

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

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IN THE MATTER OF: :
 :
Solomon Enterprises, LLC :
t/a Climax Restaurant & :
Hookah Bar :
900 Florida Avenue, NW : Show Cause
Retailer CT : Hearing
License No. 88290 :
Case No. 12-CMP-00228 :
ANC 1B :
Substantial Change in :
Operation (No Summer Garden or:
Sidewalk Caf, Endorsement) :
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MAY 1, 2013

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control

Hearing Room, Reeves Building, 2000 14th
Street, N.W., Washington, D.C., Ruthanne
Miller, Chairperson, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member

DONALD BROOKS, Member
HERMAN JONES, Member
MICHAEL SILVERSTEIN, Member

ALSO PRESENT

CHRISTINE GEPHARDT, OAG
EARL JONES, ABRA

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

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WITNESSES

Earl Jones.6

Solomon Yegzaw. 46

EXHIBITS

Government 's

1 Photo of establishment's upper level
patio 14

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

3:36 p.m.

CHAIRPERSON MILLER: Good
afternoon. We're back on the record.

All right. The next case on the
Board's afternoon calendar is Case No. 12-CMP-
00228, Climax Restaurant & Hookah Bar located
at 900 Florida Avenue, N.W., License No. 88290
in ANC 1B.

Yes, would the parties please come
forward?

MS. GEPHARDT: Good afternoon.
This is Chrissy Gephardt on behalf of the
District of Columbia.

CHAIRPERSON MILLER: Good
afternoon. And, sir, when you're ready?

MR. YEGZAW: Good afternoon. This
is Solomon Yegzaw, owner of Climax Restaurant
& Hookah Bar.

CHAIRPERSON MILLER: Okay. Can
you speak up a little more loudly?

MR. YEGZAW: This is Solomon

1 Yegzaw, owner of Climax Restaurant & Hookah
2 Bar.

3 CHAIRPERSON MILLER: Okay. Thank
4 you. All right. This is a show cause
5 hearing. Are there any preliminary matter?

6 MS. GEPHARDT: There are no
7 preliminary matters in this case.

8 CHAIRPERSON MILLER: Okay. Mr.
9 Yegzaw, have you participated in a hearing
10 before this Board before?

11 MR. YEGZAW: Yes.

12 CHAIRPERSON MILLER: Okay. So
13 you're familiar with the procedures?

14 MR. YEGZAW: Yes.

15 CHAIRPERSON MILLER: All right.
16 Do either of you have witnesses?

17 MS. GEPHARDT: Yes, I do have one
18 witness.

19 CHAIRPERSON MILLER: Okay. And,
20 Mr. Yegzaw, do you have a witness?

21 MR. YEGZAW: No, I won't have
22 witness, but I would like to know the witness

1 what he's sayings and what's the real picture
2 and --

3 CHAIRPERSON MILLER: Okay. You'll
4 testify for your case? Okay. All right. So
5 we'll get to that after the Government
6 presents their case.

7 All right. Are you ready?

8 MS. GEPHARDT: Yes, I'd like to
9 call Investigator Jones to the stand.

10 CHAIRPERSON MILLER: Good
11 afternoon.

12 INVESTIGATOR JONES: Good
13 afternoon.

14 CHAIRPERSON MILLER: Do you swear
15 to tell the truth, the whole truth, nothing
16 but the truth?

17 INVESTIGATOR JONES: I do.

18 CHAIRPERSON MILLER: All right.
19 Thank you.

20 MS. GEPHARDT: Good afternoon,
21 investigator.

22 INVESTIGATOR JONES: Good

1 afternoon.

2 CHAIRPERSON MILLER: Ms. Gephardt,
3 I'm sorry, I just forgot to ask you if you had
4 an opening statement.

5 MS. GEPHARDT: Oh, well --

6 CHAIRPERSON MILLER: It's not
7 necessary.

8 MS. GEPHARDT: I'll wrap it up in
9 the closing statement.

10 CHAIRPERSON MILLER: Okay. Good.

11 MS. GEPHARDT: Investigator Jones,
12 can you please state your name and spell it
13 for the record?

14 INVESTIGATOR JONES: Earl Jones,
15 E-A-R-L. Last name Jones, J-O-N-E-S.

16 MS. GEPHARDT: Thank you.
17 Investigator Jones, where do you work?

18 INVESTIGATOR JONES: I work for
19 the Alcohol Beverage Regulation
20 Administration.

21 MS. GEPHARDT: And what is your
22 position?

1 INVESTIGATOR JONES: I am an
2 investigator.

3 MS. GEPHARDT: And what are your
4 job responsibilities as an investigator?

5 INVESTIGATOR JONES: As an
6 investigator I conduct investigations and
7 inspections of licensed ABC establishments
8 within the District of Columbia.

9 MS. GEPHARDT: Okay. And how long
10 have you been an investigator?

11 INVESTIGATOR JONES: Since
12 September 2009.

13 MS. GEPHARDT: 2001?

14 INVESTIGATOR JONES: Nine.

15 MS. GEPHARDT: 2009?

16 INVESTIGATOR JONES: Yes, ma'am.

17 MS. GEPHARDT: Okay. Are you
18 familiar with a Licensee by the name of Climax
19 Restaurant & Hookah Bar?

20 INVESTIGATOR JONES: Yes, ma'am.

21 MS. GEPHARDT: And do you recall
22 going to that establishment on June the 16th

1 of 2012?

2 INVESTIGATOR JONES: Yes, I do.

3 MS. GEPHARDT: And what was the
4 reason? What brought you this establishment?

5 INVESTIGATOR JONES: I was there
6 as a part of the D.C. Noise Task Force that we
7 have in conjunction with the Metropolitan
8 Police Department, as well as the Department
9 of Regulatory Affairs, DCRA.

10 MS. GEPHARDT: And what exactly is
11 the D.C. Noise Task Force? Explain that to
12 the Board.

13 INVESTIGATOR JONES: It's a group
14 of -- well, actually it's an initiative that
15 we have come together that we formed, like I
16 said, with MPD and DCRA. And we go around and
17 we monitor establishments that have either had
18 complaints on them with reference to noise.
19 And on the listed dates that we have, we have
20 a list of establishments that we go to on that
21 certain night.

22 MS. GEPHARDT: So in this case did

1 you go to Climax Restaurant & Hookah Bar
2 because of an noise violation, or because this
3 was just an establishment that you were going
4 to monitor?

5 INVESTIGATOR JONES: We had gone
6 to this establishment because they were
7 several complaints from neighbors behind the
8 establishment.

9 MS. GEPHARDT: Okay.

10 INVESTIGATOR JONES: So it was on
11 our list for that night.

12 MS. GEPHARDT: Okay. And what did
13 you do when you arrived at the establishment?

14 INVESTIGATOR JONES: When I
15 initially got there, we had monitored the
16 establishment from the front. We went around
17 th the rear of the establishment, did hear
18 noise from the upper level. And then I went
19 inside and I spoke to Mr. Yegzaw.

20 MS. GEPHARDT: And I'm sorry, did
21 you say that you could hear noise from the
22 back?

1 INVESTIGATOR JONES: Yes.

2 MS. GEPHARDT: Okay. And was your
3 intention to go in and speak to him about the
4 level of the noise?

5 INVESTIGATOR JONES: That was the
6 intention and to see where the noise was
7 initially coming from, because that was
8 actually my first time being inside.

9 MS. GEPHARDT: Okay. And when you
10 met with Mr. Yegzaw, what did you say to him?

11 INVESTIGATOR JONES: I identified
12 who I was. I stated what we were doing there,
13 because I also had a representative from DCRA
14 with us. And we had gone in and spoke -- as
15 well as MPD. We had an MPD sergeant with us.
16 We had gone inside. We spoke with him and
17 told him what our business was, what we were
18 there for, and I asked him to take me to the
19 second level.

