 settlement agreement, by what date would you need
4 to have it?

5 CHAIRPERSON ANDERSON: This hearing is
6 scheduled for a Protest Hearing on the 19th and
7 so -- I'm sorry, on the 14th, so I would hope
8 that because you would have to exchange documents
9 seven days, but if say, for example, seven days--
10 by the 7th.

11 But say, for example, if you agree and
12 say -- for example, when is the next ANC meeting?
13 When is the ANC meeting for February? After the
14 14th?

15 MS. PALMER: We just had it actually.

16 CHAIRPERSON ANDERSON: Okay. So what
17 date of the month it is -- is it?

18 MS. PALMER: We don't have one until
19 the end of February. We had our January 28th.

20 CHAIRPERSON ANDERSON: Okay. So say,
21 for example, you have agreed to a settlement
22 agreement, you can contact the Board and tell

1 both sides to contact the Board to say we have
2 had a settlement -- we have a settlement
3 agreement. However, it needs to go to the ANC.

4 MS. PALMER: It doesn't. I already
5 have permission to sign on the ANC's behalf.

6 CHAIRPERSON ANDERSON: But I'm just
7 saying just in case. I'm just saying so
8 therefore, you just let us know --

9 MS. PALMER: Yes.

10 CHAIRPERSON ANDERSON: -- as soon as
11 possible and the hearing will go away.

12 MS. PALMER: Thank you.

13 CHAIRPERSON ANDERSON: Okay. And my
14 view is that I don't necessarily -- I prefer that
15 the parties settle the matter and so, therefore,
16 I prefer not to have a Protest Hearing, because
17 if we have a Protest Hearing, then we are going
18 to dictate terms that you might not be happy and
19 there are terms that you can agree -- that you
20 can get in a settlement agreement, that the Board
21 cannot order if we go to a Protest Hearing.

22 Okay. So good luck with your

1 discussions, negotiations. And 10 days from this
2 order, you have -- you will have an opportunity
3 to appeal to the Board to say why you disagree
4 why standing should -- was denied to the abutting
5 property owner.

6 MS. MENDES: And that will be
7 documented and sent to --

8 CHAIRPERSON ANDERSON: Yes, we will
9 write something to tell you.

10 MS. MENDES: And it gets forwarded to
11 Ester, I assume.

12 CHAIRPERSON ANDERSON: Yes.

13 MS. MENDES: Perfect. Okay.

14 CHAIRPERSON ANDERSON: 10 days from --
15 we will issue an order and then you will have 10
16 -- she will get 10 days from that date to appeal
17 it.

18 MS. MENDES: Okay. Thank you.

19 CHAIRPERSON ANDERSON: Yes. Thank you
20 very much. Yes, Mr. Silverstein?

21 MEMBER SILVERSTEIN: Commissioner
22 Palmer, we -- you asked about what's the

1 deadline.

2 MS. PALMER: Um-hum.

3 MEMBER SILVERSTEIN: There are two
4 realities here. The one is the deadline is the
5 hearing date or before the hearing date. But at
6 each hearing -- we have a limited number of
7 Investigators, fewer than 20. And only a third
8 of them work during the daytime, because they are
9 working at night when these establishments are
10 operating.

11 And for every hearing, they put
12 together a very large protest report that is
13 often 50 pages or more. If you can reach a
14 settlement agreement a week ahead of time, it
15 will free them to not have to do this work, which
16 would then be futile. So it would be greatly
17 appreciated by us if it looks like you are going
18 to have an agreement, if you could expedite it,
19 it would be greatly appreciated by this office.
20 Thank you.

21 MS. PALMER: Certainly. Thank you.

22 CHAIRPERSON ANDERSON: All right. You

1 have a great day and thank you for being here.

2 MS. PALMER: Thanks.

3 CHAIRPERSON ANDERSON: And I apologize
4 that these are just preliminary. We normally
5 don't have this much conversation at a Protest
6 Hearing, so I apologize.

7 MS. FETHERSTON: We thank you for your
8 time.

9 MR. SPERO: Thank you very much.

10 CHAIRPERSON ANDERSON: All right.

11 MS. MENDES: Thank you.

12 (Whereupon, the Protest (Status)
13 Hearing was concluded at 10:44 a.m.)

