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10:07 a.m.

CHAIRPERSON MILLER: I think that brings us now to our fact finding hearing. That is Case Number 11-251-00353, Mad Hatter at 1321 Connecticut Avenue, N.W., License Number 82646 in ANC 2B.

And when you're ready, would the parties introduce themselves for the record?

MR. KLINE: Good morning. Andrew Kline on behalf of the Licensee.

MR. TOBIN: Mike Tobin on behalf of the Mad Hatter.

CHAIRPERSON MILLER: I'm sorry. It's Mr. Kline and I'm sorry. What's your name?

MR. TOBIN: Michael Tobin.

CHAIRPERSON MILLER: Michael Tobin. Okay. Got it. Okay.

MR. JOSEPH: And Jonathan Joseph.

CHAIRPERSON MILLER: Jonathan Joseph?

1 MR. JOSEPH: Yes.

2 CHAIRPERSON MILLER: Okay.

3 INSPECTOR MATHIESON: Erin

4 Mathieson. Sorry.

5 CHAIRPERSON MILLER: Okay.

6 INSPECTOR MATHIESON: Erin

7 Mathieson, Investigator with ABRA.

8 CHAIRPERSON MILLER: All right.

9 MR. MILUNEC: Nathan Milunec, the,  
10 I guess, victim or complainant.

11 CHAIRPERSON MILLER: Okay. Good.  
12 Okay. All right.

13 So, this is a fact finding  
14 hearing. We don't take testimony under oath  
15 or have cross examination, but we're trying to  
16 gather the facts of what occurred and it's  
17 possible in some cases it could lead to a show  
18 cause. But, at this point, there's no penalty  
19 being considered or anything like that.

20 So, let me start with our  
21 investigator. You want to give your report  
22 please.

1 INVESTIGATOR MATHIESON: Sure.  
2 Would you -- I was going to summarize first an  
3 interview with the Complainant. So, would you  
4 rather the Complainant give his version of  
5 that for --

6 CHAIRPERSON MILLER: However you  
7 want to proceed. That's really fine.

8 INVESTIGATOR MATHIESON: Okay.  
9 I'll leave that portion out seeing how he's  
10 here. He could summarize --

11 CHAIRPERSON MILLER: Okay.

12 CHAIRPERSON MILLER: INVESTIGATOR  
13 MATHIESON: -- what happened.

14 The incident or the investigation  
15 was initiated based upon a police report dated  
16 November 12th, 2011. It was forwarded to  
17 ABRA. I think that I'll let the Complainant  
18 state what happened, but a summary of events  
19 was the Complainant was inside, was attacked  
20 by a group of patrons and there was a witness  
21 to that as well.

22 The witness when I spoke with her

1 several things. She mentioned she was  
2 actually involved in the altercation as well.  
3 She alleged she hit a guy over the head with  
4 a beer bottle. Apparently, to my  
5 understanding, it was a large -- kind of an  
6 enlarged situation on the dance floor which is  
7 located as you walk into the establishment to  
8 the left.

9 Allegedly, she stated took a short  
10 period of time for security to intervene and  
11 in reference to cooperation, she said there  
12 was only one security person who was assisting  
13 with the situation who brought the Complainant  
14 to the restroom.

15 She did say that the police -- she  
16 was the one who called 911, reported the  
17 assault and requested an ambulance for her  
18 friend and in reference to the establishment,  
19 she stated that the manager did not come  
20 outside to talk to them and only came outside  
21 when the police requested him.

22 I was able to speak with the

1 establishment ABC manager Myron Freeman who  
2 was present on the night of the incident. Mr.  
3 Freeman stated that he was working that night  
4 and indicated that he had handled the fight  
5 that occurred inside. He recalled that the  
6 Complainant and his friends had come in for  
7 dinner and stayed later in the evening for the  
8 DJ.

9 Mr. Freeman advised me that the  
10 Complainant was on the dance floor when he got  
11 into an argument with another patron and a  
12 fight broke out. He also said that security  
13 got involved, broke up the fight. At this  
14 time, some of the patrons that were being  
15 brought outside who had been involved in the  
16 altercation fled the scene.

17 In reference to the Complainant,  
18 Mr. Freeman told me that his face didn't look  
19 too badly injured except for a cut that was on  
20 his forehead. He also stated that security  
21 provided the Complainant with towels for the  
22 injury, went outside and flagged down the

1 police.

2 Mr. Freeman also indicated the  
3 Complainant appeared to be intoxicated and  
4 that he heard other patrons say that the  
5 persons who were involved with the assault on  
6 the Complainant had flashed police badges and  
7 when MPD arrived on the scene, they were  
8 unable to located the Complainant.

9 In reference to incident reports,  
10 Mr. Freeman stated that there was a log of  
11 incidents that occurred at the establishment  
12 and offered to provide me with a copy of the  
13 incident for the incident.

14 I also requested at that time a  
15 copy of the video from the night of the event.  
16 The owner, Michael Tobin, who was also present  
17 at the request and he advised me that MPD had  
18 already have been provided with a copy of the  
19 video and that he would have the counter  
20 person return to the establishment to make a  
21 second copy of the video. But, I advised him  
22 that in any situation where the police

1 received a copy of the video, a second copy  
2 should generally be made because ABRA will  
3 request that as well.

4           There did appear to be some  
5 confusion in terms of getting the video. I  
6 received a copy of the video from 12:00 a.m.  
7 to 2:00 a.m.

8           The time of the incident was a  
9 little unclear. When I spoke with the  
10 Complainant, he advised me that he was there  
11 for a birthday party and they had not yet  
12 begun to celebrate the birthday indicating  
13 that the time of the event would have been  
14 prior to midnight. Again, the video was made  
15 from midnight to 2:00 a.m. So, when I  
16 reviewed the video, there was a small scuffle  
17 or something that appeared to be of that  
18 nature, but that was not until after 1:00 a.m.  
19 which was well after the time of this  
20 incident.

21           I went back to the establishment  
22 and advised the owner and requested a copy of

1 the video footage prior to midnight.

2 Evidently, the camera system -- I  
3 ended up speaking with the person who ran the  
4 camera system or, excuse me, was responsible  
5 for the camera system. He works for NARD's  
6 ACM. His name was Cosmo Kunkle. In reference  
7 to that camera system, Mr. Kunkle told me that  
8 the system is terribly old. It only have the  
9 ability to save footage for 13 days and the  
10 quality of the video he also said was not as  
11 great as the newer updated, I guess, system  
12 would have been.

13 And in regards to making the  
14 additional footage, he said it was no longer  
15 possible and at the time when the video  
16 footage was burned, he said himself and the  
17 owner, Mr. Tobin, sat down, reviewed the video  
18 footage and the small scuffle that they  
19 observed at about 12:45 a.m. was what they  
20 presumed to be the fight which was why the  
21 video was only made from 12:00 to 2:00.

22 I was unable -- like I said

1 because of the video footage only maintained  
2 for 13 days, I was unable to actually obtain  
3 a copy of the video footage. The Complainant  
4 will probably tell you that, but he allegedly  
5 says that MPD was able to get a copy of the  
6 video footage prior to 11:00 or excuse me,  
7 starting at 11:00 p.m. I was unable to verify  
8 that with MPD and I was unable to get a --  
9 verify that with the camera system operator.

10           Additionally, I did see that MPD,  
11 Sergeant Gudger, who was the first responder  
12 to the scene, Sergeant Gudger stated that he  
13 responded to the location as a result of a  
14 radio run and when he arrived at the location,  
15 he was looking a female because it was a  
16 female who called 911. He surveyed or  
17 canvassed the area looking for the female and  
18 he did not find her. At which time, he was  
19 flagged down by a member, excuse me, a staff  
20 member at Mad Hatter and was then subsequently  
21 able to make contact with the Complainant.

22           Oh, one last thing, the incident

1 report I was able to obtain from the  
2 establishment and in the incident report  
3 itself, there's a Tif who was working at  
4 Satellite Bar which is the bar where the dance  
5 floor is located, she did mention that it took  
6 too long for the front door guy or, excuse me,  
7 for door guys to respond and that the group  
8 was pushing and shoving for some time.

9 Again, I'll save the summary  
10 portion of the Complainant's -- of the actual  
11 incident for him to describe it to you.

12 CHAIRPERSON MILLER: Okay.

13 MR. MILUNEC: All right. It was  
14 Friday, November 11th, 2011. We just finished  
15 dinner in Chinatown and we headed over to the  
16 Mad Hatter. When we arrived, we checked in  
17 our coats and went upstairs to grab a drink.  
18 We spent I'd say 10 minutes upstairs with a  
19 drink. After that, we got -- we just ordered  
20 the same drink and went downstairs to the  
21 dance floor area.

22 Then roughly five minutes or two

1 to three songs later, I -- someone grabbed me  
2 from behind. Next thing I know I was falling  
3 to the ground and I was repeatedly punched in  
4 the face multiple times.

5 After some time, I was released.  
6 I stood up, looked around. I saw my friend on  
7 the ground, spent up. Twenty to 30 seconds  
8 looking around. Then I was jumped on my back  
9 again, taken to the ground and punched in the  
10 face multiple times for the second time.

11 After that, I was released for the  
12 second time. I stood up. I saw my friend.

13 The next thing I saw was the  
14 security guard telling us we had to leave. We  
15 need to get out now. I asked him can I at  
16 least get a napkin for my cut because I had  
17 noticed my hand was covered in blood and my  
18 shirt was covered in blood.

19 He saw my face. We went to the  
20 Satellite Bar. The bartender gave me cocktail  
21 napkins.

22 Then I was escorted to the back --

1 the employee bathroom. Security guard dropped  
2 me off there and disappeared. Then after --  
3 then I started washing myself up.

4 After some time, the security  
5 guard came back, took me outside where he  
6 showed me the cop car on the left. I went to  
7 the cop.

8 Then after a couple of minutes,  
9 the ambulance arrived. I hopped in and went  
10 to the ER room where I had three staples in my  
11 head, a CAT scan and they told me to call a  
12 specialist which I did. Went to a specialist  
13 and they had -- they suggested I receive  
14 surgery for my facial injuries. I received  
15 surgery to fix my broken nose, bones and  
16 deviated septum.

17 CHAIRPERSON MILLER: Okay. Thank  
18 you.

19 Do we have questions from the  
20 Board? Okay. Mr. Alberti.

21 MEMBER ALBERTI: Yes, all of my  
22 questions are sort of in the line of

1 understanding the time line here.

2 MR. MILUNEC: Okay.

3 MEMBER ALBERTI: I'm going to  
4 start with Investigator Mathieson first.

5 I just want to go over what you  
6 were told by Ms. Pangliani.

7 INVESTIGATOR MATHIESON: Correct.

8 MR. MILUNEC: Pangilinan.

9 MEMBER ALBERTI: Pardon.

10 MR. MILUNEC: It's Pangilinan.

11 MEMBER ALBERTI: Pangilinan.

12 MR. MILUNEC: Yes.

13 MEMBER ALBERTI: Okay. Ms.  
14 Pangilinan -- according to her what I'm  
15 hearing in your -- see in your report, so just  
16 to make sure I'm correct here.

17 INVESTIGATOR MATHIESON: Sure.

18 MEMBER ALBERTI: Is that -- she  
19 says that after the security guards arrived  
20 and cleared the scene so to speak, she was  
21 told to leave. Correct?

22 INVESTIGATOR MATHIESON: She

1 stated she was kicked out of the  
2 establishment.

3 MEMBER ALBERTI: But, in the  
4 interim, she had to -- she had to go retrieve  
5 her coat.

6 INVESTIGATOR MATHIESON: Yes, from  
7 my understanding, she had been kicked out of  
8 the establishment. She was outside and then  
9 at that point, she had to then request I guess  
10 to go back inside to retrieve her coat which  
11 was in the coat check and according to the  
12 Complainant, I believe she said that security  
13 didn't escort her back inside. Like she had  
14 to push her way through.

15 On the video footage, the only  
16 thing I was able to observe was the  
17 establishment. It was very crowded that  
18 night. It was no too large on the first floor  
19 room area. Through the main bars on the video  
20 footage, it was basically people to people the  
21 whole way through.

22 MEMBER ALBERTI: Okay. Okay. So,

1 it would have taken her --

2 INVESTIGATOR MATHIESON: Right.

3 MEMBER ALBERTI: -- sometime to  
4 make it to the back.

5 INVESTIGATOR MATHIESON: Watching  
6 the video, it was consistent that it would --  
7 it would have. She would have had to struggle  
8 to make her way through a crowd.

9 MEMBER ALBERTI: Now, the way you  
10 reported, she says she didn't call 911 until  
11 she got outside after retrieving her coat?