20 MS. GEPHARDT: Okay.

21 INVESTIGATOR JONES: Where the
22 noise was coming from.

1 MS. GEPHARDT: Okay. And just to
2 back up for a second, do you know around what
3 time of the night you were there?

4 INVESTIGATOR JONES: Yes, it was
5 about 2:35.

6 MS. GEPHARDT: 2:35 --

7 INVESTIGATOR JONES: In the
8 morning.

9 MS. GEPHARDT: -- a.m.?

10 INVESTIGATOR JONES: Yes.

11 MS. GEPHARDT: Okay. And do you
12 know the establishment's operating hours?

13 INVESTIGATOR JONES: On any given
14 night, or you're saying on this particular
15 night?

16 MS. GEPHARDT: On this particular
17 night.

18 INVESTIGATOR JONES: On this
19 particular --

20 MS. GEPHARDT: I believe this was
21 a Saturday.

22 INVESTIGATOR JONES: On Saturday

1 their hours are from 10:00 a.m. to 3:00 a.m.

2 MS. GEPHARDT: Okay. So, I'm
3 sorry, when you met with Mr. Yegzaw you had a
4 conversation with him about why you were
5 there. What happened next?

6 INVESTIGATOR JONES: Once I
7 indicated what the reason we were there for
8 and I asked him to take me for a tour and take
9 me up to the second level, he complied and he
10 had taken me up to the second level.

11 INVESTIGATOR JONES: Okay. And
12 when you got to the second level, what did you
13 observe?

14 INVESTIGATOR JONES: At that point
15 in time I saw that there was an open door that
16 led out to a rear patio area and I immediately
17 went out to the rear deck area where I saw
18 patrons consuming alcoholic beverages at a
19 table.

20 MS. GEPHARDT: And how did you
21 know these patrons were consuming alcoholic
22 beverages?

1 INVESTIGATOR JONES: That's what I
2 saw. I saw they had a -- they were sitting at
3 a -- around a table and there was beer bottles
4 on the table.

5 MS. GEPHARDT: Okay. When you
6 observed the people outside on the patio
7 consuming alcoholic beverages, what did you do
8 next?

9 INVESTIGATOR JONES: I asked Mr.
10 Yegzaw for his license, his ABC license. And
11 at that time I started to conduct a regulatory
12 inspection.

13 MS. GEPHARDT: Okay. And what did
14 you find during your regulatory inspection?

15 INVESTIGATOR JONES: During the
16 regulatory inspection I noticed that the
17 establishment did not have a summer garden
18 endorsement, which would be considered that
19 area that he had. The rear deck area would be
20 considered a summer garden, and he did not
21 have an endorsement for that.

22 MS. GEPHARDT: And this was based

1 on your review of the license that he showed
2 you?

3 INVESTIGATOR JONES: Yes, ma'am.

4 MS. GEPHARDT: Okay. And did you
5 mention this to Mr. Yegzaw?

6 INVESTIGATOR JONES: Yes, I did,
7 and he told me that he thought that since that
8 was a part of his property that he was allowed
9 to have patrons out there consuming alcoholic
10 beverages. And at that time I told him that
11 he wasn't allowed to do that. And I also told
12 him that he is on the list for future
13 monitoring efforts and we will be checking up
14 on him.

15 MS. GEPHARDT: Okay. Did you take
16 any photographs that night?

17 INVESTIGATOR JONES: Yes, I did.

18 MS. GEPHARDT: Do you have any of
19 those photographs with you?

20 INVESTIGATOR JONES: I don't have
21 them with me, no.

22 MS. GEPHARDT: If I showed you the

1 photograph, would you recall taking it?

2 INVESTIGATOR JONES: Sure.

3 MS. GEPHARDT: Okay. I'd like to
4 show Mr. Yegzaw what I've marked as Government
5 Exhibit No. 1.

6 Okay. I'd like to show it to the
7 witness, Government's Exhibit No. 1.

8 Investigator, can you tell me what
9 is in that photograph? What's that a picture
10 -- what is it depicting?

11 INVESTIGATOR JONES: This is the
12 upstairs or the upper level rear deck area
13 that would be considered a summer garden to
14 Climax Restaurant. In the picture are the
15 four patrons that were seated around basically
16 a fold-out table and they had beer on the
17 table.

18 MS. GEPHARDT: Okay.

19 INVESTIGATOR JONES: Beer bottles.

20 MS. GEPHARDT: And what date did
21 you take that picture?

22 INVESTIGATOR JONES: I took this

1 on the 16th of June.

2 INVESTIGATOR JONES: And did you
3 indicate that on the photograph?

4 INVESTIGATOR JONES: Yes, ma'am.

5 MS. GEPHARDT: And do you know
6 what time you took that photograph?

7 INVESTIGATOR JONES: I entered the
8 establishment at 2:35. That picture was
9 probably taken probably at 2:40.

10 MS. GEPHARDT: Okay. And how do
11 you know that that is the back patio of Climax
12 Restaurant?

13 INVESTIGATOR JONES: You mean from
14 this photograph?

15 MS. GEPHARDT: From that
16 photograph. How can you tell that that's the
17 patio versus any other patio?

18 INVESTIGATOR JONES: Because in
19 the picture there's a gas station that's right
20 next to the establishment, which is where that
21 brick wall is, and there's an alleyway behind
22 the establishment which is the alleyway that's

1 behind it.

2 MS. GEPHARDT: Okay. After you
3 took a photograph and spoke to Mr. Yegzaw
4 about the violation for the summer garden
5 endorsement, what did you do after that?

6 INVESTIGATOR JONES: After that,
7 again I notified him. I told him that he was
8 definitely on the list. I told him that he
9 needed to get to the Agency as soon as
10 possible if this is something that he wanted
11 to do. For future reference he needed to go
12 ahead and apply for a summer garden
13 endorsement and he needed to basically stop
14 allowing patrons to consume alcoholic
15 beverages on that deck area until he was
16 approved by the Board.

17 MS. GEPHARDT: Did he seem to
18 understand what you were telling him?

19 INVESTIGATOR JONES: He seemed to
20 understand what I was telling him. He told me
21 wouldn't do it any longer.

22 MS. GEPHARDT: Okay.

1 Investigator, did you conclude your
2 investigation or your regulatory inspection
3 after that?

4 INVESTIGATOR JONES: Yes, ma'am.

5 MS. GEPHARDT: Okay. And did you
6 do any other type of verification to see if
7 this Licensee has a summer garden endorsement?

8 INVESTIGATOR JONES: Yes, I did.
9 On the 18th I actually researched our ABRA
10 records with reference to Climax Restaurant &
11 Hookah Bar's license, as well as any changes
12 to their license, and I did not see anything
13 with reference to an application for a summer
14 garden endorsement.

15 MS. GEPHARDT: Okay. Brief
16 indulgence.

17 When you were there and you said
18 you saw these people out on the patio back
19 deck consuming alcoholic beverages, when you
20 told Mr. Yegzaw that he did not have a summer
21 garden endorsement --

22 INVESTIGATOR JONES: Yes.

1 MS. GEPHARDT: -- did he ask the
2 patrons out there to leave or to come off of
3 the deck?

4 INVESTIGATOR JONES: No.

5 MS. GEPHARDT: So when you left
6 those people were still out on the patio?

7 INVESTIGATOR JONES: When we were
8 talking -- well, I'll back up. I'll say that
9 at the time that we were talking, he didn't.
10 But when I was advising him as to what he
11 should do going forward, at that point in time
12 he told me that he would have them come from
13 off of the deck. And then as far as the task
14 force was concerned, we exited the
15 establishment because we had other
16 establishments to go to.