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A

a.m 3:2 4:8,9 56:13
above-entitled 4:7
abuts 14:16
abutting 5:5,6 6:5,22
 8:17 9:5,8,10,13,17
 9:19 12:1 20:18 21:16
 24:17 25:3,10,16 26:8
 27:10 28:14 37:9,10
 37:15,22 38:1,14 39:8
 39:13 40:4,7 41:19
 43:9,14,15 44:18 45:9
 45:15 46:1,4,5,12
 47:22 48:4 50:18 51:6
 51:9 54:4
actual 26:2,3
adage 47:3
add 13:8
additional 8:14
addressed 49:17
adjacent 25:21,22
afraid 49:11
agree 46:22 49:12
 52:11 53:19
agreed 52:21
agreement 7:14 48:19
 48:21 49:4,12,21 52:3
 52:22 53:3,20 55:14
 55:18
ahead 10:22 12:15
 41:21 47:12,15 55:14
Alberti 1:18 17:19,22
 18:5,11,15,17 22:21
 22:22 23:5 25:14,17
 26:11,14,18,21 27:1,5
 27:8,12,15,19,22 28:3
 28:7,10,16,20,22 29:6
 29:8,12 30:5,9,12,15
 30:18,19 31:3,8,11,14
 32:1,5,8,11,13,15,18
 32:20 33:5,12,15,18
 33:20 34:5,9,17 35:3
 35:7,10 36:5,9,16
 37:3,7,10 40:14,16,17
 40:21 41:3,9,21,22
 42:3,14,17 43:5
Alcoholic 1:2,13,14
alley 31:10,11,16,18,21
 32:8 33:6 35:11
ample 43:13
ANC 1:7 2:15 7:11,16
 24:22 25:1 45:22
 48:13,19 49:4,11,13
 49:22 51:16 52:12,13
 53:3
ANC's 53:5
ANC- 3:8 4:15
Anderson 1:15,18 3:3

3:14,18,21 4:2,6,10
 4:17,22 5:4,7,12,19
 6:4,9,14,19 7:2,6,10
 7:15,18 8:7,11,15,20
 8:22 9:4 10:2,8,14,21
 11:5,8,12,19 12:4,7
 12:14 13:1,3,7,11,14
 13:18,21 14:3,6,7,10
 14:11,12,13,14,17
 15:1,3,6,11,15,17
 16:4,11,17,21 17:5,9
 17:12,14,18 18:3,8,16
 19:1,4,7,10,12,15,19
 19:22 20:2,12,16,22
 21:2,8,11,19 22:2,4
 22:20 23:17 24:2,13
 24:19,22 25:8,11
 27:21 28:6,9,13 29:4
 29:7,10,13,19 30:2,7
 30:10,14,20 31:1 32:6
 32:19 33:1,10,13
 34:20 35:13,20 37:4,6
 37:9,16,22 38:5,15,18
 38:21 39:1,21 40:12
 40:15 41:1,5,8,13,16
 41:18 43:2,20 44:1,6
 44:10,13,16,20,22
 45:2 47:12,15 48:11
 50:14,17,22 51:5 52:5
 52:16,20 53:6,10,13
 54:8,12,14,19 55:22
 56:3,10
Angie 2:12 5:8
angle 20:7 21:7
answer 38:16
apartment 48:15
apartments 23:11
apologies 19:6
apologize 56:3,6
apparent 45:11
apparently 43:7,11
appeal 40:19,22 42:9
 43:18 47:8 50:9 54:3
 54:16
appealing 44:8
applicant 5:9 7:13
applicant's 39:15
Application 1:9
applied 49:8
apply 48:15
appreciate 48:8
appreciated 55:17,19
approach 3:6 4:13
April 51:22
architectural 23:7
 24:11
area 11:14 31:20 32:17
areas 50:15

argue 39:19

argument 10:22 42:5
 42:19 50:16,16
arguments 42:8
articulate 42:11
articulated 42:19
asked 8:12 15:13 54:22
asserting 14:15 27:18
 27:21,22
assigned 8:16
Assistant 51:21
assume 29:2 36:6
 54:11
assuming 17:16 34:4
assumption 15:10
 36:10
at-- 5:18
attempt 49:2
attorney 11:20 12:8
attorneys 39:17
automatically 49:14
aware 13:18,21
aye 41:6,7,8,9,10,11,12

B

back 3:22 13:4 37:12
bad 16:15 47:3,4
based 7:3 9:20
bedroom 12:20
behalf 53:5
believe 3:11 13:9 21:21
 24:4 40:8
Beverage 1:2,13,14
beyond 15:10
Bill 51:2
bit 20:8
block 11:11,17 12:1
 46:12
blocks 48:8
Board 1:2,13 8:21 9:9
 24:6,15 37:17 39:22
 40:2 43:4,8,11 44:17
 46:16 50:3,10,16 51:8
 52:22 53:1,20 54:3
Board's 25:13,15
BOBBY 1:19
border 39:15
bothering 46:14
boundaries 29:16,22
bring 10:17
broom 46:5
brought 8:15,19
building 1:14 6:2 10:6
 11:7,9,10,22 20:7
 21:10 26:2,3,16 27:15
 30:16 31:4,6,9 32:2
 46:3 47:20 48:6
butress 43:19