12 INVESTIGATOR MATHIESON: No, I  
13 think --

14 MEMBER ALBERTI: Is that -- I  
15 don't under -- that's what I'm trying to  
16 understand.

17 INVESTIGATOR MATHIESON: I'm not  
18 clear actually on that. If she called 911 the  
19 first time she was outside or the second time  
20 she was outside.

21 MEMBER ALBERTI: Okay.

22 INVESTIGATOR MATHIESON: I'm not

1 clear which one it was. But, she did -- all  
2 she says is that when she was outside, she  
3 called 911.

4 MEMBER ALBERTI: Okay. Okay.  
5 Now, the officer that he responded due to a  
6 radio run. Right?

7 INVESTIGATOR MATHIESON: Correct.  
8 The call came through as a radio run with a  
9 female caller which is consistent with what  
10 she said and it was a 911 phone call.  
11 Sergeant Gudger was the first to respond to  
12 the scene and because it was a radio run from  
13 a female outside of Mad Hatter, he was looking  
14 for a female victim.

15 There was another officer who also  
16 responded to the scene. MPD Officer Kinzer.  
17 He responded to the location although he  
18 advised me Sergeant Gudger was first to the  
19 scene. He canvassed the area as well for  
20 about 10 minutes. Then he said he was  
21 approached by the Complainant on the street.  
22 But, he again said he was not the first person

1 to the scene. So.

2 MEMBER ALBERTI: Okay. But, then  
3 officer, I forget who, which officer it was,  
4 said he was flagged down by the club  
5 personnel.

6 INVESTIGATOR MATHIESON: Yes,  
7 Sergeant Gudger who was the first to the scene  
8 who was looking for the female victim was  
9 eventually flagged down by the employees of  
10 the establishment.

11 MEMBER ALBERTI: Okay.

12 INVESTIGATOR MATHIESON: And then  
13 the second responder, Officer Kinzer, was  
14 flagged down by the Complainant.

15 MEMBER ALBERTI: Eventually.

16 INVESTIGATOR MATHIESON:  
17 Eventually.

18 MEMBER ALBERTI: Do you get a  
19 sense that they were out there when he first  
20 got there or he --

21 INVESTIGATOR MATHIESON: He said  
22 he canvassed the area. He was canvassing the

1 area. So, he -- I would guess he was there  
2 for a few minutes before he was flagged down.

3 MEMBER ALBERTI: Before. That's  
4 your sense of what happened. Okay.

5 INVESTIGATOR MATHIESON: Correct.

6 MEMBER ALBERTI: Mr. Milunec.

7 MR. MILUNEC: Milunec.

8 MEMBER ALBERTI: Milunec. Okay.

9 So, you were attacked twice. Is that correct?

10 MR. MILUNEC: Yes, I was attacked  
11 twice.

12 MEMBER ALBERTI: The first time,  
13 how long? Seconds you'd say or minutes?

14 MR. MILUNEC: First time, he  
15 grabbed me to the ground. He got over four  
16 punches. I'm assuming closer to eight. I  
17 cannot tell. I was waiting for security, my  
18 friends to help me up instead of fighting back  
19 because I didn't want to cause any injuries.

20 I can tell you I was down there  
21 for awhile because I had time to think of  
22 where's security, where's my friends.

1 MEMBER ALBERTI: Did you yell?

2 MR. MILUNEC: They're not  
3 stopping.

4 MEMBER ALBERTI: Did you yell?

5 MR. MILUNEC: He was punching me  
6 in the face and my concern was protecting my  
7 face and I was --

8 MEMBER ALBERTI: Do you know if  
9 your friends were yelling?

10 MR. MILUNEC: My friends, I'm sure  
11 they yelled. My friends eventually were the  
12 ones who saved me. Not security and to my  
13 knowledge, I was told Melissa Pangilinan was  
14 -- she reacted by taking a beer bottle and  
15 hitting him on the shoulder to get him off me.

16 MEMBER ALBERTI: The first time or  
17 the second --

18 MR. MILUNEC: First time.

19 MEMBER ALBERTI: First time.  
20 Okay.

21 MR. MILUNEC: First time.

22 MEMBER ALBERTI: How many friends

1 were with you?

2 MR. MILUNEC: I was there with my  
3 roommate who was celebrating his birthday.  
4 Melissa was his girlfriend and then I had two  
5 other friends there. So, I think four plus  
6 me.

7 MEMBER ALBERTI: Okay. I'm trying  
8 to get a sense of --

9 MR. MILUNEC: Yes, that's fine.

10 MEMBER ALBERTI: -- the crowd that  
11 was involved here. All right.

12 MR. MILUNEC: Um-hum.

13 MEMBER ALBERTI: So, then you got  
14 up and what did you do?

15 MR. MILUNEC: I got up. I looked  
16 forward. I saw Melissa on the ground. Then  
17 I felt --

18 MEMBER ALBERTI: You saw Melissa  
19 on the ground?

20 MR. MILUNEC: Yes, when I stood  
21 up, I saw her on the ground.

22 I touched my face, looked and saw

1 my hand was covered in blood. I wiped it on  
2 my jeans. Then I looked to my right, looked  
3 to my left. I saw my friend not fighting, but  
4 like holding the guy or like wrestling the  
5 guy. Just containing him and then I was  
6 debating. So, I go help my friend out or try  
7 to wait for security.

8 Then after that, someone jumped on  
9 my back, took me down for the second time and  
10 I say it was about half as long as the first  
11 attack. Again, punched me in the face  
12 multiple times. Then he got off me. I stood  
13 up, saw my roommate and then a security guard  
14 saying -- start kicking us out.

15 MEMBER ALBERTI: Okay.

16 INVESTIGATOR MATHIESON: When I --  
17 also, when I interviewed the witness, his  
18 friend Melissa, she did say that, I think I  
19 said, she hit someone over the head with a  
20 beer bottle and then at one point, she  
21 actually shoved to the ground by somebody  
22 involved in the altercation as well.

1 MEMBER ALBERTI: Great.

2 INVESTIGATOR MATHIESON: She told  
3 me that on her own.

4 MEMBER ALBERTI: Thank you. So,  
5 Mr. Milunec, then when you got outside, you're  
6 escorted out. Eventually --

7 MR. MILUNEC: Yes --

8 MEMBER ALBERTI: Okay. So, after  
9 you got up, what's the next thing you did  
10 again? You went to --

11 MR. MILUNEC: Well, first of all,  
12 we recognized the bouncer because he was from  
13 the upstairs bar. Then he told us to leave.  
14 I asked could I at least get a napkin and he  
15 then saw my face. We sent over to the  
16 Satellite Bar. I started grabbing cocktail  
17 napkins and the bartender threw me an entire  
18 stack of cocktail napkins. I put it over my  
19 wound.

20 Then the guard escorted me to the  
21 employee bathroom in the back. He showed me  
22 the bathroom and then he left. So, I started

1 to look in the mirror, wash up.

2 Then after a little while later,  
3 he came back. Said follow me and took me  
4 outside and that's where the cop car was  
5 waiting. The officer talked to me and then  
6 the ambulance arrived. I hopped in and went  
7 to the ER -- ER room.

8 MEMBER ALBERTI: Okay. I know  
9 it's tough to estimate the amount of time.  
10 But, from the time you got up from the second  
11 assault to the time you were escorted out,  
12 going to the bar, going to the bathroom, how  
13 long? Any idea?

14 MR. MILUNEC: From being escorted  
15 to the bathroom to leaving, let me run through  
16 it. Walk to the back. Downstairs.

17 MEMBER ALBERTI: Out in the hall  
18 when you're -- cleaning up.

19 MR. MILUNEC: I'd say five  
20 minutes. I was -- from beginning -- being  
21 escorted to the bathroom and leaving the  
22 bathroom took about a total of five minutes.

1                   MEMBER ALBERTI: Okay. During  
2 that time when you were taken to the bar and  
3 then brought back to the bathroom and then  
4 being escorted out, did the club tell you what  
5 actions they were taking?

6                   MR. MILUNEC: I was told -- I  
7 heard. The bouncer said two phrases. Follow  
8 me and -- follow me. So, I followed him to  
9 the bathroom and then when he picked me up, he  
10 said follow me again. That's all he said to  
11 me was follow me. Was the only words I heard.

12                  MEMBER ALBERTI: And you follow  
13 him outside.

14                  MR. MILUNEC: I followed him to  
15 the bathroom. Then he -- and then I followed  
16 him outside and that was it.

17                  MEMBER ALBERTI: And then when you  
18 got outside, did he say here's the police  
19 officer.

20                  MR. MILUNEC: He pointed to the  
21 cops and walked back into the bar.

22                  MEMBER ALBERTI: Okay. I don't

1 think I have any further questions. Thank you  
2 very much.

3 CHAIRPERSON MILLER: Questions  
4 from other Board Members?

5 MEMBER BROOKS: Yes.

6 CHAIRPERSON MILLER: Mr. Brooks.

7 MEMBER BROOKS: Yes, thank you,  
8 Madam Chair.

9 Any idea why you were assaulted?

10 MR. MILUNEC: No, I have no idea  
11 because we were only there on the dance floor  
12 for only two to three songs or like five  
13 minutes and I don't remember bumping into  
14 anyone, any verbal altercation or stepping on  
15 anyone's toes or anything like that.

16 I personally do not know why I was  
17 attacked. I just knew I was attacked from  
18 behind.

19 MEMBER BROOKS: And how many  
20 people approximately?

21 MR. MILUNEC: Since I was attacked  
22 from behind, I have no recollection. My

1 friends said there's three guys. That's  
2 according to my friends.

3 MEMBER BROOKS: Okay. And no one  
4 you had recognized?

5 MR. MILUNEC: No, no one I  
6 recognized.

7 MEMBER BROOKS: And so, then why  
8 did security ask you to leave and not --

9 MR. MILUNEC: No idea.

10 MEMBER BROOKS: You indicated  
11 before you arrived at the Mad Hatter you and  
12 your friends were at dinner before at  
13 Chinatown?

14 MR. MILUNEC: Yes, we were at  
15 Carmine's in Chinatown.

16 MEMBER BROOKS: Okay.

17 MR. MILUNEC: Then after dinner,  
18 we went to the Mad Hatter.

19 MEMBER BROOKS: And did you have  
20 drinks at Carmine's?

21 MR. MILUNEC: I had two glasses of  
22 wine during dinner. Then when we went to the

1 Mad Hatter, I had one drink upstairs so for a  
2 total of three. Then we got our fourth drink  
3 which I was not able to complete since the  
4 attack happened.

5 MEMBER BROOKS: Thank you, Madam  
6 Chair.

7 CHAIRPERSON MILLER: Thank you.  
8 Other questions? Yes, Mr. Silverstein.

9 MEMBER SILVERSTEIN: Mr. Milunec,  
10 I know that things were happening around you  
11 so quickly, but is there anything that you  
12 wish they had done or could have done that  
13 they didn't?

14 MR. MILUNEC: I've -- from my past  
15 experiences in D.C. and in other locations in  
16 the United States, bouncers come in a flash at  
17 other clubs. Here I didn't initially fight  
18 back because I thought the bouncers would be  
19 there in a flash and I wish they would have  
20 acted sooner and recognized the situation  
21 faster. Also --

22 MEMBER SILVERSTEIN: How crowded

1 was it?

2 MR. MILUNEC: Huh?

3 MEMBER SILVERSTEIN: How crowded  
4 was it? Is there any reason why they didn't  
5 come quickly to your recollection?

6 MR. MILUNEC: I'm not sure exactly  
7 the reason or like the video and Erin said, it  
8 was crowded, but I -- I did know there was two  
9 -- at least two guys on the floor from my  
10 recollection within a couple of seconds  
11 distance. Two bouncers.

12 MEMBER SILVERSTEIN: Okay. Now,  
13 back to where you were.

14 MR. MILUNEC: I wish they would  
15 have reacted faster. I wish they would have  
16 helped and recognized the situation and  
17 helping the police in capturing the assailant  
18 or the attacker.

19 It would have been nice if they  
20 gave me information. Also, it would have been  
21 very, very beneficial if the video was kept  
22 and saved which it was not because that would

1 have solved everyone's questions and helped  
2 capture the attacked.

3 And also communication. I have --  
4 the only contact I ever had with the bar was  
5 through their insurance adjuster. Because I  
6 tried contacting them, phone calls, emails and  
7 certified letter and I got maybe one response  
8 saying our insurance adjuster will talk to  
9 you.

10 MEMBER SILVERSTEIN: So, you have  
11 no knowledge that they did anything. You were  
12 assaulted, you know, seriously injured and you  
13 have no indication that the Licensee  
14 cooperated with the police immediately to  
15 point out the assailants, to do anything other  
16 than to get you off the premises. Is that  
17 what you're --

18 MR. MILUNEC: I'm saying -- yes,  
19 they're -- they're more -- to my view -- my  
20 viewpoint, it seemed like they were more  
21 concerned getting us out of there and  
22 continuing with business.