17 MS. GEPHARDT: Okay. All right.
18 I have no further questions for this witness.

19 CHAIRPERSON MILLER: Do you have
20 some cross-exam questions for Mr. Jones?

21 MR. YEGZAW: Yes.

22 CHAIRPERSON MILLER: Okay.

1 MR. YEGZAW: I remember that day
2 and I remember all he's saying. Almost of
3 them true except if you remember the first
4 time when you came in there nobody asked for
5 me, nobody asked for a manager or the owner.
6 You guys went up --

7 CHAIRPERSON MILLER: Wait. Okay.
8 Just remember that this is questions and
9 you'll have a chance to testify. You may be
10 leading to a question. I just want to remind
11 you --

12 MR. YEGZAW: Oh, I can ask
13 questions?

14 CHAIRPERSON MILLER: Questions.

15 MR. YEGZAW: Okay.

16 CHAIRPERSON MILLER: Yes.

17 MR. YEGZAW: So I don't see nobody
18 in there except this -- the white thing is a
19 white plastic bag trash sitting on a chair.
20 And one of them is chair -- and on the chair.
21 There is nobody in there.

22 CHAIRPERSON MILLER: Wait, is this

1 a -- you need to ask him a question right now.

2 MR. YEGZAW: Yes.

3 CHAIRPERSON MILLER: Okay.

4 MR. YEGZAW: So there is no beers,
5 alcohols. There is nobody in there in
6 picture. So how do you say that --

7 INVESTIGATOR JONES: There's four
8 people in this picture.

9 MR. YEGZAW: No, it's not people.
10 It's the white bag.

11 INVESTIGATOR JONES: That's not
12 people. And I'm looking at this picture --

13 MR. YEGZAW: No isn't --

14 INVESTIGATOR JONES: -- I didn't
15 see anybody on that deck when I visited your
16 establishment.

17 MR. YEGZAW: You saw --

18 MEMBER ALBERTI: Well, wait, wait.
19 Just a moment, please. I'm going to object
20 here because there was not a question posed.

21 And, Mr. Jones, please wait for
22 the question.

1 INVESTIGATOR JONES: Yes, sir.

2 MEMBER ALBERTI: Thank you.

3 INVESTIGATOR JONES: Not a
4 problem.

5 MEMBER ALBERTI: Well, I just
6 wanted -- I don't want to get a back and forth
7 going.

8 INVESTIGATOR JONES: That's fine.

9 MEMBER ALBERTI: Thank you.

10 MR. YEGZAW: This is --

11 CHAIRPERSON MILLER: Mr. Yegzaw,
12 you're looking at Government's Exhibit No. 1,
13 is that correct, the photograph?

14 MS. GEPHARDT: That's correct.
15 He's got a copy of it, too.

16 CHAIRPERSON MILLER: Okay. So do
17 you have a question for Mr. Jones --

18 MR. YEGZAW: Yes.

19 CHAIRPERSON MILLER: -- on that?

20 MR. YEGZAW: Yes.

21 CHAIRPERSON MILLER: Okay.

22 MR. YEGZAW: This is not the first

1 one.

2 CHAIRPERSON MILLER: Question.

3 MS. GEPHARDT: In the form of a
4 question as opposed to a statement. Ask him
5 something about the photo.

6 MR. YEGZAW: Yes, okay. Did you
7 see any beers in here?

8 INVESTIGATOR JONES: Yes.

9 MR. YEGZAW: Can you show me what
10 is the beer and what is the person sitting at?

11 INVESTIGATOR JONES: I have the
12 same picture that you have. You can't see
13 that there are four people in that picture.

14 MR. YEGZAW: Okay. Can you circle
15 it, what is --

16 INVESTIGATOR JONES: I'm not going
17 to circle it.

18 MEMBER ALBERTI: Wait, wait, wait,
19 wait. Mr. Jones, wait. Just answer the
20 questions, Mr. Jones.

21 INVESTIGATOR JONES: That's fine,
22 sir.

1 MEMBER ALBERTI: I think -- you
2 want him to circle the beers?

3 MR. YEGZAW: Please, yes.

4 MEMBER ALBERTI: I think that was
5 the request from the Licensee.

6 INVESTIGATOR JONES: Oh, that was
7 the question?

8 MEMBER ALBERTI: And, Ms. Miller,
9 I think we should honor that request. We have
10 an exhibit.

11 CHAIRPERSON MILLER: I think --

12 MEMBER ALBERTI: And I think
13 that's a fair request for him to circle the
14 beers on the photo.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER BROOKS: If you can.

17 CHAIRPERSON MILLER: I think there
18 should be only one person up here giving
19 directions.

20 MEMBER ALBERTI: All right. All
21 right.

22 CHAIRPERSON MILLER: So --

1 MEMBER ALBERTI: I'm out. I'm
2 out.

3 CHAIRPERSON MILLER: So it's your
4 suggestion that you had asked Mr. Jones if he
5 can circle where he sees the beers on the
6 picture, is that right?

7 MR. YEGZAW: The picture.

8 CHAIRPERSON MILLER: Do you have
9 an objection then, Ms. Gephardt? Does he have
10 a copy of the exhibit as opposed to the
11 original Exhibit?

12 MS. GEPHARDT: Who?

13 CHAIRPERSON MILLER: Mr. Jones,
14 because --

15 MS. GEPHARDT: Mr. Jones has the
16 original exhibit.

17 CHAIRPERSON MILLER: Okay. Do you
18 want us to make a copy of that so that --

19 MS. GEPHARDT: Sure.

20 CHAIRPERSON MILLER: -- the
21 original exhibit is -- do you want to submit
22 the original exhibit unmarked and then --

1 MS. GEPHARDT: No, no, no. The
2 original exhibit is marked and I just -- I
3 don't have a copy for myself. But if I could
4 get a copy, that would be great.

5 CHAIRPERSON MILLER: My question
6 was do you mind if the original exhibit is
7 circled?

8 MS. GEPHARDT: Oh --

9 MEMBER ALBERTI: Or if you want
10 him to do it on a copy. I'm sorry.

11 MS. GEPHARDT: That's fine.
12 That's fine.

13 CHAIRPERSON MILLER: Because the
14 other thing is --

15 MS. GEPHARDT: You mark up the
16 original.

17 CHAIRPERSON MILLER: We don't have
18 copies as of now of this exhibit --

19 MS. GEPHARDT: I know.

20 CHAIRPERSON MILLER: -- which
21 hasn't been entered into evidence yet,
22 correct?

1 MS. GEPHARDT: Right. Right.

2 CHAIRPERSON MILLER: But is this
3 the same picture that's attached to the
4 investigative report?

5 MS. GEPHARDT: That's correct. It
6 is the same picture attached to the --

7 CHAIRPERSON MILLER: Okay.

8 MS. GEPHARDT: -- investigative
9 report.

10 CHAIRPERSON MILLER: So we all
11 know what we're talking about. Okay.

12 INVESTIGATOR JONES: Okay.

13 CHAIRPERSON MILLER: So she has no
14 objection if you would like to circle --

15 INVESTIGATOR JONES: That's fine.
16 That's fine.

17 MS. GEPHARDT: Do you have a pen?

18 INVESTIGATOR JONES: No, I need a
19 pen.

20 (Laughter.)

21 INVESTIGATOR JONES: I need a pen.

22 Thank you.

1 MS. GEPHARDT: I apologize. I
2 guess he needs to see it so he can --

3 INVESTIGATOR JONES: Not a
4 problem.

5 MS. GEPHARDT: Do you mind --

6 INVESTIGATOR JONES: Sure.

7 MS. GEPHARDT: -- handing it to me
8 and I'll -- thank you.

9 CHAIRPERSON MILLER: Okay. Do you
10 have a question?

11 MR. YEGZAW: Yes.

12 CHAIRPERSON MILLER: Okay.

13 MR. YEGZAW: That's not the beer.
14 That's --

15 CHAIRPERSON MILLER: Okay. That's
16 your testimony which you'll be able to give
17 later. Do you have a question for this
18 witness?