C

calendar 4:3,11
Call 5:17 6:15 7:21
 13:16
Carl 8:15 13:1 14:5,11
 14:12,14 27:17,20
case 1:8 3:3,4,15 4:10
 4:11 5:13 26:5 43:19
 43:22 45:7 46:17 47:3
 53:7
cases 47:4
categorically 20:9
CATO 1:19 41:12
catty 20:6
certainly 28:5 47:9 48:9
 55:21
Chairman 23:17 37:4
Chairperson 1:15,18
 3:3,14,18,21 4:2,6,10
 4:17,22 5:4,7,12,19
 6:4,9,14,19 7:2,6,10
 7:15,18 8:7,11,20,22
 9:4 10:2,8,14,21 11:5
 11:8,12,19 12:4,7,14
 13:3,7,11,14,18,21
 14:3,7,10,13,17 15:1
 15:3,6,11,15,17 16:4
 16:11,17,21 17:5,9,12
 17:14,18 18:3,8,16
 19:1,4,7,10,12,15,19
 19:22 20:2,12,16,22
 21:2,8,11,19 22:2,4
 22:20 24:2,13,19,22
 25:8,11 28:6,9,13
 29:4,7,10,13,19 30:2
 30:7,10,14,20 31:1
 32:6,19 33:1,10,13
 34:20 35:13,20 37:6,9
 37:16,22 38:5,15,18
 38:21 39:1,21 40:12
 40:15 41:1,5,8,13,16
 41:18 43:2,20 44:1,6
 44:10,13,16,20,22
 45:2 47:12,15 48:11
 50:14,17,22 51:5 52:5
 52:16,20 53:6,10,13
 54:8,12,14,19 55:22
 56:3,10
challenge 40:9
chance 42:21
Cherry 35:17 36:2,22
city 11:11 48:8
claiming 8:17
clarifying 25:6
clear 50:4
close 21:3
closed 42:17
Closer 35:10

closet 46:5
codify 47:2
colleagues 46:22
COLUMBIA 1:1
come 5:16 10:16
comes 3:15 13:4
comfortable 23:18
coming 10:15 21:12
comment 40:14
comments 40:18 48:10
commercial 10:6
Commissioner 54:21
common 12:19 38:10
 39:14 42:6 50:15
commonality 28:2
community 45:12
complex 6:2 10:6
concept 48:5
concerned 51:9
concerns 5:16 45:11
 49:17
concluded 56:13
condition 9:11
conditional 6:18,22 8:1
 9:12
condo-- 39:4
condominium 38:4
 39:12 42:5 48:15
condos 10:7
configured 21:10
consent 8:5
consider 27:10
considered 25:16
contact 51:21 52:22
 53:1
contacted 7:9
contention 38:13 39:12
 46:19
contiguous 25:21
continue 46:20
Control 1:2,13,14
controversy 9:1
conversation 24:15
 25:5 56:5
conversations 6:12
copies 10:17,20 12:22
 15:14 24:7,8 29:8
copy 10:12,16 15:12,18
 16:6,12 29:14,17,20
 30:21 31:2,15
corner 27:2,6,9
corners 35:1
counsel 42:1,4 51:22
country 13:10
couple 5:15 10:4
covered 22:18
CR 1:7
curious 31:15

currently 51:2

D
D.C 1:15 8:10
date 50:4,9 52:3,17
 54:16 55:5,5
day 7:5 56:1
days 40:18,21 42:9
 43:17,21 44:7,14 50:4
 50:9 52:9 54:1,14,16
days-- 52:9
daytime 55:8
deadline 55:1,4
decide 51:12
decision 24:16 43:13
 43:18 44:8 50:2,11
declaration 38:4
define 25:10 51:6
defined 51:9
definition 9:7 25:12,13
 25:15 48:3
denied 50:8 54:4
description 32:21
designated 13:9 38:7
determination 23:22
diagram 23:2 28:11,12
 33:8
diagrams 23:6 24:9
 37:12
dictate 53:18
difference 46:16 48:16
 51:1
different 11:16,17 20:8
 50:20
difficult 45:7 46:2 47:3
dimensions 23:10,10
 23:15 47:6
directly 11:15 18:18,18
 19:13 46:4
disagree 44:17 54:3
discussion 51:7,11
discussions 54:1
dismiss 9:17 24:16
 40:7
dismissed 48:22
distance 27:13 46:13
distances 28:4
DISTRICT 1:1
dividing 12:13
document 29:14,15,20
 29:21 30:8,8 37:20
 38:3
documentation 8:15,18
documentation-- 8:19
documented 54:7
documents 9:15 10:15
 10:18 39:6,12 52:8
DONALD 1:19