1                   MEMBER SILVERSTEIN: Do we have  
2 any reason to believe that these people were  
3 given special dispensation because of their --  
4 did they brag about being off duty police or  
5 something of that nature? And I open this up  
6 also to Investigator Mathieson.

7                   INVESTIGATOR MATHIESON: There  
8 were some rumors. Nothing was substantiated  
9 by myself or MPD, but there were some rumors  
10 that they people had flashed badges. But,  
11 there's no indication that that was -- had  
12 anything to do with how the situation was  
13 handled.

14                  MEMBER SILVERSTEIN: It's not been  
15 substantiated at all?

16                  INVESTIGATOR MATHIESON: It's not  
17 been substantiated. No.

18                  There was just a rumor. It was  
19 just a rumor that surfaced. It was in the  
20 police report also, but it was just a rumor,  
21 I guess, on the night that they had flashed  
22 badges and were allegedly off-duty NYPD

1 officers.

2 MR. MILUNEC: And to add onto  
3 that, again, I was in the bathroom during this  
4 time. Some of our friends said outside on the  
5 sidewalk in front of the Mad Hatter they were  
6 still trying to instigate the fight and my  
7 friends didn't want anything to do with it and  
8 then they said one person did mention they  
9 were off-duty police officer and that's all I  
10 heard. I'm not sure about what happened  
11 outside.

12 MEMBER SILVERSTEIN: Okay. Thank  
13 you.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: Mr. Milunec, you  
16 actually just provided some information that  
17 I hadn't heard before. So, I know it just  
18 comes from your friends, but they said that  
19 when they were outside after the melee inside,  
20 that the other parties was trying to instigate  
21 a fight again.

22 MR. MILUNEC: My friends told me

1 that they were still trying to instigate a  
2 fight, still talking.

3 MEMBER ALBERTI: Did your friends  
4 say anything about who from the club was out  
5 there?

6 MR. MILUNEC: They -- no, they  
7 didn't say anything about anyone out there and  
8 then as soon as the cop car came, my friends  
9 said the guys ran off somewhere.

10 MEMBER ALBERTI: Okay. Thank you.

11 CHAIRPERSON MILLER: Yes, Mr.  
12 Nophlin.

13 MEMBER NOPHLIN: Investigator, I'm  
14 sorry. Let's go back. As I was listening, I  
15 was thinking.

16 In terms of the incident, you said  
17 that the cameras did not work at one point or  
18 did not record the time of this incident  
19 occurred.

20 INVESTIGATOR MATHIESON: The  
21 cameras were working and they recorded. The  
22 establishment provided me with video footage.

1       However, the time on the video was from 12:00  
2       a.m. to 2:00 a.m. and I don't have the police  
3       report in front of me. So, I'm not certain  
4       what the time on the police report was.

5               MEMBER ALBERTI: I can fill that  
6       in. The police report says it started at ten  
7       minutes after 12:00.

8               INVESTIGATOR MATHIESON: Ten  
9       minutes after 12:00. That's what I thought,  
10      but according to Complainant, he said that he  
11      was there for a birthday party and that he  
12      didn't recall celebrating the birthday yet  
13      which would have put it at the prior to  
14      midnight hour.

15              So, I think there was some  
16      confusion in the actual time of the start of  
17      the incident.

18              So, when I went back to request  
19      the video footage from 11:00 p.m. forward,  
20      there was -- the video footage had already at  
21      that point recorded over.

22              I did advise the owner generally

1 with these kind of incidents, you want to make  
2 a full block of the video so that if something  
3 like this does happen you want to just take  
4 10:00 a.m. to 2:00 a.m. Just put a large  
5 portion of it.

6           Apparently, when -- I guess the  
7 reason that wasn't done there was something  
8 with -- it was only able to store -- the flash  
9 drive would only use about two hours of video.  
10 So, he was only able to store the two hours.  
11 It wouldn't -- the flash drive wouldn't store  
12 more video. So, at that time, that's why only  
13 the two hours were recorded.

14           MR. MILUNEC: And if I may add off  
15 that, the -- we were there for a friend's  
16 birthday and it was only a couple minutes --  
17 it was about five minutes before midnight and  
18 I remember that because of this birthday party  
19 and I probably didn't leave -- I probably left  
20 and talked to the officer around 12:10 and  
21 that was probably the time he put down was  
22 when he contacted me. That's my opinion.

1                   MEMBER NOPHLIN:  And the other  
2                   question I want to ask, in your reviewing the  
3                   tape, did you see or recognize any suspicious  
4                   people walking around or acting in a different  
5                   way so you could identify promptly who the  
6                   victims were?

7                   INVESTIGATOR MATHIESON:  I'm  
8                   sorry.  We're you asking me?  I'm so sorry.  
9                   I was reading something.  I'm sorry.

10                  MEMBER NOPHLIN:  In reviewing the  
11                  tape, did you see any suspicious people  
12                  walking around who you thought had instigated  
13                  this incident?

14                  INVESTIGATOR MATHIESON:  No.  No.  
15                  I only have, like I said, from 12:00 a.m. on  
16                  and I was very meticulous in trying to view it  
17                  and look for any signs of the people walking  
18                  through fast or anything of that nature and I  
19                  just didn't -- I mean it was very crowded and  
20                  nothing -- I looked at all the different  
21                  angles and there was not --

22                  MEMBER NOPHLIN:  It was very

1 crowded you say and about how many people --

2 INVESTIGATOR MATHIESON: It was  
3 very crowded. Yes.

4 MEMBER NOPHLIN: About how many  
5 people were there?

6 INVESTIGATOR MATHIESON: I  
7 couldn't say. I couldn't say for certain, but  
8 on the video again, it -- when you view it, it  
9 was basically shoulder to shoulder persons.  
10 So, in there, it was -- it was crowded. I  
11 couldn't say for certain because I don't know.  
12 I don't know what the occupancy is. I don't  
13 know. I didn't have a full view of the room.  
14 I wasn't there in person, but just from the  
15 video footage, it was --

16 MEMBER NOPHLIN: Did you see the  
17 incident report? Did you review that incident  
18 report?

19 INVESTIGATOR MATHIESON: Yes.  
20 From the establishment?

21 MEMBER NOPHLIN: Yes.

22 INVESTIGATOR MATHIESON: Yes, as I

1 said, there was the one line in there that was  
2 -- that stood out. That said Tif, I believe  
3 she was the bartender working at the Satellite  
4 Bar, mentioned that it took too long for the  
5 door guys to respond and that the group was  
6 pushing and shoving for some time.

7 Then it said that Myron who was  
8 the ABC manager I spoke with met with the door  
9 staff after the shift to address the issue and  
10 it was described, I'm sorry, in the incident  
11 report. Described it as a pretty big fight on  
12 the dance floor.

13 MEMBER NOPHLIN: At any point did  
14 you interview the policeman who was involved?  
15 What was his recollection of what happened?

16 INVESTIGATOR MATHIESON: Yes. So,  
17 there was -- there was some -- the MPD didn't  
18 necessarily have any information regarding the  
19 incident. The questions were basically -- the  
20 information they provided was in regards to  
21 their response.

22 There were two people who

1 responded, Officer Kinzer and Sergeant Gudger.

2 Sergeant Gudger was the first to  
3 the scene. So, he was -- as I said, he got  
4 the call from 911 which was a female caller.  
5 So, he was canvassing the area looking for a  
6 female.

7 Officer Kinzer stated that he also  
8 responded and he canvassed the area for about  
9 ten minutes before they were approached on the  
10 street in front of the establishment. He said  
11 he was the first by the Complainant on this --  
12 in front of the establishment.

13 So, and I did actually ask him if  
14 the Complainant appeared to be intoxicated and  
15 he advised me that intoxication was a medical  
16 and legal term, but added that the Complainant  
17 did not seem to be adversely effected by drugs  
18 or alcohol.

19 MEMBER NOPHLIN: Thank you. Thank  
20 you, Madam Chair.

21 CHAIRPERSON MILLER: Thank you.

22 Other Board questions?

1 I just have a few. Ms. Mathieson,  
2 who --

3 INVESTIGATOR MATHIESON: Sure.

4 CHAIRPERSON MILLER: -- called the  
5 ambulance? Do we know?

6 INVESTIGATOR MATHIESON: Yes, I  
7 believe the witness who was Melissa -- I'm  
8 sorry. I don't have her last name.  
9 Pangilinan.

10 MR. MILUNEC: Pangilinan.

11 INVESTIGATOR MATHIESON:  
12 Pangilinan.

13 MR. MILUNEC: Yes.

14 INVESTIGATOR MATHIESON: She was  
15 the 911 caller and she requested an ambulance.

16 CHAIRPERSON MILLER: Oh, so, that  
17 was the same call the police and the  
18 ambulance.

19 INVESTIGATOR MATHIESON: Yes.

20 CHAIRPERSON MILLER: Okay. Mr.  
21 Milunec, it sounds from your testimony you  
22 couldn't identify your assailants because you

1 were attacked from behind basically.

2 MR. MILUNEC: Correct. Yes.

3 CHAIRPERSON MILLER: But, then did  
4 you also say that they were outside and then  
5 there was something going on again where a  
6 fight was almost instigated?

7 MR. MILUNEC: While I was in the  
8 bathroom, my friends said outside they're  
9 still talking trash saying do you want to go  
10 around the corner. Trying to skate the fight  
11 further according to my friends.

12 CHAIRPERSON MILLER: So, did they  
13 see the assailants?

14 MR. MILUNEC: They -- to my  
15 knowledge, yes.

16 CHAIRPERSON MILLER: Did they give  
17 reports to the police on that? Do you know?

18 MR. MILUNEC: At least two of them  
19 did. I know Melissa did. I'm not sure what  
20 the others did. I was more concerned about my  
21 health and well being at the time.

22 CHAIRPERSON MILLER: Um-hum.

1 Okay. And do you have any knowledge as to the  
2 status of that investigation against the  
3 assailants?

4 MR. MILUNEC: The last time I  
5 talked to the police or the detective Mr.  
6 James Bovino, he said it's still an active  
7 case, but there's no current leads or no  
8 suspects at the moment.

9 CHAIRPERSON MILLER: Okay. And  
10 then I guess my last question is about this  
11 idea that they may be NYPD officers, off-duty  
12 officers. Where does that come from?

13 MR. MILUNEC: My friends told me  
14 that during the outside talking someone  
15 mentioned -- either I think -- they said  
16 either when they were getting kicked out by  
17 the bouncers or while they outside talking to  
18 their friends, one person mentioned that they  
19 were -- they were NYPD officers or they were  
20 undercover officers saying -- and then they're  
21 saying that they were here to help.

22 CHAIRPERSON MILLER: And I'm not

1       sure if you were in the bathroom at the time  
2       or whatever, but do you have any idea as to  
3       how the establishment's security was dealing  
4       with those assailants who may have been NYPD  
5       officers?

6                   MR. MILUNEC:  I -- I was at the  
7       bathroom at the time.  I cannot fully say what  
8       -- about how security was doing, but according  
9       to my friends, they just made sure everyone  
10      got out of the establishment and after -- once  
11      everyone was outside, they were pretty much  
12      hands off.

13                   CHAIRPERSON MILLER:  Okay.  All  
14      right.  Thank you.  Okay.  Any other questions  
15      from the Board right now?  Okay.

16                   Mr. Kline, whenever you're ready  
17      if you want to ask questions or just --

18                   MR. KLINE:  Yes, I have questions.

19                   CHAIRPERSON MILLER:  Okay.

20                   MR. KLINE:  Investigator  
21      Mathieson, you spoke to both Officer Kinzer  
22      and Sergeant Gudger concerning this incident?

1                   INVESTIGATOR MATHIESON:  Correct.  
2           One was -- Office Kinzer was an email  
3           exchange.  Sergeant Gudger was telephonically.

4                   MR. KLINE:  Okay.  And Sergeant  
5           Gudger, he apparently was the first person on  
6           the scene?

7                   INVESTIGATOR MATHIESON:  Correct.

8                   MR. KLINE:  Do you know why it is  
9           that the report is then done by Officer  
10          Kinzer?

11                   INVESTIGATOR MATHIESON:  I'm not  
12          sure on MPD's -- how they determine who takes  
13          the report.  My guess is because it was a  
14          sergeant versus an officer.  So, the officer  
15          took the report.

16                   MR. MILUNEC:  And to add onto  
17          that, Kinzer went to the ER room with me and  
18          took my statement at the ER room.

19                   MR. KLINE:  Okay.  Investigator,  
20          Officer Kinzer indicated that Sergeant Gudger  
21          was the first to arrive at the location.