19 MR. YEGZAW: No. No.

20 CHAIRPERSON MILLER: That's it?

21 MR. YEGZAW: That's it.

22 CHAIRPERSON MILLER: Okay. Are

1 there Board questions?

2 (No audible response.)

3 CHAIRPERSON MILLER: Mr. Jones, I
4 have a question. I think you said something
5 like on the 18th you researched the records --

6 INVESTIGATOR JONES: Yes, ma'am.

7 CHAIRPERSON MILLER: -- and didn't
8 find any application for a summer garden.

9 INVESTIGATOR JONES: No, ma'am.

10 CHAIRPERSON MILLER: Okay. The
11 did you mean June 18th?

12 INVESTIGATOR JONES: Yes, ma'am.

13 CHAIRPERSON MILLER: Okay. And
14 did you come back any day thereafter to see
15 whether Mr. Yegzaw was continuing to serve
16 alcoholic beverages on the rear deck?

17 INVESTIGATOR JONES: I actually
18 was a part of the Noise Task Force on June
19 26th and went back and he was violating the
20 same --

21 CHAIRPERSON MILLER: Okay.

22 INVESTIGATOR JONES: -- he was

1 doing the same thing.

2 CHAIRPERSON MILLER: I don't have
3 any other questions.

4 MEMBER ALBERTI: Yes.

5 CHAIRPERSON MILLER: Yes, Mr.
6 Alberti?

7 MEMBER ALBERTI: I'm sorry. My
8 apologies. Investigator Jones, do you
9 remember what kind of -- were those beer
10 bottles that you saw out on the patio?

11 INVESTIGATOR JONES: On this --

12 MEMBER ALBERTI: On this day?

13 INVESTIGATOR JONES: On this day
14 we're talking about?

15 CHAIRPERSON MILLER: Yes.

16 INVESTIGATOR JONES: Yes, sir,
17 there were beer bottles as well as water
18 bottles. So there is a water bottle in that
19 picture as well.

20 MEMBER ALBERTI: Right. Do you
21 remember what kind of beer it was?

22 INVESTIGATOR JONES: I want to say

1 it was Corona.

2 MEMBER ALBERTI: Is it discernible
3 from the photos? I have seen a --

4 INVESTIGATOR JONES: For me it is
5 because I --

6 MEMBER ALBERTI: -- color copy of
7 the photo, so it's hard for me --

8 INVESTIGATOR JONES: For me it is.
9 From -- if you look at it next to that water
10 bottle, it is, and maybe only because I was
11 there. But that's -- for me it is.

12 MEMBER ALBERTI: So may I see a
13 color photo of that?

14 CHAIRPERSON MILLER: I have one.

15 MEMBER ALBERTI: I know. I was
16 asking if I could see it.

17 CHAIRPERSON MILLER: It's still
18 not been moved in.

19 MEMBER ALBERTI: Okay. So I see a
20 hookah pipe in the middle of that table --

21 INVESTIGATOR JONES: Yes, sir.

22 MEMBER ALBERTI: -- is that

1 correct?

2 INVESTIGATOR JONES: Yes, sir.

3 MEMBER ALBERTI: All right. And
4 the beer bottle is --

5 INVESTIGATOR JONES: It's --

6 MEMBER ALBERTI: -- where in
7 relationship to that?

8 INVESTIGATOR JONES: It's -- in
9 relation to that, it's probably to the right
10 of it. And then there's a water bottle to
11 maybe the left of it.

12 MEMBER ALBERTI: Left of it? All
13 right.

14 INVESTIGATOR JONES: Yes, sir. I
15 don't have the picture in front of me, so I'm
16 just trying --

17 MEMBER ALBERTI: Right, right,
18 right, right. That's it. It's right here.

19 INVESTIGATOR JONES: Yes.

20 MEMBER ALBERTI: Right there.

21 INVESTIGATOR JONES: Yes.

22 MEMBER ALBERTI: Okay. Thank you

1 very much.

2 INVESTIGATOR JONES: Yes, sir.

3 Thank you.

4 CHAIRPERSON MILLER: Any other
5 Board questions? Mr. Jones?

6 MEMBER JONES: Thank you, Madam
7 Chair.

8 So a picture is worth a 1,000
9 words. And this is one picture. It's one
10 discreet finite moment in time. But you were
11 there for longer than just the split second it
12 took to take this picture, is that correct?

13 INVESTIGATOR JONES: Yes, sir.

14 MEMBER JONES: All right. So
15 during the time that you were there did you
16 see what you would interpret to be beer
17 bottles or alcoholic beverages on the table?

18 INVESTIGATOR JONES: Yes, I would.

19 MEMBER JONES: You would?

20 INVESTIGATOR JONES: Yes.

21 MEMBER JONES: Okay. And just to
22 be clear, you've been an investigator since

1 2009. Did I hear that correct?

2 INVESTIGATOR JONES: Yes, sir.

3 MEMBER JONES: Okay. Was this
4 your first activity in regards to this type of
5 enforcement?

6 INVESTIGATOR JONES: No, sir.

7 MEMBER JONES: Okay. So were you
8 comfortable with your discernment of that
9 being an alcoholic beverage on the table based
10 on your recollection at this point in time?

11 INVESTIGATOR JONES: Yes, sir.

12 MEMBER JONES: Okay. Was there
13 only one bottle that you saw on the table --

14 INVESTIGATOR JONES: No.

15 MEMBER JONES: -- to the best of
16 your recollection?

17 INVESTIGATOR JONES: There were
18 multiple bottles. And the shot that you have,
19 with reference to that picture, the bodies are
20 kind of covering up the bottles that are on
21 the table.

22 MEMBER JONES: Okay.

1 INVESTIGATOR JONES: But there
2 were other bottles that were on the table.

3 MEMBER JONES: So based on your
4 recollection there were other bottles that
5 were on the table even at the time that this
6 picture was taken?

7 INVESTIGATOR JONES: Yes.

8 MEMBER JONES: And your
9 explanation as to why only one bottle is able
10 to be seen is that the other bottles that you
11 remember being on the table are being blocked
12 by the individuals who are seen in the
13 photograph?

14 INVESTIGATOR JONES: Yes, sir.

15 MEMBER JONES: Okay. Did the
16 bottles appear to be empty, or did it appear
17 as if the patrons were enjoying the beverage?

18 INVESTIGATOR JONES: Some of them
19 seemed to be somewhat empty. It seemed to be
20 that they were still in the process of
21 drinking --

22 MEMBER JONES: Okay.

1 INVESTIGATOR JONES: -- when I was
2 there.

3 MEMBER JONES: And I think you
4 spoke on this, but just for clarification
5 purposes, how many patrons would you estimate
6 were out on this area, this outdoor area?

7 INVESTIGATOR JONES: I want to say
8 there were four at the table. There may have
9 been one or two that were kind of standing
10 around on the deck area.

11 MEMBER JONES: Okay.

12 INVESTIGATOR JONES: Maybe six in
13 total. Maybe.

14 MEMBER JONES: Total of six?

15 INVESTIGATOR JONES: Maybe.

16 MEMBER JONES: Give or take?

17 INVESTIGATOR JONES: Yes.

18 MEMBER JONES: Okay. And were
19 there any other alcoholic beverages there that
20 you were able to discern other than the beer?

21 INVESTIGATOR JONES: Not that I
22 can recall. No, sir.

1 MEMBER JONES: Not that you
2 recall? Okay. Did you have any feel or could
3 you get a sense of how alcohol was getting
4 from its source to this destination area?

5 INVESTIGATOR JONES: Yes.

6 MEMBER JONES: And if so, could
7 you describe that to me?

8 INVESTIGATOR JONES: What was
9 happening was is he has a rear door that leads
10 out to this patio area. The complaints that
11 we were getting as the Noise Task Force was
12 that the neighbors behind him were catching
13 all of this noise with reference to patrons
14 outside, with reference to DJ music being
15 played and it's emanating through door into
16 the alleyway.