Donovan 1:15,18
draw 46:15,18
drawing 23:7
drawings 24:11

E
E-T-H-E-R-S-T-O-N 5:9
east 32:9
either 16:10 23:14
 43:21
elements 38:10 39:15
emailed 24:5
encompass 16:2
encompasses 11:11
encourage 42:1,9
ends 22:11
enhance 43:22
enjoy 45:17
enjoyment 45:18
Entirely 18:11
entrance 11:18
essentially 39:7
establishments 55:9
Ester 8:8 24:5 28:18
 54:11
evidence 43:10
exactly 8:4 20:9 21:6
 23:9
example 52:9,11,12,21
exchange 52:8
excuse 14:20 17:21
expedite 55:18
experience 48:2
expert 21:20
explain 8:1 45:6
explained 12:10
exterior 19:9

F
F- 5:8
facing 35:3
fall 50:1
familiar 34:7
far 5:15 9:4 21:15 22:15
 34:22 47:6 51:8
farther 37:11
favor 41:6 43:14
February 51:17 52:13
 52:19
feel 23:17
feet 12:21
Fetherston 2:12 5:8,8
 5:14 6:1,8,11,17,21
 7:3,7 9:22 10:4,9,13
 10:19 11:1,6,10,13
 12:3,6,12 15:8 16:1,9
 18:10,13 19:14 22:10
 22:16,19 23:4 31:5,10

31:18 32:3,10,12,14
 32:16 34:19,22 35:5,9
 35:12 36:12,15,18
 56:7
fewer 55:7
figure 43:9
file 9:21 11:4
filed 9:20,22 10:3 11:6
 12:17 49:10
find 25:12 49:18
fine 8:11 15:4
first 5:15 9:18 17:19,22
 18:6,10,12 24:8 29:15
five 6:6 48:14,18,20
 49:18,19
floor 11:16 16:1,5,7,12
 16:15 17:1,6,20,20
 18:1,1,4,6,6,7,8,10,12
 18:22 20:17 21:22
 22:1,11 34:7 46:11
floors 26:6,7,10,11
 27:13
follow 13:15
forward 25:4 48:9 49:5
 51:14,21
forwarded 54:10
free 55:15
front 29:19 30:16 31:3
full 40:3
futile 55:16

G
general 45:12 48:5
 51:21
getting 10:19
give 9:19 13:4 15:18
 39:12 40:3 42:18
given 9:12 15:19 29:11
 30:3 45:9,19
glass 16:20
go 9:18 10:22 12:15
 13:4,7 41:21 47:12,15
 49:22 53:3,11,21
goes 37:11
going 15:18 20:11
 24:16 25:4,19 27:3
 38:20 41:22 44:2,2
 47:17 49:9,11,13,14
 51:3,7 53:17 55:17
good 4:18,19 46:13
 53:22
gotcha 32:18
Grace 1:7
grant 9:9 12:10 41:19
 44:3
granted 6:16,17,22 7:16
 8:1 48:13
great 56:1

greatly 55:16,19
ground 23:2
grounds 42:10
group 5:15 6:6,21 48:14
 48:16,17,18,20 49:8
 49:19 50:18
groups 48:13
guess 36:10 50:18
guys 16:22 51:19

H

halfway 46:11
Hallway 32:12,13
handouts 10:5
happened 8:2,4
happy 53:18
health 14:22
hear 7:11 46:8,8
heard 7:8
hearing 1:7,14 5:17
 6:16 7:21 10:15 13:16
 40:6 51:15,16 52:5,6
 53:11,16,17,21 55:5,5
 55:6,11 56:6,13
held 23:18
help 30:15
helpful 23:8 42:15
Henderson 14:13
Hi 3:8
high-rise 48:7
Hill 36:3,22
hold 3:17 19:4,4,5 24:2
 24:3
honest 34:6
Honestly 19:17
hope 52:7
huge 48:7
huh 16:18

I

idea 34:18
identify 3:7
imagine 37:14
immediate 26:15
immediately 25:21,22
impact 48:1 49:9
impacted 47:20
impossible 45:17
impression 37:15
incredible 48:1
incredibly 23:8
indicated 37:12
individual 34:10
individuals 8:16
indivisible 38:12
inform 43:8
information 13:22 14:4
 23:19,20,21 24:6,12