22                   INVESTIGATOR MATHIESON:  Correct.

1 MR. KLINE: And he says that he  
2 canvassed the area for about ten minutes.

3 INVESTIGATOR MATHIESON: Correct.

4 MR. KLINE: Do you know why it is  
5 that he did not hook up with Sergeant Gudger  
6 as soon as he arrived there?

7 INVESTIGATOR MATHIESON: I don't  
8 know. I don't know if they overlapped and  
9 split and canvassed separately. I'm not --  
10 I'm not --

11 MR. KLINE: All right. But,  
12 Officer Kinzer says apparently that his first  
13 knowledge was when he was approached on the  
14 street by the Complainant.

15 INVESTIGATOR MATHIESON: Well, he  
16 received -- yes, he received a call as a  
17 result of the radio run, the same radio run  
18 that Sergeant Gudger received. So, they both  
19 responded to the location.

20 It was my understanding that  
21 Sergeant Gudger just got there faster than  
22 Officer Kinzer.

1 MR. KLINE: And you don't know why  
2 it is that Officer Kinzer didn't immediately  
3 find Sergeant Gudger when he got there?

4 INVESTIGATOR MATHIESON: I didn't  
5 ask a specific question whether or not he did  
6 that or not. So, I can't say for certain if  
7 they spoke, if they didn't speak. I can't say  
8 for certain.

9 MR. KLINE: All right. Now,  
10 Officer Kinzer indicates in his report that  
11 witnesses alleged that the suspects boasted  
12 that they off-duty NYPD officers.

13 INVESTIGATOR MATHIESON: Correct.

14 MR. KLINE: Did you ask Officer  
15 Kinzer who the identity of those witnesses  
16 were?

17 INVESTIGATOR MATHIESON: No.

18 MR. KLINE: Do you know whether  
19 they recorded the identity of those witnesses?

20 INVESTIGATOR MATHIESON: I think  
21 the only -- I don't have the police report in  
22 front of me, but I think the only witness that

1 was listed or there might have been two. I  
2 can't for certain who was listed on the  
3 report, but the one I spoke with was Melissa  
4 Pangilinan.

5 But, I don't know who those other  
6 witnesses were. I can't say for certain.

7 MR. KLINE: Now, the report that's  
8 attached to your report --

9 INVESTIGATOR MATHIESON: Correct.

10 MR. KLINE: -- to your knowledge,  
11 is this the only report that there would be  
12 with respect to this investigation?

13 INVESTIGATOR MATHIESON: There  
14 could have been a supplemental completed, but  
15 to my knowledge, that was the only one that  
16 was done.

17 MR. KLINE: Okay. And Officer  
18 Kinzer did tell you that the establishment was  
19 cooperative?

20 INVESTIGATOR MATHIESON: Yes, he  
21 added that the establishment was cooperative  
22 with their investigation, but he said that

1 they were told the video footage was not  
2 available, but they --

3 MEMBER SILVERSTEIN: Say again  
4 please.

5 INVESTIGATOR MATHIESON: I'm  
6 sorry.

7 MEMBER SILVERSTEIN: Say again  
8 please.

9 INVESTIGATOR MATHIESON: Yes, they  
10 said the establishment was cooperative with  
11 the investigation and he said he was told  
12 video footage was not available, but I later  
13 determined that MPD did get a copy of the  
14 video. So, I don't know if a detective had  
15 come in separately and got the video.

16 MR. KLINE: Okay. And do you know  
17 who it was that retrieved the video from the  
18 establishment?

19 INVESTIGATOR MATHIESON: I just  
20 was told it was MPD. I think it was a  
21 detective. I don't have his last name in  
22 front of me.

1 MR. KLINE: So, the statement that  
2 the video footage was not available turned out  
3 to be false. Correct? All right.

4 Now, Sergeant Gudger, did you ask  
5 him whether the establishment was cooperative  
6 with their investigation?

7 INVESTIGATOR MATHIESON: No.

8 MR. KLINE: Okay. Mr. Milunec?

9 MR. MILUNEC: Yes.

10 MR. KLINE: Yes. Mr. Milunec,  
11 you've indicated that you were there for about  
12 five minutes.

13 MR. MILUNEC: I was on the dance  
14 floor for about five minutes. We had a drink  
15 upstairs beforehand. So, I'm saying 20 to 25  
16 minutes total I was at Mad Hatter.

17 MR. KLINE: Okay. And you had  
18 dinner earlier you said in Chinatown  
19 somewhere.

20 MR. MILUNEC: Yes, Carmine's in  
21 Chinatown.

22 MR. KLINE: And what did time --

1 did you have a reservation at Carmine's?

2 MR. MILUNEC: My friend made the  
3 reservation.

4 MR. KLINE: And there were six of  
5 you?

6 MR. MILUNEC: It was myself and  
7 four others.

8 MR. KLINE: So, five.

9 MR. MILUNEC: Five total.

10 MR. KLINE: Okay. Do you know  
11 what time your reservation was at Carmine's?

12 MR. MILUNEC: I cannot recall.

13 MR. KLINE: Do you know how long  
14 you were at Carmine's?

15 MR. MILUNEC: For quite some time  
16 because we had -- we did the full all the way  
17 appetizers all the way to dessert and then we  
18 took the Metro over.

19 To put a time on it, I have to  
20 think about it. I'm not exactly sure how  
21 long.

22 MR. KLINE: And then you were at

1 Mad Hatter about 25 minutes?

2 MR. MILUNEC: Roughly.

3 MR. KLINE: And where did you take  
4 the Metro to?

5 MR. MILUNEC: We got on the  
6 Chinatown Metro and we got off -- or Galley  
7 Plaza and then we got off at Dupont Metro and  
8 then walked to the Mad Hatter.

9 MR. KLINE: And what is it -- you  
10 said you had finished one drink and you were  
11 on your second drink when this happened?

12 MR. MILUNEC: Yes, after we  
13 finished our drinks upstairs, we ordered a  
14 second drink, took them downstairs with us to  
15 the dance floor and then after a couple of  
16 minutes, this all happened.

17 MR. KLINE: And what were you  
18 drinking that night?

19 MR. MILUNEC: At the restaurant, I  
20 had two glasses of red wine and at the Mad  
21 Hatter, I would say it would be two Bud  
22 Lights.

1 MR. KLINE: Right. You indicated  
2 that it was your impression that the  
3 establishment wanted to continue with their  
4 business rather than dealing with this  
5 situation. Correct?

6 MR. MILUNEC: That -- that is my  
7 impression.

8 MR. KLINE: All right. But, the  
9 fact of the matter is after the assault you  
10 were taking back to the employee restroom.  
11 Correct?

12 MR. MILUNEC: After -- after my  
13 request, yes.

14 MR. KLINE: All right. So, you  
15 didn't really see how the establishment  
16 handled the situation at that point. Did you?

17 MR. MILUNEC: After -- after the  
18 attack, no, I was in the bathroom. But,  
19 during the attack, I may not said it, but I  
20 felt it and I -- the time took way too long.

21 MR. KLINE: And you also said that  
22 it was your impression that when people were

1 let out of the establishment the establishment  
2 took a hands-off stance I think the word --

3 MR. MILUNEC: That's what my  
4 friends took me.

5 MR. KLINE: Isn't it true that  
6 police were out front when people were let out  
7 of the establishment?

8 MR. MILUNEC: I do not -- I cannot  
9 comment on if the police were there when they  
10 let out or if the police arrived later.

11 MR. KLINE: You also mentioned  
12 that your contact with the establishment has  
13 been through an insurance adjuster?

14 MR. MILUNEC: Yes, I tried. I did  
15 phone calls, emails and a certified letter and  
16 besides a quick response saying our insurance  
17 adjuster will talk to you. The only person I  
18 talked to was the insurance adjuster.

19 MR. KLINE: And the fact is you're  
20 making a claim against this establishment.

21 Aren't you?

22 MR. MILUNEC: Yes, I've been

1 advised to make a claim.

2 MR. KLINE: All right. Thank you.  
3 That's all.

4 CHAIRPERSON MILLER: Okay. Do you  
5 have anything you want to say affirmatively?

6 MR. KLINE: Yes. Yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. KLINE: A couple of things.  
9 One is with respect to the videotape, Mr.  
10 Tobin reviewed the night's videotape. It was  
11 their understanding that the incident occurred  
12 after midnight. He reviewed -- how much tape  
13 did you review?

14 MR. TOBIN: We received it from  
15 about 8:00 on with Cosmo and we went through  
16 the whole thing. We saw nothing until the  
17 scuffle on the dance floor and so, I told him  
18 just, you know, I'd record, you know, a half  
19 and hour before that incident forward.

20 CHAIRPERSON MILLER: What time was  
21 that that you're talking about?

22 MR. TOBIN: I think it -- I think

1 it was 11:30 and I think he said well, I can  
2 do 12:00 to 2:00 or something like that and I  
3 said well, you know, just make sure that it's  
4 before that so that we can see anything that  
5 leads up to it and he recorded it.

6 MR. KLINE: All right. Now, since  
7 then as a result of this incident and  
8 confusion over the videotape, previously the  
9 security system that was in this establishment  
10 was the one that was in -- there was another  
11 Mad Hatter on M Street and it was simply  
12 relocated. It was not upgraded. They had not  
13 previously been before the Board and required  
14 to provide a video system. It had never come  
15 up before. This was something they did  
16 voluntarily as part of their business.

17 Since then, after this incident,  
18 they've upgraded the video system. It now  
19 stores 50 days of recordings and they've also  
20 upgraded the cameras.

21 MR. TOBIN: We upgraded the  
22 cameras and we added about eight more? Eight

1 more cameras.

2 MR. KLINE: So, in terms of any  
3 future issues with respect to video, we would  
4 think that this would address this problem.  
5 As I said before, they weren't required to do  
6 it previously and they certainly did in our  
7 minds everything they could to cooperate and  
8 supply the video that they believed to be  
9 relevant.

10 The other thing that they've done  
11 is they were not required to have a security  
12 plan. They have prepared a security plan. We  
13 have it. We have copies of it for the Board.  
14 They will file it and certainly abide by the  
15 terms of the security plan.

16 The report notes they did not have  
17 a security plan on file. As a CT, they were  
18 not required to have one. But, as a result of  
19 this incident, they've voluntarily chosen to  
20 prepare and file a security plan with the  
21 Board.

22 So, other than that, in terms of

1 the incident, clearly it sounds like there's  
2 going to be litigation from the civil side,  
3 but certainly happy to answer any of the  
4 Board's questions.

5 I think that the statement in the  
6 log admits that response time could have been  
7 quicker and that was why this incident was  
8 looked at and that was why the new security  
9 plan has been put into place.

10 But, other than that, we're  
11 certainly happy to answer any of the Board's  
12 questions.

13 CHAIRPERSON MILLER: Great. I  
14 have a couple of questions to follow up on  
15 that. Okay.

16 One goes to the video. There was  
17 an issue that it could only capture two hours  
18 or preserve two hours of footage. That's why  
19 you did the 12:00 to 2:00 instead of 11:00  
20 to --

21 MR. TOBIN: I -- I -- I'm not sure  
22 of that to be truthful. I -- but, I -- we --

1 we recorded, you know, before the incident  
2 that we saw on the camera and after the  
3 incidents we saw on camera.

4 CHAIRPERSON MILLER: And why  
5 wasn't it available then? I understand --

6 MR. TOBIN: Well, that's what we  
7 gave the police as well as the -- Ms.  
8 Mathieson.

9 MR. KLINE: Oh, if I can respond.  
10 Their video system at that point only stored  
11 for 13 days.

12 CHAIRPERSON MILLER: Right.

13 MR. KLINE: So, when the request  
14 was made, they looked at the tape, provided  
15 what they saw on the tape that they believed  
16 to be relevant and my previous information is  
17 they thought it happened at 12:45 in terms of  
18 the scuffle on the tape. So, it was felt that  
19 12:00 to 2:00 was enough of a buffer.

20 CHAIRPERSON MILLER: Okay.

21 MR. KLINE: Before and after what  
22 they found on the tape.

1                   CHAIRPERSON MILLER: It wasn't  
2                   that they couldn't preserve three hours. It's  
3                   just that they only thought the two hours  
4                   was --

5                   MR. KLINE: Well, I think as a  
6                   practical matter in terms of what fits on a  
7                   thumb drive, it was two hours and it was felt  
8                   that, you know, roughly 45 minutes before and  
9                   an hour after was enough and Mr. Tobin  
10                  reviewed the whole evening, didn't see  
11                  anything else that was worth preserving at  
12                  that point.

13                  CHAIRPERSON MILLER: So, my  
14                  question is in the future you can preserve  
15                  three hours, four hours. It's not going to be  
16                  limited to two hours.

17                  MR. TOBIN: Correct.

18                  CHAIRPERSON MILLER: Correct.

19                  MR. TOBIN: Before it was only 24  
20                  days. Now, we have 50 days.

21                  CHAIRPERSON MILLER: Fifty. Okay.  
22                  Ms. Mathieson, did you want to say something

1 to this point?