17 MEMBER JONES: Yes, sir.

18 INVESTIGATOR JONES: So that was
19 the first thing that caught my eye, was the
20 door was wide open, people were walking.
21 There's a bar area right by that rear door.
22 So they were going to the bar area and walking

1 out to the patio area.

2 MEMBER JONES: Okay.

3 INVESTIGATOR JONES: So they would
4 come in and out, in and out, in and out.

5 MEMBER JONES: Okay.

6 INVESTIGATOR JONES: Through that
7 rear door.

8 MEMBER JONES: Was ingress/egress
9 to that door or through that door regulated by
10 anyone from a security standpoint, or that you
11 considered to be affiliated or associated with
12 the ownership of the establishment?

13 INVESTIGATOR JONES: There was --
14 he has a security presence that is at the door
15 and I didn't notice it until the second time
16 I had gone on the 26th. The first time that
17 I had gone, the day that we're speaking of, I
18 didn't see one -- I didn't see a security
19 person there.

20 MEMBER JONES: Okay. So let's
21 focus on the night for the incident.

22 INVESTIGATOR JONES: Sure.

1 MEMBER JONES: The 18th, I believe
2 here?

3 INVESTIGATOR JONES: The 16th.

4 MEMBER JONES: Sixteenth. I
5 apologize. Sixteenth. On that day you did
6 not see anyone that you would consider to be
7 under the employ of the establishment to be
8 regulating ingress and egress through that
9 door?

10 INVESTIGATOR JONES: Not that I
11 can recall.

12 MEMBER JONES: Okay. But the door
13 -- you do remember it being open and its
14 entirety; i.e., opened as opposed to closed
15 where the patrons would have to open it to go
16 out and then open it to come back in?

17 INVESTIGATOR JONES: Yes, sir.

18 MEMBER JONES: It was open?

19 INVESTIGATOR JONES: No, sir.

20 MEMBER JONES: Okay. Did you
21 actually witness a patron go to the bar,
22 purchase a drink or beverage, leave the bar

1 area and go to the outside?

2 INVESTIGATOR JONES: Not on this
3 occasion.

4 MEMBER JONES: Not on this
5 occasion? Okay. And, oh, does this
6 establishment have wait service of any type?
7 Do they have people that go around that are --
8 that clear tables, or busboys or waiters that
9 take your order --

10 INVESTIGATOR JONES: Yes. Yes.

11 MEMBER JONES: -- or bottle
12 chicks?

13 INVESTIGATOR JONES: Yes.

14 MEMBER JONES: They do?

15 INVESTIGATOR JONES: Yes.

16 MEMBER JONES: Okay. What type of
17 individuals do they have?

18 INVESTIGATOR JONES: What I've
19 noticed, and again it wasn't on this night,
20 but subsequently to me -- to this night I've
21 seen where they -- he has female waitresses
22 that will kind of come around the tables, or

1 some of the -- it looks like some of the girls
2 from maybe the bar area may bring drinks to
3 someone who's sitting at a table, that type of
4 thing.

5 MEMBER JONES: Okay. So
6 conceivably I could be sitting at a table in
7 the outdoor summer garden area, a waitress or
8 an employee of the establishment could come to
9 me, I could place an order, stay seated and a
10 drink will be brought to me out in that area?

11 INVESTIGATOR JONES: I'm assuming
12 it could happen. I didn't see it happen.

13 MEMBER JONES: You didn't see
14 that?

15 INVESTIGATOR JONES: Right, but
16 I'm assuming it could happen.

17 MEMBER JONES: So what you're
18 describing is that type of environment. Not
19 saying that you actually witnessed it --

20 INVESTIGATOR JONES: Right.

21 MEMBER JONES: -- but based on
22 your experience, what you described, that

1 situation could unfold?

2 INVESTIGATOR JONES: Sure.

3 MEMBER JONES: Okay. Thank you.

4 Thank you, Madam Chair.

5 CHAIRPERSON MILLER: Any other

6 Board questions?

7 (No audible response.)

8 CHAIRPERSON MILLER: Any follow up

9 to the Board questions?

10 MS. GEPHARDT: No follow up.

11 CHAIRPERSON MILLER: Mr. Yegzaw,

12 do you have any questions as a result of the

13 Board's questions?

14 MR. YEGZAW: Not questions, but I

15 have some --

16 CHAIRPERSON MILLER: Okay. We'll

17 get to that.

18 Okay. Then you can be excused.

19 INVESTIGATOR JONES: Thank you.

20 CHAIRPERSON MILLER: Thank you

21 very much. Okay.

22 MS. GEPHARDT: The Government does

1 not have any other witnesses at this time.

2 CHAIRPERSON MILLER: Okay. Did
3 you want to move that picture into --

4 MS. GEPHARDT: Oh, I apologize.
5 Yes, I would like to move Government's Exhibit
6 No. 1 into evidence.

7 CHAIRPERSON MILLER: With the
8 circled beer?

9 MS. GEPHARDT: With the circled
10 beer.

11 CHAIRPERSON MILLER: Okay. Do you
12 have an objection, Mr. Yegzaw? Wait, don't
13 mark it.

14 MEMBER ALBERTI: No, that's his.
15 That's his document.

16 CHAIRPERSON MILLER: That's yours?
17 Okay. You're making me nervous.

18 MR. YEGZAW: I have the same copy
19 and I --

20 CHAIRPERSON MILLER: Okay. I'm
21 sorry. No objection? You're not objecting to
22 the photo, right?

1 MR. YEGZAW: Yes, I am.

2 CHAIRPERSON MILLER: You are
3 objecting to the photo?

4 Can I see the photo when you have
5 a chance?

6 Okay. And do you have a basis for
7 your objection?

8 MR. YEGZAW: Yes, that's a trash
9 bottle water. It's not the beer. It's not
10 even a bottle.

11 CHAIRPERSON MILLER: Okay. You
12 can dispute this. You can dispute the picture
13 in your testimony, but I'm going to admit it
14 into evidence, particularly because -- well,
15 first of all, it's part of the investigative
16 report, which is already in evidence and it's
17 relevant. And the investigator identified it
18 as the person who took it and everything. So
19 it's in, but you can -- now will be your turn
20 to present your testimony and you can address
21 it and say what it shows or doesn't show.
22 Okay? You'll get a chance to argue about this

1 picture. Okay?

2 All right. So that's admitted as
3 Government Exhibit No. 1.

4 And now it's your turn to make
5 your case. I'm going to put you under oath
6 because you're going to testify, correct?

7 MR. YEGZAW: And also --

8 CHAIRPERSON MILLER: Wait, you'll
9 get to -- are you going to -- you're
10 challenging the admissibility?

11 MR. YEGZAW: No.

12 CHAIRPERSON MILLER: All right.

13 MR. YEGZAW: I mean that's not
14 only the comment. I have many comments on the
15 picture.

16 CHAIRPERSON MILLER: Okay. You
17 will make them. You'll get to say everything.

18 MR. YEGZAW: Okay.

19 CHAIRPERSON MILLER: I just want
20 to put you under oath.

21 MR. YEGZAW: Sure. Sure.

22 CHAIRPERSON MILLER: Okay. Could

1 you raise your right hand? Swear to tell the
2 truth, the whole truth and nothing but the
3 truth?

4 MR. YEGZAW: Yes, I'll do.

5 CHAIRPERSON MILLER: Okay. So now
6 is your time to say whatever you want to say.
7 You can make an argument as to what you're
8 going to show. That's an opening statement.
9 Ms. Gephardt decided not to do that. She just
10 went right into the evidence. And you can do
11 whatever you want that way. Go right ahead or
12 make a statement about what you're going to
13 show. But it's your turn.