34:12 43:13 46:18
instructions 51:19
intent 46:6
interject 23:1
intolerable 46:9
introduce 4:14
Investigators 55:7
invited 23:20
involved 42:13
ISAAC 1:19 41:10
issue 20:12,16 49:16
 50:1,5,6,7 54:15
issues 25:1

J

JAMES 1:20
January 1:12 52:19
Johnny 2:13 3:10 5:10
JR 1:19
judgment 23:18

K

K-A-T-H 4:20
Kathleen 2:14 4:20
kind 20:6
know 5:17 7:19 8:4,6,9
 11:20 12:7,22 14:18
 15:20 17:8,10 21:6,6
 21:19 24:10,11 28:22
 29:3 30:4 31:20 34:10
 34:13 37:3 42:15 47:5
 47:6 48:7,9,10 53:8

L

L-E-E-N 4:21
Lane 35:18 36:3,22
language 47:2
large 11:2 55:12
larger 10:5 16:2
law 9:7 25:12 45:10
 46:6,19 47:4
lawyer 42:11
leased 11:2
leave 13:10
left 17:3,4,15,16 21:5
 21:13 22:1 33:21
 36:21
legal 42:1,3,8,19
legalities 48:4
legible 23:15
legislation 25:19
let's 31:21 34:2 41:1
letter 13:1 14:5
license 1:8,10 3:4 4:12
 5:21,22
licensed 5:9
licensee 2:12,13 5:11
 9:5 49:21

life 46:9 47:19 48:6
limited 55:6
line 26:2,4 35:2 46:15
 46:18
lines 25:22 26:5
Lisa 2:15 3:8 4:15
listen 42:7,20
litigation 42:13
little 20:8
live 19:20,21 49:9
LLC 1:6 3:11
longest 25:14
look 30:7 34:2 47:9
looking 17:3 33:21 34:1
looks 55:17
lose 49:13
loss 23:14
lower 29:16,21
luck 53:22

M

M-E-N-D-E-S 4:21
ma'am 12:15 15:7 19:20
 24:2,3 25:8 47:13
 50:14
magnifying 16:20
making 3:12
manner 37:11
map 15:12,19,22 25:19
 33:11,16,18 34:21
 35:14,21 36:14 37:5
maps 30:18
mark 36:19
marked 36:15
matter 1:5 4:7 40:10
 41:18 45:3 50:10
 51:15 53:15
matters 5:13,15
mean 10:16 11:9 17:7
 21:18 23:12,13 24:14
 26:15 33:3 34:10,11
 34:12 42:15 46:10
means 9:6 26:2,3
measurements 23:3,7
 23:9
meet 35:2
meeting 1:3 7:20 8:4,5
 52:12,13
Member 1:18,19,19,20
 1:20,21 17:19,22 18:5
 18:11,15,17 22:6,14
 22:17,22 23:5 25:17
 26:11,14,18,21 27:1,5
 27:8,12,15,19,22 28:3
 28:7,10,16,20,22 29:6
 29:8,12 30:5,9,12,15
 30:18,19 31:3,8,11,14
 32:1,5,8,11,13,15,18

32:20 33:5,12,15,18
 33:20 34:5,9,17 35:3
 35:7,10 36:5,9,16
 37:3,7,10,19 38:3,9
 39:3,6,10,18 40:11,14
 40:17,21 41:3,7,9,10
 41:11,12,15,17,22
 42:3,14,17 43:3,4,7
 43:11,17 45:5 54:21
 55:3
Members 37:17 39:22
 50:3
Mendes 2:14 4:20,20
 5:1,2,6 7:19 8:3,8,12
 8:21 9:3 12:16 13:6
 14:2,5,8,12,14,20
 15:2,5,13,16 16:14,16
 16:19 17:2,7,10,13,15
 17:21 18:2,7,21 19:3
 19:17,21 20:1,5,14,20
 21:1,5,9,18,21 22:3
 24:1,4,18,21 26:9,13
 26:17,19,22 27:3,7,11
 27:14,17,20 28:1,5,15
 28:16,18,21 29:18
 30:1,4,17,22 31:7
 33:3,7,17,19 34:1,6
 34:14,16 36:4,8,11,14
 36:21 37:2 38:7,17,20
 38:22 39:5,8,16,20
 40:20 42:2,12,16 43:6
 43:16,19,21 44:5,9,12
 44:15,19,21 45:1
 47:10,14,16 54:6,10
 54:13,18 56:11
met 1:14 7:8
middle 22:8
MIKE 1:20
mind 5:21 6:7
minimum 27:7
misstate 20:10
month 52:17
morning 4:18,19 24:8
motion 9:16,21,22 10:3
 40:7,13
move 4:2 25:4 49:4
 51:14
moving 51:20