2 INVESTIGATOR MATHIESON: Yes.

3 Yes, when I interviewed Cosmo Kunkle, he was  
4 the person who actually sat there and burned  
5 the video himself, he stated that he would  
6 advise them -- Mr. Tobin the owner that the  
7 incident occurred at 12:45. So, he said they  
8 sat and reviewed the video, he said at a high  
9 speed and they saw a crowd clearing on the  
10 dance floor at around 12:45 and that the flash  
11 drive they were using to hold the footage only  
12 held the two hours which is why they backed it  
13 up and only did from 12:00 to 2:00. Even  
14 though the police report said 12:10, they were  
15 under the impression that it 12:45 for  
16 whatever reason.

17 MR. KLINE: But, I want to be  
18 clear that the whole night was looked at. I  
19 mean it may not have been preserved.  
20 Decisions were made in terms of the  
21 viewability to store. Mr. Tobin and Mr.  
22 Kunkle looked at the whole evening to see if

1 there was anything else noteworthy that would  
2 merit preserving at that point.

3 CHAIRPERSON MILLER: I just wanted  
4 to looking forward make sure that that's not  
5 a problem. Not going to be a problem that you  
6 could be stuck with two hours.

7 MR. KLINE: Well, I think that the  
8 better approach is since they have 50 days of  
9 storage hopefully anyone that would want to  
10 see it would appear within 50 days and have  
11 access to the entire night, the next day, the  
12 day before and make the decision as to what  
13 they wanted. That's why it was felt that  
14 increasing the amount of video storage was the  
15 real solution to provide enough time for  
16 investigators, whether it be ABRA  
17 investigators or MPD, to come in and say well,  
18 you know, we want to see the whole thing.

19 CHAIRPERSON MILLER: Okay. That's  
20 good.

21 I thought I read in the report  
22 that also there was an issue about the quality

1 of the footage and the cameras. So, you're  
2 not saying there are eight new cameras. So,  
3 that quality is obviously -- I mean I would  
4 think would be good.

5 MR. TOBIN: May I answer your --

6 CHAIRPERSON MILLER: Okay.

7 MR. TOBIN: We upgraded the --

8 CHAIRPERSON MILLER: You upgraded  
9 all of the cameras?

10 MR. TOBIN: Yes.

11 CHAIRPERSON MILLER: But, there  
12 were some old ones that were upgraded with new  
13 ones?

14 MR. TOBIN: Yes.

15 CHAIRPERSON MILLER: How many  
16 cameras do you have then total?

17 MR. JOSEPH: Eighteen I believe.  
18 Is that right?

19 MR. KLINE: Seventeen.

20 MR. JOSEPH: Seventeen.

21 MR. KLINE: Which is listed in --

22 CHAIRPERSON MILLER: Okay.

1 MR. KLINE: With the Board's  
2 permission, I'd like to pass this up.

3 CHAIRPERSON MILLER: Okay. What  
4 is that? The security plan?

5 MR. KLINE: The security plan.  
6 Which lays out the cameras' locations.

7 CHAIRPERSON MILLER: Right.  
8 Right. While this is being passed out, this  
9 is just going backward a little bit. But, do  
10 you have any clue as to how a fight like that  
11 just breaks out spontaneously in your  
12 establishment or I know it's speculative, but  
13 I just -- it's so odd.

14 MR. TOBIN: I think something  
15 happened. I don't know what happened and I  
16 can't -- you know, I don't want to pass  
17 dispersions on anyone. But, I -- in my  
18 experience, I personally don't think it just  
19 happened spontaneously. I'm standing there.  
20 I got punched in the head. I -- I really  
21 don't buy that. Something was said.  
22 Something happened. I don't know what.

1 CHAIRPERSON MILLER: Is this the  
2 first time something like that has happened at  
3 your establishment?

4 MR. TOBIN: Yes, I mean I've been  
5 in the business for, you know, 30-some years.  
6 So, this is the first time something like this  
7 happened. Absolutely odd, you know, but there  
8 are little scuffles here and there.

9 CHAIRPERSON MILLER: Um-hum.  
10 Okay. Is there a camera outside?

11 MR. TOBIN: Yes, now.

12 CHAIRPERSON MILLER: Okay.

13 MR. TOBIN: Put one outside --  
14 outside front and outside back.

15 CHAIRPERSON MILLER: Okay.

16 MR. TOBIN: There's two entrances.  
17 We have a patio out back with a camera on the  
18 patio now as well.

19 CHAIRPERSON MILLER: Now, you  
20 know, I don't have a visual of your  
21 establishment or where your camera is or  
22 anything out front, but would it have captured

1 what's going on in the front after patrons are  
2 ejected outside?

3 MR. TOBIN: Yes. Yes.

4 CHAIRPERSON MILLER: It's not just  
5 the front steps.

6 MR. TOBIN: Correct. Yes.

7 CHAIRPERSON MILLER: It's -- how  
8 far? How far does it capture out front?

9 MR. TOBIN: You know, the sidewalk  
10 is maybe four feet.

11 CHAIRPERSON MILLER: Okay.

12 MR. TOBIN: So, it captured that  
13 whole area in front of the restaurant.

14 CHAIRPERSON MILLER: Okay. Also,  
15 I think as it's been said one of the concerns  
16 was that security didn't respond fast enough  
17 to the incident on the dance floor.

18 Does your security plan address  
19 that somehow or how are you addressing that?

20 MR. JOSEPH: The locations of  
21 where the security is -- is placed is in the  
22 security plan. What we've done is adjusted

1       how we respond and where we put people in  
2       response to the situation.

3               In the incident report, it did --  
4       it was addressed that the manager on duty did  
5       speak to the security team and I think the  
6       gentleman did mention that there were two  
7       security guys on the dance floor.

8               You know, time lapsed. So, the  
9       actual response time because we don't have the  
10      view footage is not really known, but  
11      according to the manager on duty, they did  
12      respond in time and try to do the best that  
13      they could in the situation.

14              MR. KLINE: And for the record,  
15      Mr. Joseph's the general manager.

16              CHAIRPERSON MILLER: You're the  
17      general manager. Okay. Thank you.

18              Is there a set number of security  
19      that you have --

20              MR. JOSEPH: Yes.

21              CHAIRPERSON MILLER: -- everyday,  
22      at night or does it vary on weekends?

1 MR. JOSEPH: We have one Sunday  
2 through Wednesday. We have six on Thursday  
3 and eight on Friday and Saturday.

4 CHAIRPERSON MILLER: Is it the  
5 same since the incident or has it been  
6 changed?

7 MR. JOSEPH: It's been the same.

8 CHAIRPERSON MILLER: Okay. So,  
9 what exactly is different with respect to  
10 responding faster? Is there something --

11 MR. JOSEPH: Just the location of  
12 where they -- where we put them now. Before  
13 we had them on -- on the dance floor. We just  
14 relocated them a little bit towards the  
15 Satellite Bar which is located in the corner  
16 where the gentleman was speaking of.

17 CHAIRPERSON MILLER: Okay.

18 MR. JOSEPH: So, I can get a  
19 better angle on the floor.

20 MEMBER MOBLEY: Can I ask?

21 CHAIRPERSON MILLER: Oh, go ahead  
22 while I'm -- yes.

1 MEMBER MOBLEY: Mr. Joseph, were  
2 you there on the evening in question?

3 MR. JOSEPH: I was there.

4 MEMBER MOBLEY: You were there?

5 MR. JOSEPH: I was there. I was  
6 there that night. Yes, I left about  
7 11:00/11:55 about that time.

8 MEMBER MOBLEY: Eleven or 11:55?

9 MR. JOSEPH: Yes, like 11:55 I  
10 left.

11 MEMBER MOBLEY: So, five minutes  
12 of 12:00 you left?

13 MR. JOSEPH: Yes.

14 MEMBER MOBLEY: Okay. Are you  
15 saying that you didn't see any melee occur in  
16 the establishment prior to that time?

17 MR. JOSEPH: No. No, not before I  
18 left. Not before I left. I do remember the  
19 gentlemen. They came in. The -- the  
20 gentleman in question did have dinner in our  
21 establishment. So, I do know for a fact that  
22 they were off-duty police officers. That's

1 where it came from because they did tell the  
2 waitress that that's where they were front and  
3 they were going to stay and hang out that  
4 night.

5 So, that's how -- it wasn't really  
6 a rumor. It is -- it is a fact that that's  
7 what they said to us and as he mentioned, they  
8 said to his friends outside. So.

9 MEMBER MOBLEY: So, you're saying  
10 these gentlemen said -- they were there for  
11 dinner.

12 MR. JOSEPH: Yes.

13 MEMBER MOBLEY: And they said that  
14 they were off-duty police officers?

15 MR. JOSEPH: Yes, that's what they  
16 told the server that night.

17 MR. TOBIN: They were New York  
18 City.

19 MR. JOSEPH: Yes, from New York  
20 City.

21 MEMBER MOBLEY: New York City?

22 MR. JOSEPH: Yes.

1                   MEMBER MOBLEY: But, these aren't  
2 the same gentlemen that assisted.

3                   MR. TOBIN: No, they did not  
4 assist.

5                   MR. JOSEPH: No. No. No. No.

6                   MEMBER MOBLEY: Okay.

7                   MR. TOBIN: They're the ones that  
8 caused the -- caused the -- you know.

9                   MR. JOSEPH: These are the ones  
10 that caused the problems. That's what I  
11 understand.

12                  MEMBER MOBLEY: Okay. So, Mr.  
13 Tobin, did anyone report this incident to you?

14                  MR. TOBIN: Yes.

15                  MEMBER MOBLEY: It was kind of  
16 serious. I mean what did they tell you when  
17 they reported it?

18                  MR. TOBIN: They said there was a  
19 fight, you know, that evening and it was  
20 caused by, you know, New York City policemen  
21 and a patron and that's pretty much what I  
22 got.

1 I didn't investigate it any  
2 further from there.

3 MEMBER MOBLEY: Did you ask them  
4 what time this fight started and why do they  
5 think it started?

6 MR. TOBIN: They -- you know, they  
7 told me it was -- you know, it was around, you  
8 know, midnight. What they told me.

9 MEMBER MOBLEY: Okay. And then I  
10 heard Mr. Kline say that you looked at the  
11 whole night.

12 MR. TOBIN: Yes, ma'am.

13 MEMBER MOBLEY: Okay. What's the  
14 whole night? What's the time period for the  
15 whole night?

16 MR. TOBIN: Like 8:00 on.

17 MEMBER MOBLEY: So, you're saying  
18 that you looked at video footage from 8:00  
19 on --

20 MR. TOBIN: Yes.

21 MEMBER MOBLEY: -- and you didn't  
22 see any melee?

1 MR. TOBIN: Until --

2 MEMBER MOBLEY: Until?

3 MR. TOBIN: -- until, you know,  
4 12:00, whatever it was.

5 MEMBER MOBLEY: Okay.

6 Investigator Mathieson, you look like you want  
7 to say something.

8 INVESTIGATOR MATHIESON: Yes, I  
9 didn't have that information prior to this.  
10 I had never heard before that occurred. So,  
11 I guess my question would be is it possible to  
12 pull if they paid with a credit card? To pull  
13 their credit card? Because obviously, you  
14 would know what table they were at and --

15 MR. JOSEPH: No, I tried. I  
16 looked at that. I looked at the -- the check  
17 itself, but they paid cash. So, there is no  
18 credit card on file. So, and if you talk to  
19 the bartender, I know you interviewed her, she  
20 said they were paying with a large sum of cash  
21 the entire night at the Satellite Bar.

22 INVESTIGATOR MATHIESON: So --

1 MR. JOSEPH: So, there was  
2 nothing --

3 INVESTIGATOR MATHIESON: It didn't  
4 occur to anyone to maybe make a copy of the  
5 video?

6 MR. JOSEPH: I tried to see that  
7 angle, but it didn't have an angle on that  
8 table. That's the dead spot. They were at a  
9 booth, table 70 and the angle that we have  
10 only goes to 71 which is why we upgraded the  
11 cameras. We did have some dead zones there.

12 INVESTIGATOR MATHIESON: And they  
13 were not -- at any point in time, they didn't  
14 cross the cameras?

15 MR. JOSEPH: No, not --

16 INVESTIGATOR MATHIESON: Did you  
17 provide a description of the people to MPD?

18 MR. JOSEPH: They never  
19 interviewed me. So, when I -- when Mr. Bovino  
20 came in, he spoke to Mr. Tobin. He didn't  
21 speak to me.

22 INVESTIGATOR MATHIESON: You

1 didn't take the calls or --

2 MR. JOSEPH: Or came to get the  
3 video or whoever he spoke with to get the  
4 video. He didn't speak to me. So, I didn't  
5 -- I didn't talk to any investigators. Nobody  
6 spoke to me.