14 MR. YEGZAW: Okay. Let me start
15 at the beginning. At the beginning, yes, he
16 was right there where -- D.C. Metro police
17 officer and DCRA, and he was the one. And
18 they stay right in front of me for at least 20
19 minutes. And I was back and forth upstairs and
20 downstairs. And I saw them. And I mean if I
21 do -- if I don't know them, okay, maybe, but
22 I know them. The D.C. officer, he works in

1 the 3D. And I know Mr. Jones, too. And I
2 know the other DCRA officer, too. So they
3 stay only 20 minutes. And then they came
4 first floor. And then of course he knows
5 where the second floor is, because he been
6 there before. And they went there.

7 And the purpose was on the sound.
8 My neighbors complained. That's what they
9 said. And I was following them because I know
10 them. I was following them and then say, oh,
11 you're here? Okay. Yes, I'm here. And this
12 is where we don't -- where we have a
13 complaint, so we try to search on what we're
14 going to do, how is your noises come out? And
15 I said okay. And they didn't tell me turn it
16 up, turn it low down. This is how we do it.
17 This is how we do it. I said okay. And they
18 stand on the patio of the corner. And they
19 start listening a neighbor's music. Actually
20 they heard someone else music, which is on the
21 corner of 9th Street. And they said, okay,
22 this is not your problem. We're going to

1 dismiss this case.

2 And the other -- the DC -- the
3 DCRA officers, he comment to me that my
4 outside light, it should be 120 watts, but I
5 have 100 watts. And that's what he comment to
6 me. And then I said, okay, I'll change it.
7 And then I change it the next day.

8 And there is no alcohol selling.
9 There is waitress. He might see the waitress.
10 That waitress, what they're doing is they take
11 trash from the first floor and second floor to
12 the outside. We combine the trash on the deck
13 at the end of the night when we finished.
14 That trash is going in the dumpster.

15 So this picture that we see two
16 white bag trashes. This not the person. Not
17 the person. This is the white trash bag. And
18 all this bottle you sees, that's trash. Even
19 though he might see a person back and forth,
20 back and forth to smoke cigarette only, not to
21 serve alcohol. They don't even take their
22 alcohol outside. We have some table for them.

1 Whoever want to smoke cigarette, they have to
2 put their drinks on this table. And they went
3 out, smoke cigarette. If I see them smoking
4 cigarette, not even bottle water hand.

5 I have three securities working.
6 On that night, too. I can bring them any time
7 and then they can describe that. Of course
8 there is no alcohol. We might not see
9 somebody taking alcohol outside. That's why
10 the securities' job, doing back and forth and
11 make sure there is no alcohol in outside.

12 Why I'm doing thats, I already
13 advised that before this. So I'm not serving
14 alcohol on the decks. So the first time they
15 told me that or asked me not to do it, and
16 after that I never do that. And even though
17 if I did that, if I did that, they give me at
18 least 20 minutes. They stand outside right in
19 front of my door. I know that they going to
20 come to me. I should clean if. If I sell it,
21 I should clean it. Why I waiting them until
22 they came upstairs? So everything is -- what

1 he said is true except --

2 CHAIRPERSON MILLER: Okay. Thank
3 you.

4 MR. YEGZAW: All right. You're
5 welcome.

6 CHAIRPERSON MILLER: Ms. Gephardt,
7 do you have questions?

8 MS. GEPHARDT: Yes, I do. Mr.
9 Yegzaw, so is your testimony that the people
10 out on the patio on this date are sitting
11 there with trash on the table?

12 MR. YEGZAW: No, no. Just this
13 white bag. See this one? This is the trash.
14 This is the trash. This is where we tied up
15 the trash.

16 MS. GEPHARDT: Yes.

17 MR. YEGZAW: See this picture. On
18 the top of --

19 CHAIRPERSON MILLER: Okay. We
20 need to get you on the record with this.
21 Okay? No, it's fine. You just need to speak
22 up. And I know you're explaining to Ms.

1 Gephardt what's in the photo, but --

2 MR. YEGZAW: Yes.

3 CHAIRPERSON MILLER: So you said
4 there's trash somewhere in the --

5 MR. YEGZAW: Yes.

6 CHAIRPERSON MILLER: Can you say
7 that loud enough so it gets on the record?

8 MR. YEGZAW: Oh, okay. Yes. This
9 is the chair. That's trash on it. Right?
10 Can you see this chair? It's on the top of --
11 on the chair. There's two chairs. One chair
12 is -- and this chair is on the top. Can I
13 show you the way I was -- it was like this.
14 This is one chair right here. And this one,
15 you see this chair is like this. And then you
16 can see my chair's metal. My chairs are
17 metal.

18 CHAIRPERSON MILLER: Mr. Yegzaw?
19 Okay. There's going to be a transcript --

20 MR. YEGZAW: Okay.

21 CHAIRPERSON MILLER: -- of this
22 hearing. And that's going to be your record

1 in the case, so we need you to say what you're
2 describing.

3 MR. YEGZAW: Oh, I sorry. I'm
4 sorry my English.

5 CHAIRPERSON MILLER: Did you say
6 that there's trash on a chair?

7 MR. YEGZAW: Yes.

8 CHAIRPERSON MILLER: Because the
9 photo isn't all that clear. so which chair
10 has trash on it?

11 MS. GEPHARDT: The one which
12 appears to have a woman sitting there.

13 CHAIRPERSON MILLER: In black?

14 MEMBER ALBERTI: I'm sorry, I have
15 to object here because, you know, we know have
16 the OAG testifying and I think that that's
17 highly unusual. And excuse me, Ms. Miller,
18 but I am going to interject here. And when
19 the OAG becomes part of the party who's
20 testifying, I have to object.

21 CHAIRPERSON MILLER: Okay. You
22 can object. I don't think it's that unusual,

1 you know, when we have cases where we have a
2 lay person with somewhat of a language issue
3 where the OAG sometimes --

4 MEMBER ALBERTI: Well, she's
5 telling us what's in the picture.

6 CHAIRPERSON MILLER: OAG --

7 MEMBER ALBERTI: And --

8 CHAIRPERSON MILLER: She's
9 saying --

10 MEMBER ALBERTI: -- the Licensee's
11 disputing that. I'm sorry, that's testimony
12 and we've got to do this another way. And I
13 believe the OAG has the floor to ask
14 questions.

15 CHAIRPERSON MILLER: No, I'm
16 sorry, I interjected because I said that the
17 court reporter was not able to pick up the
18 answers of Mr. Yegzaw. And so that's where we
19 were trying to assist him in articulating the
20 answer to that question. And I think the
21 question was what you were trying to describe
22 to Ms. Gephardt but very softly, and so it

1 wasn't being picked up on the record.

2 So if I'm not mistaken, Ms.
3 Gephardt, I thought we were asking about the
4 trash. Were you asking --

5 MS. GEPHARDT: We were trying to
6 figure out which chair we were referring to.
7 And I do apologize. I said it was the one
8 with the woman sitting there, but it is the
9 metal chair on the left-hand side that looks
10 white. There's something white in the chair.

11 CHAIRPERSON MILLER: So is that --

12 MS. GEPHARDT: On the right-hand
13 side of the photo.

14 CHAIRPERSON MILLER: Is that what
15 Mr. Yegzaw has testified to?

16 MR. YEGZAW: Yes, this --

17 CHAIRPERSON MILLER: Okay.

18 MS. GEPHARDT: He says that the
19 trash.

20 CHAIRPERSON MILLER: That's what
21 Mr. Yegzaw --

22 MR. YEGZAW: That's the trash

1 right here next to the one he's circling.

2 Next to that has a white trash bag.

3 CHAIRPERSON MILLER: Okay.

4 MR. YEGZAW: Right. And like I
5 said, might see peoples back and forth.

6 That's only for smoking cigarette. Nothing
7 else is going on. No food. No hookah. No
8 alcohol.

9 MS. GEPHARDT: Sir, is your
10 testimony that in this photograph there are no
11 people?

12 MR. YEGZAW: No. No, he said.
13 This the alcohol bottles. This is the people.
14 Right? This is the trash right here. This is
15 the trash.