N

N.W 1:14
nature 10:3
Nay 41:15,17
necessarily 7:19 53:14
need 10:17 12:5,8
 16:20 20:11 23:21
 28:3 34:9,12,12 51:18
 52:3

needs 53:3
 negative 45:6
 negotiations 54:1
 New 1:9
 NICK 1:18
 night 55:9
 noise 45:13
 normally 56:4
 north 32:11
 number 51:22 55:6
 NW 1:7

O

occurred 43:12
 occurs 46:13
 office 32:4,9 55:19
 Oh 16:7 27:3 28:7 29:6
 30:2,12 32:3 33:10,12
 okay 3:20 4:1,6 7:2,6,10
 7:10 8:7 10:8,13 11:5
 12:6,14 13:13,20 14:7
 15:15,17 18:11,15
 22:4 23:4 26:13 27:11
 28:8 30:15 31:11 32:1
 32:18,20,20 33:12,15
 35:10 36:18 41:3
 42:14 43:6 44:13,18
 44:19 48:12 51:14
 52:16,20 53:13,22
 54:13,18
 old 47:3
 Omnibus 51:2
 once 51:1
 operating 55:10
 opportunity 43:1 54:2
 opposed 41:14
 opposing 41:20
 order 25:9 50:5,6,7
 53:21 54:2,15
 outdoor 31:20 32:17
 outside 45:13,14 46:8
 overall 48:2,10
 overcome 48:18
 owned 38:11
 owner 6:6 8:18 9:6,8,10
 9:19 14:15 21:16
 24:17 25:3,16 28:14
 38:2 39:14 40:4,8
 41:20 44:18 45:15
 46:2,5,12 51:6,10
 54:5
 owners 5:3,5,6 6:22
 9:13,18 12:2,16 20:18
 38:12,13,14 39:9 42:6
 42:6 45:9
 ownership 9:5

P

P-R-O-C-E-E-D-I-N-G-S
 3:1
 packet 35:15
 page 29:5,6,15,19
 pages 55:13
 Palmer 2:15 3:8,8 4:15
 4:15,17,19 7:11,12,17
 13:8,13,17,20 25:6,9
 35:17 36:2,22 50:12
 50:15,21 51:4 52:2,15
 52:18 53:4,9,12 54:22
 55:2,21 56:2
 part 10:5 11:3 38:4
 39:14 48:21
 parties 3:6 4:13 23:19
 53:15
 partner 3:11,19
 passed 13:11 41:19
 peaceable 45:18
 people 7:4,8 34:18
 45:12
 percent 17:8 22:19
 Perfect 54:13
 permission 53:5
 person 45:17 46:3
 51:12
 persons 43:9
 perspective 6:15 7:21
 persuaded 42:5
 persuasive 50:16
 petition 12:17
 photo 12:21 14:8
 photos 8:19
 piggyback 43:4
 plan 17:1 20:17 22:11
 plans 11:14 16:2,5,8,12
 16:15 23:13,14
 please 3:6,7 4:13 16:13
 51:21
 point 27:9 33:4 39:2
 46:18
 poking 6:12
 policy 25:18,20
 portion 15:9
 position 50:8
 possible 53:11
 Potomac 34:3
 prefer 53:14,16
 preliminary 5:13 56:4
 prepared 39:19 40:1
 43:8
PRESENT 1:17 2:10
 presiding 1:15
 probably 23:6 25:18
 39:5
 problems 45:14
 process 8:13,14 51:3
 51:19

properties 31:19
 property 5:5 6:5,22 9:6
 9:8,10,13,17,19 12:2
 20:18 21:16 24:17
 25:3,16,22 26:2,4,5,8
 28:14 31:21 38:1,1,11
 38:11,14 39:8,13,15
 40:4,7 41:20 43:15
 44:18 45:9,15,18 46:2
 46:5,12 47:18 51:6,10
 54:5
 protest 1:7 6:3,5 8:16
 11:4 12:17 24:17
 45:20,21 51:15,16
 52:6 53:16,17,21
 55:12 56:5,12
 Protestant 2:14
 protestants 6:6
 protested 5:20,22
 protesting 20:21
 protests 11:7 13:2
 provide 14:4 15:12,13
 23:2
 provided 16:2,6 28:8
 43:10,13
 providing 13:22
 proxy 8:5
 put 55:11

Q

quality 47:19 48:1,6
 question 25:7 37:19
 38:16 46:1,2,10 50:13
 questions 37:17 39:22
 40:5 51:20