7 I think I called you and left a  
8 message on your phone one time.

9 INVESTIGATOR MATHIESON: What is  
10 your name?

11 MR. JOSEPH: Jonathan Joseph. You  
12 called my cell phone and I returned the phone  
13 call to you and I never got a response back.

14 INVESTIGATOR MATHIESON: If you  
15 say so.

16 CHAIRPERSON MILLER: Mr.  
17 Silverstein. Yes, Mr. Silverstein.

18 MEMBER SILVERSTEIN: Did the  
19 establishment ever call the police on this  
20 matter?

21 MR. JOSEPH: No, not that night.

22 MEMBER SILVERSTEIN: Why not?

1 MR. TOBIN: Because they had  
2 already been called number one and they was  
3 there, you know, it appears pretty quickly.  
4 So, there was -- I believe there wasn't any  
5 necessity to -- for us to call them. They  
6 were already there.

7 MEMBER SILVERSTEIN: So, in other  
8 words, a patron had time to view this and see  
9 that somebody had been whaled on by three  
10 different people and was bleeding like a stuck  
11 pig and called the police, but the  
12 establishment hadn't reacted quickly enough --

13 MR. TOBIN: I believe -- I believe  
14 that the --

15 MEMBER SILVERSTEIN: -- or assumed  
16 that someone called, but didn't know for sure?

17 MR. TOBIN: I -- I assume that  
18 they knew for sure that the police were called  
19 because I'm sure Ms. --

20 MR. MILUNEC: Pangilinan.

21 MR. TOBIN: -- Pangilinan informed  
22 the doorman of that.

1                   MEMBER SILVERSTEIN: And did you  
2 all call 911 for help?

3                   MR. JOSEPH: Not that night. The  
4 police were already on the scene.

5                   MEMBER SILVERSTEIN: For an  
6 ambulance or anything of that sort?

7                   MR. TOBIN: I'm sure -- once  
8 again, I'm sure that Ms. Pangilinan informed  
9 the doorman that she did place it.

10                  MEMBER SILVERSTEIN: How --

11                  MR. TOBIN: I can't -- I can't  
12 absolutely say that's what happened, but I'm  
13 assuming that's what happened. Our guys are  
14 pretty good about calling.

15                  MR. JOSEPH: There's always a  
16 police officer located in front of the Lucky  
17 Bar down the block. So, if we ever have an  
18 issue, we can always go down there and get a  
19 police officer.

20                  MEMBER SILVERSTEIN: You have a  
21 reimbursable down the street?

22                  MR. JOSEPH: Always there in front

1 of Public Bar and Lucky Bar. There's always  
2 at least two patrol cars there. So, if we  
3 ever have an incident, that's where I go.

4 MEMBER SILVERSTEIN: How did the  
5 alleged assailants find themselves on the  
6 sidewalk where Mr. Milunec was exiting?

7 MR. JOSEPH: I'm sorry.

8 MR. TOBIN: I'm -- go ahead. How  
9 did they, you know, the guys that -- that  
10 caused --

11 MEMBER SILVERSTEIN: Were they  
12 asked to leave? Did you put them out there  
13 with them? Did they go out there after the  
14 crowd? I mean, you know, you have three  
15 ticking time bombs here.

16 MR. JOSEPH: Right. My  
17 understanding was after the fight was broken  
18 up, they fled the scene. It wasn't -- they  
19 weren't escorted out by security and that's  
20 the report that I got. That's why we couldn't  
21 find them when the time -- when it was time to  
22 find them. So, my understanding was they fled

1 the scene, ran up the -- the street. That's  
2 what -- that's the report that I got from the  
3 night.

4 MEMBER SILVERSTEIN: Mr. Tobin,  
5 you got better than 50 years of experience in  
6 our neighborhood, Front Page and this place.  
7 This seems to be so completely out of  
8 character. Can you explain this?

9 MR. TOBIN: Incidents -- you know,  
10 sometimes you have no control over certain  
11 incidents. You know, we can't -- you know,  
12 sometimes people do not behave well and we  
13 don't see it coming. We -- you know, we try  
14 to prevent everything. It's, you know, we  
15 really try. I -- you know, make sure  
16 everybody's safe and that we don't have these  
17 types of incidents.

18 MEMBER SILVERSTEIN: Do you feel  
19 or did you feel uncomfortable with the fact  
20 that, and you put it forth as fact, the  
21 assailants in this case were off-duty police  
22 officers from another city? Did that

1       complicate your situation? Did that --

2               MR. TOBIN: Not at all.

3               MEMBER SILVERSTEIN: -- paralyze  
4       your --

5               MR. TOBIN: I wanted -- no,  
6       absolutely not. I want to get him -- I want  
7       to catch them as much as anyone in here does.  
8       You know, I was angry about it.

9               MEMBER SILVERSTEIN: This isn't  
10       the first episode in this city of off-duty New  
11       York City police officers.

12              MR. TOBIN: Mr. Silverstein, I  
13       guarantee you --

14              MEMBER SILVERSTEIN: -- engaging  
15       in violence.

16              MR. TOBIN: -- I have no -- that I  
17       have no inkling to let them go because they  
18       were police. You know, absolutely none.

19              MEMBER SILVERSTEIN: I mean --

20              MR. TOBIN: You know, I thinking  
21       bad because that -- you know, for lack of a  
22       better word, there's not a chance in hell I

1 would do that.

2 MR. KLINE: And I note that the  
3 police investigation curiously contains a  
4 opacity of information of any follow up on  
5 this point which was the point that I was  
6 trying to make earlier. It says witnesses  
7 alleged that they said that they were NYPD  
8 police officers.

9 Given the previous incidents that  
10 you're referring to, one would think that MPD  
11 would have followed up on that and at least  
12 had the names of the witnesses who said that.

13 I mean we find that very curious  
14 and wonder whether or not it was MPD that  
15 didn't do what they were suppose to do. I  
16 never like to think that MPD is not doing  
17 their job, but one sort of wonders here given  
18 the allegations that are clearly in the report  
19 that there's not more to follow up on that  
20 issue from MPD.

21 MEMBER SILVERSTEIN: No further  
22 questions.

1 CHAIRPERSON MILLER: Ms. Mobley.

2 MEMBER MOBLEY: Madam Chair, I  
3 have a couple more questions.

4 CHAIRPERSON MILLER: Okay.

5 MEMBER MOBLEY: Mr. Tobin, when  
6 you reviewed the videotape, the footage, and  
7 you said you saw some sort of incident after  
8 12:00. Around 12:45 I believe you said.

9 MR. TOBIN: I'm not sure of the  
10 time, but --

11 MEMBER MOBLEY: What did you say  
12 -- what did you observe on the video?

13 MR. TOBIN: Pardon me.

14 MEMBER MOBLEY: What did you  
15 observe on the video?

16 MR. TOBIN: I observed the people  
17 moving away from an incident and people just  
18 sort of milling around all of a sudden very  
19 quickly moving away to -- and clearing a space  
20 on that one -- the dance floor.

21 MEMBER MOBLEY: Okay. Who is  
22 responsible for doing an incident report?

1 MR. TOBIN: The manager on duty.

2 MEMBER MOBLEY: Would that have  
3 been you, Mr. Joseph?

4 MR. JOSEPH: No, that would have  
5 been Myron Freeman. He finished out the  
6 shift.

7 MEMBER MOBLEY: Okay. So, Exhibit  
8 3, the first bullet says "Strong late night.  
9 We were really rolling. Had a pretty big  
10 fight on the dance floor around midnight. One  
11 patron broke a glass bottle and then hit  
12 another guy in the head with it. One guy was  
13 bleeding pretty bad. Cops and ambulance  
14 showed up."

15 So, are you saying that you didn't  
16 see this? This was after midnight.

17 MR. JOSEPH: Correct.

18 MEMBER MOBLEY: Is that what  
19 you're -- it started -- your video footage is  
20 starting at 12:00 midnight.

21 MR. TOBIN: Yes.

22 MEMBER MOBLEY: Right? This said

1 that this started around midnight. So, which  
2 means midnight or probably beyond. You didn't  
3 see any of this on this video footage?

4 MR. TOBIN: No, I did not.

5 MEMBER MOBLEY: This incident?

6 MR. TOBIN: It -- just people  
7 milling around. It's very, you know, hard to  
8 see.

9 MEMBER MOBLEY: Okay. And they  
10 said that it was shoulder to shoulder. What's  
11 your occupancy in your restaurant?

12 MR. TOBIN: Two forty.

13 MEMBER MOBLEY: How many did you  
14 have that night, Mr. Joseph? It was shoulder  
15 to shoulder. Could barely --

16 MR. JOSEPH: On the -- on the  
17 dance floor, that is the dance floor area.  
18 So, people tend to -- to try to go in there  
19 and dance. In the building, total probably  
20 300 in and out. So, I don't have an actual  
21 answer as to how many were in the building.  
22 I can tell you how many were probably in that

1 area.

2 MEMBER MOBLEY: I'm sorry. What's  
3 your total occupancy?

4 MR. JOSEPH: Two forty.

5 MEMBER MOBLEY: Two forty. But,  
6 you think you may have had 300?

7 MR. JOSEPH: In and out.

8 MEMBER MOBLEY: In and out.

9 MR. JOSEPH: In and out. I don't  
10 know what the total is that night at the time  
11 of the incident, but that area is generally --  
12 it's the dance floor. So, people like to  
13 dance next to each other and on top of each  
14 other unfortunately. So, it would look  
15 shoulder to shoulder, but along the side,  
16 there is a passage where we have ropes so  
17 people can get in and out so they don't have  
18 to fight the crowd.

19 CHAIRPERSON MILLER: Mr. Alberti.

20 MEMBER ALBERTI: Mr. Joseph, real  
21 quick question.

22 MR. JOSEPH: Sure.

1                   MEMBER ALBERTI: You seem pretty  
2 certain that you know who the aggressors were  
3 or at least who attacked Mr. Milunec, what  
4 party it was and you said your staff told you  
5 that they were there for dinner.

6                   MR. JOSEPH: Correct.

7                   MEMBER ALBERTI: How do they know?  
8 I mean how do they know who attacked Mr.  
9 Milunec and can connect him with the party  
10 that had dinner before? Who has all this  
11 information?

12                  MR. JOSEPH: That's a good  
13 question. Well, first off, they were there  
14 the entire night. So, once we identified that  
15 it was the off-duty New York police officers,  
16 the server said well, I had some -- served  
17 some police officers at my table.

18                  MEMBER ALBERTI: How did you  
19 identify that they were who did the attack?

20                  MR. JOSEPH: Because the security  
21 guards told me that they were the guys.

22                  MEMBER ALBERTI: So, they were

1 able to identify which party did the attack?

2 MR. JOSEPH: Correct. Correct.

3 So, once they broke up the fight, they -- I  
4 mean they're going to see who was there. So,  
5 you know, did they get a good look? You know,  
6 I don't know. I asked can you identify? Oh,  
7 I can't really remember.

8 MEMBER ALBERTI: Wait. Wait.  
9 Wait. Wait. Wait. So, how did they convey  
10 who it was to the server?

11 MR. JOSEPH: This is -- okay.

12 MEMBER ALBERTI: I mean the server  
13 says yes, I served these guys and they said  
14 they're officers.

15 MR. JOSEPH: I understand --

16 MEMBER ALBERTI: Well, how is the  
17 security people telling, you know, was it the  
18 funny looking guy? I mean --

19 MR. JOSEPH: No. No.

20 MEMBER ALBERTI: How did they  
21 convey?

22 MR. JOSEPH: They --

1                   MEMBER ALBERTI: How did they  
2 identify to the server who it was that they  
3 saw in the fight?

4                   MR. JOSEPH: Okay. This is the  
5 day after. So, what happened was everybody  
6 knew there was a fight the night before. So,  
7 once the security guys say yes, I think it was  
8 off-duty police officers, the word gets around  
9 to the servers. Well, you know, I had some  
10 police officers at my table. Remember the  
11 guys at table 70. I'm like okay, the five  
12 guys. Okay. Well, how many people were  
13 involved? It was a pretty big fight. So, we  
14 put two and two together and said it must have  
15 been the same --

16                  MEMBER ALBERTI: Now, the question  
17 is how did your security staff know that they  
18 were off-duty police officers?

19                  MR. JOSEPH: Because they flashed  
20 their badges when they came back in. They  
21 went for dinner.