16 MS. GEPHARDT: Are there people in
17 this photograph?

18 MR. YEGZAW: It's not real clear,
19 but there is some couple things I can see.
20 Maybe me. Maybe is some other -- the DCRA or
21 police officer. Maybe the other
22 investigators. I don't know. But the one he

1 circled, that's the white trash I know.

2 MS. GEPHARDT: Okay.

3 MR. YEGZAW: But I can't even see
4 clearly who's that, me or somebody else. I
5 don't know.

6 MS. GEPHARDT: Do you see any
7 photographs -- or excuse me, any alcoholic
8 bottles in that photograph?

9 MR. YEGZAW: No, I don't. I
10 really don't. I see the bottle water Deer
11 Park right here.

12 MS. GEPHARDT: So you're sure if
13 there's people in the picture and you don't
14 see any alcohol?

15 MR. YEGZAW: No.

16 CHAIRPERSON MILLER: I'm sorry,
17 what's the answer to that?

18 MR. YEGZAW: I don't see the
19 alcohol in the picture. There is no alcohol.
20 I saw -- I'm seeing right here is a couple
21 Deer Park water bottles. But there is some
22 dark thing I can see. Look like somebody, but

1 I don't know who's there. But there is --
2 definitely sure there is no alcohol going on.

3 MS. GEPHARDT: So you do not see
4 -- you said you do not see any alcohol and you
5 said you do not see any people. You don't see
6 four people?

7 MR. YEGZAW: I don't see four. I
8 see here is one person, but I can't even see
9 who's there.

10 MS. GEPHARDT: Okay.

11 MR. YEGZAW: If I see, I'll tell
12 you. Like I said, we been there on the deck
13 14, 15 minutes and we keep saying turn the
14 musics up and down to investigate. My noises
15 come out the neighborhood and bother. That's
16 why. So I don't even see who's that out
17 there.

18 MS. GEPHARDT: Do you ever have
19 people sitting out there and having alcohol
20 beverage service on the deck?

21 MR. YEGZAW: No, I don't.

22 MS. GEPHARDT: Do you ever have

1 people that come out of the bar and go
2 upstairs to the deck with their alcoholic
3 beverages?

4 MR. YEGZAW: No. No. Absolutely
5 not.

6 MS. GEPHARDT: And is your
7 testimony that you have a security guard that
8 prevents that?

9 MR. YEGZAW: Yes, I do.

10 MS. GEPHARDT: And was the
11 security guards there that night?

12 MR. YEGZAW: Yes, Friday, Saturday
13 I have three securities. And the work days I
14 have one security. It depend. I have more
15 reservations, I call more securities.

16 MS. GEPHARDT: And when the
17 investigators told you that they saw people
18 out on your deck, what did you do?

19 MR. YEGZAW: That time he didn't
20 advise me anything except my lamps -- my
21 lights is 100 watt, but he told me I should
22 have 120. And he said change it as soon as

1 possible. And then I said okay. Then I did
2 change it.

3 MS. GEPHARDT: Do you recall
4 Investigator Jones asking you about the fact
5 that you had people out on your deck and that
6 you were violating -- and because you did not
7 have a summer garden endorsement?

8 MR. YEGZAW: I did --

9 MS. GEPHARDT: Do you recall that?

10 MR. YEGZAW: I did advised it
11 before, before that. That's why I didn't do
12 anything. I did advised it before that.

13 MS. GEPHARDT: So on this night
14 when he told you that you were violating --
15 the fact that you didn't have a summer garden
16 endorsement, what did you say to him?

17 MR. YEGZAW: No, no. We didn't
18 mention that.

19 MS. GEPHARDT: Are you saying he
20 didn't mention it?

21 MR. YEGZAW: No, he didn't mention
22 anything, alcohol going on, anything except

1 that lamp, except the stair lamp is --

2 MS. GEPHARDT: So then why was
3 Investigator Jones there? I mean according to
4 you, why was Investigator Jones there?

5 MR. YEGZAW: Because they have
6 mentioned my lounge is bad and the noise.
7 That's why they make a group, D.C. Police and
8 DCRA and Investigator Jones. They make a
9 group and they come through there. As he
10 mentioned also, he wasn't come for this
11 purpose. He was coming for my musics
12 consideration.

13 MS. GEPHARDT: So you don't recall
14 any conversation with Investigator Jones
15 regarding this patio?

16 MR. YEGZAW: We did some
17 investigations, but not about that. He ask me
18 bring all the license. I did bring it and he
19 checked it. And then they checked all first
20 floor and second floor, or that. And I had a
21 conversation with the police officers. He
22 explain why they there. And DCRA officers

1 also, and Mr. Jones. But no alcohol thing
2 going on that time.

3 MS. GEPHARDT: Okay. Thank you.
4 That's all the questions I have.

5 CHAIRPERSON MILLER: Okay. Thank
6 you. Board questions? Mr. Jones?

7 MEMBER JONES: Thank you, Madam
8 Chair.

9 So I'm looking at Exhibit 1 and I
10 don't have a very clear picture of it. I have
11 a black and white photo of it. And I am
12 trying to get a clear understanding of what it
13 is that I am seeing in the middle of that
14 table in Exhibit 1. Can you see a large
15 vertical object that's standing up, seems to
16 be vertically standing up in the middle of
17 that table in Exhibit 1?

18 MR. YEGZAW: I see bottle water.

19 MEMBER JONES: You see a very tall
20 object next to that bottle of water?

21 MR. YEGZAW: The hookah thing.

22 MEMBER JONES: The hookah thing?

1 MR. YEGZAW: Yes.

2 MEMBER JONES: So what would you
3 call that in the industry?

4 MR. YEGZAW: Hookah.

5 MEMBER JONES: Hookah what?

6 MR. YEGZAW: What --

7 MEMBER JONES: Is it a hookah
8 pipe?

9 MR. YEGZAW: I mean we call it
10 hookah altogether.

11 MEMBER JONES: Understood. But
12 what would you call that apparatus?

13 MR. YEGZAW: I'm sorry, I can't
14 explain that according to my words or my
15 English, but we call it hookah altogether.

16 MEMBER JONES: Altogether it's
17 hookah?

18 MR. YEGZAW: Yes. It might have
19 some other name, but I don't know in my mind.

20 MEMBER JONES: Okay. So what is
21 the purpose of that hookah?

22 MR. YEGZAW: Okay. Well, the

1 purpose of this hookah is, when we serve a lot
2 of hookahs in there. We don't have no space
3 to put them to use the hookahs. They use the
4 hookahs is been going outside and then being
5 washed and get them back.

6 MEMBER JONES: Okay. So this is a
7 prep area? You're saying that this is an area
8 where you take your used hookah apparatus --

9 MR. YEGZAW: Right.

10 MEMBER JONES: -- to get cleaned
11 and get washed?

12 MR. YEGZAW: To get cleaned,
13 right.

14 MEMBER JONES: And then return it
15 back to your main work area?

16 MR. YEGZAW: Yes.

17 MEMBER JONES: Okay. The
18 individuals, do you see people in this
19 photograph?

20 MR. YEGZAW: Yes, look likes
21 people right here.

22 MEMBER JONES: You do see people

1 in the photograph?

2 MR. YEGZAW: Yes.

3 MEMBER JONES: Okay. Are these
4 people familiar to you? Are they employees of
5 your establishment?

6 MR. YEGZAW: I can't tell.

7 MEMBER JONES: You can't tell?

8 MR. YEGZAW: I can't tell.

9 MEMBER JONES: But you clearly see
10 people in this photograph now?

11 MR. YEGZAW: It look likes people,
12 but I don't know who is that. I don't --

13 MEMBER JONES: I'm not asking who
14 they are right now. Do you clearly see people
15 in the photograph?

16 MR. YEGZAW: Yes.

17 MEMBER JONES: Okay. Can you
18 definitively tell me who they are?

19 MR. YEGZAW: I can't.

20 MEMBER JONES: I can't? So that
21 means I'm going to assume from that that you
22 cannot confirm or deny that these are

1 employees of your establishment, correct?