R

Randall 25:11 51:22
 reach 55:13
 read 23:13 51:18
 reading 16:15
 realities 55:4
 realize 20:11
 really 7:9 9:13 31:15
 34:12
 reason 9:11 24:14
 reasons 13:12 14:22
 recall 3:15
 recommendation 40:1
 reconsider 44:11
 record 3:7 4:8,14
 Reeves 1:14
 refer 39:16
 referenced 12:19
 refine 46:20
 regard 42:8
 regarding 40:2
 REMA 1:21

remarks 43:4
 report 55:12
 represent 8:8 33:8
 representative 7:20
 13:9 38:7,8
 represented 5:18
 representing 5:2,5 7:4
 34:11
 resident 38:13 49:7,17
 residential 5:3
 residents 5:16 6:1
 48:15 49:18
 respect 33:5 40:17
 rest 22:12 50:3
 restaurant 3:11 12:20
 12:21 14:16 15:7,8,20
 15:22 16:3 18:9,19
 21:4,14 22:7,18 23:10
 26:8 29:3 30:6,11,13
 47:17,19 49:20
 resumed 4:8
 Retailer 1:7
 Reverie 1:6 3:4,10 4:12
 14:16 34:18 37:11
 revisit 46:21 47:1 50:10
 right 3:13,18 4:4 5:12
 5:20,20 6:14 8:6 9:2
 11:12 15:11,18 16:4
 16:21 17:9,12,14,18
 19:1,10,17 20:2,22
 21:8,11 22:2,14 24:18
 24:18,21,21 25:17,20
 26:4,17,21 32:19
 33:21 34:3 35:4,7,8
 36:5 37:2,16 38:20,21
 39:21 40:6 41:3 42:4
 43:16 44:9,12,15,20
 44:22 45:2,20 48:11
 55:22 56:10
 rights 45:10 49:6
 rising 26:6
 Roll 5:17 6:15 7:21
 13:16
 Room 1:14

S

S-P-E-R-O 5:10
 safe 36:9
 saying 11:21 12:2
 20:18 21:3 34:15
 47:22 53:7,7
 says 29:15,21 31:15
 scheduled 51:15,17
 52:6
 second 17:20 18:1,6,7
 18:21 21:22 34:7
 40:10,11
 seconded 40:13

security 3:12
see 9:16 10:17 17:6
 22:11 24:13 28:8 29:1
 34:2,22 36:17 37:7
 48:17
seek 42:1,3,10
seen 31:12,13
sent 24:5 28:18 54:7
sentiment 48:10
separated 46:4
Set 10:10
settle 53:15
settlement 7:13 48:19
 48:21 49:3,12,21 52:3
 52:21 53:2,2,20 55:14
seven 15:14 52:9,9
severely 47:20
share 11:17 12:12
 15:22 16:12 42:6
shared 26:7,10,12,20
 26:21
shares 12:19
Short 1:20 40:11,12
 41:7 43:2,3,7,17
show 5:18 10:5
shows 30:8
side 11:17 31:6,8,16,19
 42:20
sides 22:7 37:20 53:1
sign 53:5
signs 49:21
Silverstein 1:20 21:12
 22:5,6,14,17,22 37:18
 37:19 38:3,9,19 39:2
 39:3,6,10,18 41:15,17
 41:20 45:4,5 47:22
 54:20,21 55:3
Silverstein's 40:18
similar 32:21
single 10:12,16
sir 5:11 10:1 12:3 18:13
 18:14 19:14 34:19
 35:12
sitting 51:11
sixth 46:11
small 46:5 47:20 48:6
smaller 37:13
solid 23:2
somebody 31:14
soon 53:10
sorry 8:13 13:20 14:2
 19:3 24:4 29:12,18
 33:17 40:20 41:16
 42:2 43:20 47:14 52:7
south 32:15,16 35:8
southeast 35:6
space 19:9 32:4,9
speak 8:3 41:4 42:21

specific 9:7 11:14
 45:10,20
Spero 1:6 2:13 3:10,10
 3:11,16,20 4:1,4 5:10
 5:10 10:11 18:14,20
 19:6,8,11 31:13 35:15
 35:19,22 36:19 56:9
SR 1:19
standing 5:20 6:16 7:1
 7:16 8:1 9:9,12,20
 12:10 25:2,4 40:3,9
 41:19 44:4 48:13,14
 48:16 49:3,8,15,19
 50:8 54:4
statement 47:11 48:8
status 1:7 39:13 42:6
 56:12
step 3:22
steps 40:2
Street 1:7,14
stretch 28:9
submit 6:2 44:7 52:2
submitted 6:5 28:17
 29:14 37:20 38:6,6
subsumed 45:21
Suite 1:15
supply 23:20
support 6:3
sure 3:16 4:15 14:9
 16:14 23:5 29:2 38:15
 42:16 46:17 47:5,6
surrounds 31:16