22                  MEMBER ALBERTI: Came back in?

1 MR. JOSEPH: Came back. It is my  
2 understanding. So, when I talked to the --

3 MEMBER ALBERTI: They left and  
4 came back in?

5 MR. JOSEPH: Right. They went for  
6 dinner earlier that night.

7 MEMBER ALBERTI: Okay. So, they  
8 saw them come in.

9 MR. JOSEPH: Correct.

10 MEMBER ALBERTI: And they were  
11 able to see them when they came in.

12 MR. JOSEPH: Correct. There's  
13 another camera in the bar.

14 MEMBER ALBERTI: And then they  
15 somehow knew that they were part of this  
16 fight.

17 MR. JOSEPH: Correct.

18 MEMBER ALBERTI: But, they didn't  
19 get a good look at them.

20 MR. JOSEPH: This is the -- this  
21 is the -- this is what I'm getting from these  
22 guys. I mean --

1 MEMBER ALBERTI: Okay. You can  
2 see where I'm trying to put two and two  
3 together.

4 MR. JOSEPH: I understand that.

5 MEMBER ALBERTI: And it's just not  
6 coming up four.

7 MR. JOSEPH: But, things -- but,  
8 things happen -- things happen quickly. So,  
9 when the fight's happening, their main concern  
10 was safety first.

11 MEMBER ALBERTI: But, when they're  
12 coming in flashing their badge, that's not  
13 happening quickly.

14 MR. JOSEPH: No, absolutely not.

15 MEMBER ALBERTI: Okay. I'm  
16 getting the picture. Thank you, Mr. Joseph.  
17 I got it.

18 MR. MILUNEC: May I ask questions?

19 MEMBER ALBERTI: That's for the  
20 Chairman.

21 CHAIRPERSON MILLER: Yes. Go  
22 ahead.

1 MR. MILUNEC: During dinner, did  
2 -- the supposedly off-duty police officers,  
3 were they drinking during dinner?

4 MR. JOSEPH: They were.

5 MR. MILUNEC: Okay. Do you know  
6 roughly how many drinks they were having or  
7 not at the moment?

8 MR. JOSEPH: Looking at the check,  
9 maybe a couple of rounds.

10 MR. MILUNEC: Okay.

11 MR. JOSEPH: When I looked at the  
12 check. When I researched it to try to see if  
13 they had a credit card.

14 MEMBER ALBERTI: So, do you have a  
15 check still?

16 MR. JOSEPH: No, I don't.

17 MEMBER ALBERTI: You didn't  
18 preserve the check?

19 MR. JOSEPH: No, I don't have it  
20 with me. We do have the check.

21 MEMBER ALBERTI: No, but you --  
22 no, I meant you have it.

1 MR. JOSEPH: Yes.

2 MEMBER ALBERTI: At the store.

3 MR. JOSEPH: Yes, I believe so.

4 MEMBER ALBERTI: Okay. Thank you.

5 CHAIRPERSON MILLER: Yes, Mr.

6 Brooks.

7 MEMBER BROOKS: Yes, just a couple  
8 of quick questions, Madam Chair.

9 Mr. Joseph, you indicated that you  
10 left approximately five minutes before all  
11 this happened or five minutes to 12:00?

12 MR. JOSEPH: Yes, roughly.

13 MEMBER BROOKS: Roughly.

14 MR. JOSEPH: Um-hum.

15 MEMBER BROOKS: Okay.

16 MR. JOSEPH: It was definitely  
17 before 12:00 though.

18 MEMBER BROOKS: Okay. So, how did  
19 you find out about this event?

20 MR. JOSEPH: I got a phone call  
21 about 1:30 from Myron saying hey, listen.  
22 Just so you know, there was a big fight. The

1 police were there. An ambulance was there.  
2 I'm going to put it on the incident report and  
3 we'll talk about it tomorrow. I'll tell you  
4 exactly what happened.

5 So, my question was okay, did  
6 anybody get arrested? Who was hurt? He told  
7 me somebody went in the ambulance. It was  
8 pretty bad. I said make sure you get it on  
9 the incident report so that we can have a  
10 record of it so that if something happens we  
11 can reference this and go back and see what we  
12 can do.

13 MEMBER BROOKS: All right. Thank  
14 you, Madam Chair.

15 MEMBER ALBERTI: Madam Chair.

16 CHAIRPERSON MILLER: Yes. Okay.  
17 Go ahead.

18 MEMBER ALBERTI: Mr. Tobin, you  
19 said that you watch a video and at 12:45, you  
20 said you saw a scuffle and there was clearing  
21 of the floor or something was going on. All  
22 right. Around 12:45. Right?

1 MR. TOBIN: I --

2 MEMBER ALBERTI: Is that correct?

3 MR. TOBIN: Yes.

4 MEMBER ALBERTI: Okay. Is there  
5 an incident report on that incident?

6 MR. TOBIN: I -- I'm still  
7 assuming it's the same incident.

8 MEMBER ALBERTI: So, you were  
9 wrong about the time?

10 MR. KLINE: We don't know that.

11 MR. TOBIN: No.

12 MEMBER ALBERTI: Well, Mr. Kline,  
13 just to respond to you, I have a police report  
14 that says that the event, when they started  
15 the interview, when they -- I don't know how  
16 they started it, but I have a police report  
17 that says the incident started at 10 minutes  
18 after 12:00.

19 MR. KLINE: Right and we have a  
20 live witness who says it started before 12:00  
21 and we have someone else that they heard  
22 something --

1 MEMBER ALBERTI: I understand.

2 MR. KLINE: -- at 12:25.

3 MEMBER ALBERTI: I understand. I  
4 understand. What I'm going on --

5 MR. KLINE: But, we don't --

6 MEMBER ALBERTI: -- I'm going on  
7 the one reliable piece of information I have.  
8 I believe is reliable. It's probably -- I  
9 have to assume it's the most reliable of all  
10 of this and that is the time on the police  
11 report.

12 I think that to me that -- you can  
13 argue, but to me right now, that's the safest  
14 assumption I have that that's the most  
15 reliable piece of time evidence.

16 So, the answer, Mr. Tobin, you  
17 don't have an incident report for the 12:45 if  
18 there was one?

19 MR. TOBIN: I don't have the  
20 incident report because I'm -- I'm assuming  
21 and I'm quite sure that that was the incident.  
22 That -- that we only had --

1 MEMBER ALBERTI: But, you don't  
2 know.

3 MR. TOBIN: -- one incident that  
4 night.

5 MEMBER ALBERTI: But, you don't  
6 know.

7 MR. TOBIN: That's the only one  
8 incident that was reported that night.

9 MEMBER ALBERTI: Okay. Thank you.  
10 Thank you, Mr. Tobin.

11 CHAIRPERSON MILLER: Mr. Nophlin.

12 MEMBER NOPHLIN: Madam Chair.

13 Mr. Tobin, the layout of your  
14 establishment, is everything on one floor or  
15 where did the fight occur? Was it near the  
16 bar? I'm trying to -- although you have  
17 exhibits --

18 MR. TOBIN: It was -- it's two  
19 buildings and the incident occurred in one of  
20 the buildings and there's partitions or walls  
21 and entrance-ways to that -- that area.

22 MEMBER NOPHLIN: I'm not sure if

1 you have a copy. It's Exhibit 5 that shows  
2 the bar area and it's -- I guess this is the  
3 first floor.

4 MR. TOBIN: Yes, it's the first  
5 floor.

6 MEMBER NOPHLIN: This is the first  
7 floor. Did this fight occur right in this  
8 area?

9 MR. TOBIN: Pardon me.

10 MEMBER NOPHLIN: Did the fight  
11 occur -- this incident occurred in this area?  
12 Which is --

13 MR. TOBIN: Not at the bar area.

14 MEMBER NOPHLIN: Not at the bar  
15 area.

16 MR. TOBIN: Not at the bar.

17 MEMBER NOPHLIN: Where did it  
18 occur then please? How far away from this did  
19 it occur? Maybe I put it --

20 MR. TOBIN: How --

21 MEMBER NOPHLIN: Exhibit 5.

22 MR. TOBIN: Can I see what you're

1 looking at, sir?

2 MEMBER NOPHLIN: Sure. I think  
3 you may have it. Your --

4 MR. TOBIN: It did not occur in  
5 that area. If you flip the page where the  
6 tables are, it occurred in this area.

7 MEMBER ALBERTI: Were the tables  
8 cleared?

9 MR. TOBIN: Yes.

10 MEMBER NOPHLIN: It occurred where  
11 the tables are?

12 MR. JOSEPH: Well, the tables are  
13 cleared out at that point in time.

14 MEMBER NOPHLIN: You mean for what  
15 purpose? To dance or what?

16 MR. TOBIN: Yes.

17 MEMBER NOPHLIN: At what time does  
18 that happen?

19 MR. JOSEPH: It varies. Usually  
20 between 10:30/11:00.

21 MEMBER NOPHLIN: All right. When  
22 the video showed the incident itself, did it

1 show this area at all? Since you -- in fact,  
2 you say you increased your cameras to 17 or  
3 18, whatever it is. Did it show this area at  
4 all?

5 MR. TOBIN: Yes, and that's where  
6 I saw the crowd dispersing and things  
7 happening.

8 MEMBER NOPHLIN: Okay. Since that  
9 happened, I mean did the camera just cut off  
10 the incident or you just couldn't see it?  
11 What?

12 MR. TOBIN: I think they just  
13 couldn't see it. I couldn't see exactly -- I  
14 couldn't see exactly what happened. You know,  
15 who was hitting who or whatever? I just  
16 couldn't see that.

17 MEMBER NOPHLIN: And then Exhibit  
18 7 which is the next page, this is the other  
19 side of your building? Is this another  
20 building or you said you had two?

21 MR. TOBIN: The exit -- yes.  
22 What?

1 MEMBER NOPHLIN: Exhibit 7.

2 MR. TOBIN: No, that's the same  
3 building towards the back.

4 MEMBER NOPHLIN: Okay. And so,  
5 the cameras show this part of it, too?

6 MR. TOBIN: Yes.

7 MEMBER NOPHLIN: But, it couldn't  
8 -- it didn't show the incident that occurred?

9 MR. TOBIN: It showed something  
10 happening, but it was -- the crowd, it was --  
11 maybe the camera quality wasn't good enough to  
12 see exactly what was going on.

13 MEMBER NOPHLIN: Okay. Next  
14 question. Where was security at this time  
15 since this happened?

16 MR. JOSEPH: Where -- where were  
17 they stationed?

18 MEMBER NOPHLIN: Where were they  
19 stationed?

20 MR. JOSEPH: If you look at page  
21 6.

22 MR. KLINE: Exhibit 6.

1 MR. JOSEPH: Exhibit 6. I'm  
2 sorry.

3 MEMBER NOPHLIN: Exhibit 6.

4 MR. JOSEPH: Along the left side  
5 is where the rope is located that I mentioned  
6 earlier so people can get in and out. So,  
7 they don't have to fight through the crowd.

8 MEMBER NOPHLIN: Um-hum.

9 MR. JOSEPH: There's a security  
10 gentleman placed there to keep that aisle  
11 clear and there's a -- there was at that point  
12 in time another one closer to the front of the  
13 door by the -- by the window on the right.  
14 Since then, we've relocated that person to the  
15 top area so they can get a better view of the  
16 whole dance floor.

17 MEMBER NOPHLIN: Okay. And were  
18 they engaged at all when this incident  
19 occurred?

20 MR. JOSEPH: I'm sorry.

21 MEMBER NOPHLIN: Your security.  
22 Were they engaged?

1 MR. JOSEPH: I -- I wasn't there  
2 that night. So, I don't know. I can't speak  
3 on exactly what they were doing.

4 MEMBER NOPHLIN: Well, what did  
5 they say to you since you're the manager?  
6 What were they doing when this occurred?

7 MR. JOSEPH: Well, when I spoke to  
8 them a couple of days later, their response  
9 was yes, I was standing here. I saw people  
10 pushing and shoving. So, I fought my way  
11 through the crowd to go see what was going on.  
12 So, that's what -- that's what I got from  
13 them.

14 MEMBER NOPHLIN: And were you  
15 happy with their explanation of what happened?

16 MR. JOSEPH: I wasn't happy that  
17 the incident occurred. There's two sides to  
18 every story. So, I tried to piece it together  
19 in my head, you know, exactly what happened,  
20 but according to them, they did the best job  
21 they could in responding and getting there on  
22 time.

1                   MEMBER NOPHLIN: Okay. Thank you,  
2                   Madam Chair.

3                   MEMBER ALBERTI: Quick question,  
4                   Madam Chair.

5                   CHAIRPERSON MILLER: Okay. Mr.  
6                   Alberti.

7                   MEMBER ALBERTI: Mr. Joseph, just  
8                   on those points, how large is this area?  
9                   Dimensions.

10                  MR. KLINE: This area being?

11                  MEMBER ALBERTI: The area that's  
12                  pictured in --

13                  MR. KLINE: Exhibit 6.

14                  MEMBER ALBERTI: Which is -- okay.  
15                  I'll rephrase that. The area that you use for  
16                  the dance floor, how large is that? The dance  
17                  floor proper. What you consider the dance  
18                  floor.