T

t/a 1:6
taken 49:6
talking 18:5
technical 14:9
tell 5:21 6:15 7:21 12:9
 12:9 16:22 23:9 25:18
 37:4,4 52:22 54:9
telling 38:10
term 8:6
terms 47:21,22 48:3
 53:18,19
terrace 11:2 19:8
thank 4:4 9:3 44:21
 45:1 53:12 54:18,19
 55:20,21 56:1,7,9,11
Thanks 56:2
thing 14:21 21:1 24:8
things 24:8 26:1 47:7
think 5:14 9:10,11,13
 9:20 16:1,16,19,19
 17:2 21:16 22:10
 23:21 24:6 28:16 29:1
 36:12 39:5,20 42:10
 46:7,22 48:17 49:1,10

50:1,3 51:2
third 22:1,12 55:7
thought 13:15
thump 45:15,16,16
time 8:10 45:1 55:14
 56:8
times 47:1
today 8:13 14:21 28:8
 43:8 44:7,14 50:5
told 7:22 9:14 21:13,17
totally 34:7
touch 11:22 21:14
 47:18
touches 15:21 27:9
townhouses 31:22
 32:17
train 13:15
tried 49:2
true 47:18
trump 39:10
try 49:14
trying 39:2,4 48:17
 49:10 51:12
two 7:3 11:3 35:22 55:3

U

Um-hum 35:9 51:4 55:2
unable 35:1
Underground 29:16,21
underneath 11:2
understand 20:14,15
 23:13 34:14 45:8 48:4
 48:5 51:20
unit 5:3 11:1,3,3 12:17
 14:15,16 17:11 18:18
 19:2,2,19 20:3,5,7
 34:13 47:16
unit's 26:7
units 10:6,9 11:3,4,6,13
 12:18 23:11 42:7
unsettled 46:19 47:8
unsure 42:4
upcoming 25:19
upper 29:16,21
upstairs 20:1

V

view 40:9 53:14
visually 37:5
vote 41:2 45:6
voted 44:3
votes 43:12

W

W 1:15,18
WAHABZADAH 1:21
 41:11
wall 12:19,20 45:16

walls 12:13 26:6,7,20
 27:13
want 3:14,16 20:10 33:7
 42:15 49:22
wants 9:18
Washington 1:15 8:9
way 3:12 21:9
we're 10:19 18:5
Wednesday 1:11
week 55:14
went 4:8
west 32:3,9
willing 42:7
work 55:8,15
working 7:13 55:9
world 46:8
write 54:9
writing 44:7
written 50:6,7

X

Y

yeah 3:16,17 10:11,21
 13:3,7,7,17,21 15:1
 20:14,20 28:5,13,20
 30:14 32:1 34:14 35:5
 36:14,16 38:22 41:5
 43:16,16 50:19,19,22
yellow 35:1

Z

0

1

1 10:10
10 6:1 40:18,21 42:8
 43:17,21 44:6,14 50:4
 50:9 54:1,14,15,16
10:01 4:9
10:44 56:13
100 17:8
108125 1:8 3:5 4:12
14th 1:14 51:17 52:7,14
17-PRO-00088 1:8 3:4
 4:11
19th 52:6

2

20 55:7
2000 1:14
20009 1:15
2018 1:12
202 28:10 29:1 51:22
203 29:1
205 11:3 15:9 18:20
 19:11,12 20:19 28:10

28:11,11 29:1,2 32:22
 33:15,20 34:1,4,5,16
 34:20 35:1,17 36:2,5
 36:7,20,21 37:13
206 11:3 15:9,10 17:3
 17:17 18:2,20 19:11
 19:12 20:19 21:6,14
 22:8,9,12,12,16,18
 28:10 29:1 32:22 36:6
 36:6 37:13
207 12:17 14:15,17,18
 14:18,18 15:7,10,21
 15:21 16:3,22 17:2,3
 17:16,19 18:3,6 19:15
 20:9,21 21:3,5,13,13
 21:14 22:13 29:1
 33:21 36:7 37:8,15
 43:9,14 44:17
28th 52:19
2E 1:7 2:15 3:9
2E05 4:16

3

305 34:3
306 17:11 19:21,22 20:3
 34:2 47:16 49:18
307 17:15 20:3,4,6
31 1:12
3210 1:7

4

4:30 51:17
400S 1:15
406 32:7
442-4353 52:1

5

5 12:21
50 55:13

6

6-1 41:19

7

75 22:19
7th 52:10

8

9

9:41 3:2
9:42 4:8

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Spero, LLC
t/a Reverie

Before: Alcoholic Beverage Control Board

Date: 01-31-18

Place: Washington, DC

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