19                  MR. JOSEPH: I mean the ropes we  
20                  put along the side is probably, I don't know,  
21                  three feet out. So, from therein, I don't --  
22                  I don't know the actual.

1                   MEMBER ALBERTI: Well, in relation  
2 to the size of this room. Can you -- bigger,  
3 larger than the size of this room? I mean  
4 give me some idea.

5                   MR. TOBIN: Smaller.

6                   MEMBER ALBERTI: You work there.  
7 Mr. Tobin, you own the place.

8                   MR. TOBIN: Smaller than the size  
9 of this room.

10                  MEMBER ALBERTI: Smaller than the  
11 size of this room?

12                  MR. TOBIN: Yes.

13                  MEMBER ALBERTI: Shorter or  
14 narrower or what?

15                  MR. TOBIN: It's narrower.

16                  MEMBER ALBERTI: By how much you  
17 think?

18                  MR. TOBIN: And -- let me take a  
19 stab at it. Give me a minute. It's probably  
20 somewhere around 12 feet by maybe 12 feet.

21                  MEMBER ALBERTI: Okay. Great.  
22 Thank you. Thank you.

1 CHAIRPERSON MILLER: Other  
2 questions?

3 I just have a few. Mr. Tobin, you  
4 weren't there that night either. Correct?

5 MR. TOBIN: No, ma'am.

6 CHAIRPERSON MILLER: I think it  
7 might have been helpful for this fact finding  
8 if we had somebody from your establishment who  
9 actually was there and could have answered  
10 these questions.

11 But, in any event, there was that  
12 question raised about not calling 911 and why  
13 didn't they, but it sounds to me that the  
14 police and the ambulance were on the scene  
15 right away. So, that's not an issue.

16 Is that correct, Ms. Mathieson?

17 INVESTIGATOR MATHIESON: Yes, it  
18 was my understanding once 911 was called that  
19 they arrived shortly thereafter. It was just  
20 difficulty in locating the Complainant which  
21 is why it may have appeared to the Complainant  
22 that it took a little while, but my general

1 understanding is they responded quickly.

2 CHAIRPERSON MILLER: So, somebody  
3 called right away?

4 INVESTIGATOR MATHIESON: Yes.

5 CHAIRPERSON MILLER: And how would  
6 you know that somebody called right away other  
7 than they were there very -- as soon as you  
8 thought they should be there or was there  
9 radio communication between the security?

10 MR. JOSEPH: They do have radios.  
11 Yes.

12 CHAIRPERSON MILLER: Okay. So, we  
13 don't really know though. Correct? How --

14 MR. JOSEPH: No.

15 CHAIRPERSON MILLER: Why nobody  
16 realized they had been called other than they  
17 were there? Okay.

18 And then before this security  
19 plan, I saw there was no security plan on  
20 file. Was there no security plan? There were  
21 just security officers and they did their  
22 thing.

1 MR. KLINE: Well, there was no  
2 written plan. I mean every establishment that  
3 employees security has a plan whether it's  
4 reduced to writing or not.

5 CHAIRPERSON MILLER: Okay.

6 MR. KLINE: Because obviously,  
7 they have to be stationed somewhere. They  
8 have to have a way of dealing with each other.  
9 So, to say that there was no plan is probably  
10 an over statement, but it's certainly fair to  
11 say that there was no written security plan.

12 Is that fair?

13 MR. TOBIN: That's fair.

14 CHAIRPERSON MILLER: Okay. That  
15 makes sense and you contact out for your  
16 security officers. Right?

17 MR. TOBIN: Right. Right.

18 CHAIRPERSON MILLER: So, did they  
19 write this? Who wrote this plan?

20 MR. TOBIN: We did.

21 CHAIRPERSON MILLER: You -- the  
22 establishment did?

1 MR. TOBIN: Yes.

2 CHAIRPERSON MILLER: With the  
3 security officers or just -- or with a  
4 consultant or --

5 MR. TOBIN: We talked to them. We  
6 talked to us and, you know, with them, we  
7 wrote it.

8 CHAIRPERSON MILLER: Okay. Okay.

9 MR. TOBIN: Yes. You know, Mr.  
10 Joseph's been there, you know, the whole time.  
11 So, you know, we try and make that we're  
12 covering all bases especially now.

13 CHAIRPERSON MILLER: Do you have a  
14 question on that?

15 MEMBER SILVERSTEIN: Yes.

16 CHAIRPERSON MILLER: Okay. Mr.  
17 Silverstein wants to --

18 MEMBER SILVERSTEIN: Mr. Tobin, do  
19 you take part in any of the reimbursable  
20 details?

21 MR. TOBIN: No.

22 MEMBER SILVERSTEIN: Where are the

1 nearest ones to your establishment to the  
2 north and to the south?

3 MR. TOBIN: It would be in the end  
4 -- the reimbursable detail. If I know. I  
5 mean I don't. I don't -- I don't know.

6 MEMBER SILVERSTEIN: I thought you  
7 said there was one in front of Lucky Bar that  
8 you knew about.

9 MR. JOSEPH: Oh, I'm sorry.

10 MEMBER SILVERSTEIN: You said they  
11 were on --

12 MR. JOSEPH: We said off-duty  
13 police officers that are doing -- that are  
14 doing off -- yes, they're located one in front  
15 of Lucky Bar and there's always some located  
16 in front of Public Bar which is approximately  
17 one block away from us.

18 MEMBER SILVERSTEIN: So, you have  
19 two -- you have two reimbursables to the  
20 south.

21 MR. JOSEPH: Correct.

22 MEMBER SILVERSTEIN: Is there

1 anything to the north where you have Caf,  
2 Citron and --

3 MR. JOSEPH: No.

4 MR. KLINE: Just for the record,  
5 we don't know that they're reimbursable  
6 details. There are officers there. Maybe one  
7 could make that assumption, but I don't think  
8 we know.

9 MEMBER SILVERSTEIN: You don't  
10 know that at all.

11 MR. KLINE: Yes, they may be just  
12 stationed there because they need to be  
13 stationed there.

14 MEMBER SILVERSTEIN: Yes.

15 MR. KLINE: So, you know, whether  
16 -- whether they get paid for out of the  
17 general coffers or with this special tax on  
18 hospitality establishments, there goes my --  
19 we're not real sure.

20 MEMBER SILVERSTEIN: Considering  
21 the episodes of violence that have occurred in  
22 your block and especially the establishments

1 to the north, Heritage India, Caf, Citron, et  
2 cetera, do you think that a reimbursable  
3 detail on your block might improve public  
4 safety?

5 MR. TOBIN: I -- I really don't  
6 have a -- you know, thought right now. I --  
7 you know, let me think about that. Get back  
8 to you.

9 MEMBER SILVERSTEIN: Often  
10 establishments may pool resources to get --

11 MR. TOBIN: Right.

12 MEMBER SILVERSTEIN: -- an RDO  
13 which --

14 MR. TOBIN: Well, they -- you  
15 know, Heritage is a -- is a -- they -- they  
16 call in an outside promoter, you know.

17 MEMBER SILVERSTEIN: Yes.

18 MR. TOBIN: And they --

19 MEMBER SILVERSTEIN: Okay.

20 MR. TOBIN: And there's a reason  
21 why that happens. We do not operate that way.

22 MEMBER SILVERSTEIN: Right.

1 MR. TOBIN: And don't plan on it  
2 and we don't --

3 MEMBER SILVERSTEIN: Thank you,  
4 Madam Chair.

5 CHAIRPERSON MILLER: Okay. Ms.  
6 Mathieson, I just have one -- a final question  
7 for you I think.

8 INVESTIGATOR MATHIESON: Sure.

9 CHAIRPERSON MILLER: Is it your  
10 opinion that what the establishment did wrong,  
11 if anything, was to take too long to respond  
12 to the incident and if so, what you would be  
13 basing that on?

14 INVESTIGATOR MATHIESON: Yes, upon  
15 completing the report, it did appear as though  
16 the establishment took too long based largely  
17 upon the statement from the establishment  
18 itself in the incident report saying it too  
19 long, interviews with the Complainant and --  
20 as well as the witness.

21 From my understanding of the  
22 fight, there seemed to be a large -- it seemed

1 to be a large fight. The Complainant was  
2 knocked down several times. The witness had  
3 time to break a bottle -- a bottle over  
4 somebody's head. She was then later thrown to  
5 the ground. It did seem like it kind of had  
6 gone on for a short period of time and  
7 admission by the incident report. I did  
8 determine that. It took a little longer than  
9 it should have.

10 If security could have intervened  
11 sooner, it probably would have maybe resulted  
12 in less injuries to the Complainant and then  
13 the only other issue was the video footage  
14 which I think that we all -- but a --

15 CHAIRPERSON MILLER: And do you  
16 have an idea of how long things did take?

17 INVESTIGATOR MATHIESON: For --

18 CHAIRPERSON MILLER: For the  
19 security to get to the dance floor. For  
20 instance, was it three minutes or --

21 INVESTIGATOR MATHIESON: I don't  
22 have the video. If I had the video, I'd be

1     able to say for certain. Without the video,  
2     based on the description of the fight from  
3     both the female and males, I -- I mean I  
4     couldn't say for certain, but I would estimate  
5     at least a minute and in terms of a fight,  
6     that could be a very long time. It may not  
7     sound like a long time, but a lot of damage  
8     can be done within a minute.

9             CHAIRPERSON MILLER: Any other  
10     questions? Any other comments? Yes. Okay.

11            MR. KLINE: The only other thing I  
12     would add in response to Board Member  
13     Alberti's comment in terms of if we are  
14     certain based upon the police report about the  
15     time being 12:10 and that's what one or more  
16     Board Members believe, then look at the  
17     videotape. Because I don't think there's any  
18     question that that time period is captured on  
19     that videotape and you have it. So, it's the  
20     only thing that I would add in terms of  
21     further clarity and that might shed some light  
22     on that issue.

1 CHAIRPERSON MILLER: Okay. We're  
2 going to go into a closed meeting for a few  
3 minutes and confer with counsel on this case.

4 So, Chairperson of the Alcoholic  
5 Beverage Control Board for the District of  
6 Columbia and in accordance with Section 405 of  
7 the Open Meetings Amendment Act of 2010, I  
8 move that the ABC Board hold a closed meeting  
9 for the purpose of seeking legal advice from  
10 our counsel on Case Number 11-251-00353, Mad  
11 Hatter per Section 405(b)(4) of the Open  
12 Meetings Amendment Act of 2010 and potentially  
13 deliberating upon the case for the reasons  
14 cited in 405(b)(13) of the Open Meetings  
15 Amendment Act of 2010.

16 Is there a second?

17 MEMBER BROOKS: Second.

18 CHAIRPERSON MILLER: I'm going to  
19 take a roll call. Mr. Nophlin?

20 MEMBER NOPHLIN: I agree.

21 CHAIRPERSON MILLER: Mr. Brooks?

22 MEMBER BROOKS: I agree.

1 CHAIRPERSON MILLER: Mr. Alberti?

2 MEMBER ALBERTI: I agree.

3 CHAIRPERSON MILLER: Ms. Miller

4 agrees.

5 Mr. Silverstein?

6 MEMBER SILVERSTEIN: I agree.

7 CHAIRPERSON MILLER: Ms. Mobley?

8 MEMBER MOBLEY: I agree.

9 CHAIRPERSON MILLER: Okay. Then  
10 motion passes by a vote of 6-0. We're going  
11 to go into closed session and we'll be back  
12 shortly.

13 If you all want to take a quick  
14 break as well, feel free to do that.

15 MR. KLINE: Thank you.

16 (Whereupon, at 11:30 a.m., a  
17 recess was taken until 11:43 a.m.)

18 CHAIRPERSON MILLER: Okay. We're  
19 back on the record and we've had a very  
20 thorough fact finding hearing on the incident  
21 that occurred at the Mad Hatter and I first  
22 want to commend the establishment for taking

1 action to improve the camera system and  
2 putting in place the written security plan.

3 However, still after, you know,  
4 hearing all the facts about this case, I would  
5 move that we do send the matter to the Office  
6 of Attorney General and let them take a look  
7 at it and determine if enforcement action is  
8 warranted in this case.

9 MEMBER BROOKS: Second.

10 CHAIRPERSON MILLER: Do Board  
11 Members have comments? Okay. Then there's  
12 been a motion that's been seconded. All those  
13 in favor say aye.

14 (Ayes.)

15 CHAIRPERSON MILLER: All those  
16 opposed? All those abstaining? Then the vote  
17 is 6 to 0 to 0 to refer the matter to the  
18 Office of Attorney General to see if  
19 enforcement action is warranted.

20 Thank you very much for coming.

21 (Whereupon, at 11:45 a.m., the  
22 hearing was adjourned.)

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