2 MR. YEGZAW: Yes.

3 MEMBER JONES: Okay. If they're
4 not employees of your establishment --

5 MR. YEGZAW: Yes.

6 MEMBER JONES: -- and they're not
7 you --

8 MR. YEGZAW: Yes.

9 MEMBER JONES: -- how would you
10 tell me what their purpose for being in this
11 location is?

12 MR. YEGZAW: Maybe smoking
13 cigarette. That's the whole case it can --

14 MEMBER JONES: Are they patrons of
15 your establishment?

16 MR. YEGZAW: They might be smoking
17 cigarette.

18 MEMBER JONES: I'm not asking what
19 they're doing.

20 MR. YEGZAW: Yes.

21 MEMBER JONES: I'm asking if
22 they're not employees and they're not you --

1 MR. YEGZAW: Yes.

2 MEMBER JONES: -- okay, they don't
3 work for you --

4 MR. YEGZAW: Yes.

5 MEMBER JONES: -- what other type
6 of people/person would you have in your
7 establishment? Generally when you have an
8 establishment you have patrons or people that
9 come to enjoy the entertainment that you're
10 providing. A patron. A customer.

11 MR. YEGZAW: Customers, right.

12 MEMBER JONES: Okay. Sorry. Are
13 these customers?

14 MR. YEGZAW: Like I say, maybe,
15 maybe not.

16 MEMBER JONES: Okay. Stop. If
17 they're not employees, which you said they
18 aren't, and they're not you, what other type
19 of person would it be in your establishment?
20 Are you claiming that these might be the
21 investigators?

22 MR. YEGZAW: No. Like I say,

1 maybe. Maybe investigators. Maybe customers.
2 Maybe my employees. Maybe --

3 MEMBER JONES: They may be your
4 employees?

5 MR. YEGZAW: Maybe, yes.

6 MEMBER JONES: Okay. So you can't
7 tell who they are?

8 MR. YEGZAW: I can't tell who they
9 are.

10 MEMBER JONES: All right. This
11 area out here, do you allow patrons in this
12 area?

13 MR. YEGZAW: Which is customers?

14 MEMBER JONES: Yes, do you allow
15 customers in this summer garden area, this
16 outdoor area?

17 MR. YEGZAW: Yes.

18 MEMBER JONES: You do? What do
19 you allow them to do in that outdoor area?

20 MR. YEGZAW: Only smoking
21 cigarette.

22 MEMBER JONES: You only allow them

1 smoke cigarettes?

2 MR. YEGZAW: Only smoking
3 cigarettes, yes.

4 MEMBER JONES: Okay. So at this
5 point in time who is supposed to be cleaning
6 this hookah apparatus?

7 MR. YEGZAW: The waitress.

8 MEMBER JONES: The waitress?

9 MR. YEGZAW: Yes.

10 MEMBER JONES: Okay. Do you see
11 the waitress in this photograph?

12 MR. YEGZAW: I don't.

13 MEMBER JONES: You don't? How
14 many hookah pipes do you -- how many hookah
15 things do you usually have to have cleaned or
16 addressed in a night? What's your rotation?
17 What's your turnover on a hookah pipe?

18 MR. YEGZAW: It depend. Friday
19 and Saturday might be 8s, 9s, 10s. And work
20 days maybe three, four, fives. It depend how
21 is the business going, slow or busy.

22 MEMBER JONES: Okay. And how do

1 you actually clean a hookah pipe? How do you
2 actually clean this apparatus?

3 MR. YEGZAW: Put in a water. And
4 there's something, it goes in the pipe in
5 there and it's a brush, or I don't know what
6 you call it. It goes in there. And then
7 brush all the thing and dump the water and put
8 on that new water.

9 MEMBER JONES: Okay. And all that
10 occurs at this table?

11 MR. YEGZAW: No, we usually don't
12 do it the same time. We keep it until we get
13 like four, five of them. Then we get four,
14 five of them, one person go outside, clean it
15 and bring it back. We don't do it each of
16 them. We don't want to spend the time for
17 each of them. We keep it four, five.

18 MEMBER JONES: So this is a
19 storage area?

20 MR. YEGZAW: We -- I use it as
21 storage, too.

22 MEMBER JONES: Okay. So you have

1 customers at this table where you keep hookah
2 apparatus that are to be stored for cleaning
3 later? I'm just making sure I'm understanding
4 what you're saying.

5 MR. YEGZAW: Okay. I'm not sure
6 those my customers. I'm not sure those my
7 waitresses. But I see some peoples out there.

8 MEMBER JONES: How many waitresses
9 do you have on staff? How many waitresses did
10 you have on staff that night?

11 MR. YEGZAW: I believe that was
12 Friday. Usually Friday I have four, five.

13 MEMBER JONES: You have four or
14 five?

15 MR. YEGZAW: Yes, right.

16 MEMBER JONES: Where are they
17 stationed throughout your establishment?

18 MR. YEGZAW: Say that again?

19 MEMBER JONES: Where are they
20 stationed? Where are they supposed to work?
21 What's their service area?

22 MR. YEGZAW: At the bar and some

1 of them all between the seats.

2 MEMBER JONES: How many
3 individuals/waitresses would you have assigned
4 to the outdoor seating area?

5 MR. YEGZAW: No. No more.

6 MEMBER JONES: None?

7 MR. YEGZAW: None, unless I told
8 them -- let's say if I told them -- one of
9 them to clean and then I'll call another one.
10 Okay. Go clean that. And whoever is not busy
11 I'll call them and go and clean the hookah
12 things.

13 MEMBER JONES: Okay. But since
14 you only had one here, and you say you usually
15 wait to get four or five --

16 MR. YEGZAW: Four or five.

17 MEMBER JONES: -- it's unlikely
18 that you would have told a waitress to go and
19 clean these at this point?

20 MR. YEGZAW: Yes.

21 MEMBER JONES: So it's unlikely
22 that any of these people in this photograph

1 are your waitress. Is that a fair statement?

2 MR. YEGZAW: Yes.

3 MEMBER JONES: Okay. So right now
4 we can rule out the fact that none of these --
5 these people right here are not your waitress?

6 MR. YEGZAW: I can't say that. I
7 can't say that.

8 MEMBER JONES: You can't say that?

9 MR. YEGZAW: I can't say that.

10 MEMBER JONES: Okay. All right.

11 MR. YEGZAW: At -- as long as I
12 have see the picture and that --

13 MEMBER JONES: So what are you
14 saying is on the table right now in terms of
15 the beverages?

16 MR. YEGZAW: Well, what I say is
17 there's no alcohol and there is no being
18 serving, as he said he saw some waitresses
19 coming back and forth taking orders and give
20 them a drinks.

21 MEMBER JONES: Not to cut you off,
22 but I just want to make sure I'm clear, what

1 are the beverages that you -- what are you
2 claiming these items are on the table that
3 look like beverages?

4 MR. YEGZAW: Bottle water.

5 MEMBER JONES: Both of these are
6 bottled water?

7 MR. YEGZAW: Bottle waters.

8 MEMBER JONES: Okay. So you are
9 comfortable --

10 MR. YEGZAW: Yes.

11 MEMBER JONES: -- with your
12 statement under oath that the beverages that
13 are on this table are bottled waters and only
14 bottled waters?

15 MR. YEGZAW: Only bottle waters I
16 see.

17 MEMBER JONES: Okay. And you're
18 comfortable that the service in this area is
19 limited to and only to the smoking of
20 cigarettes?

21 MR. YEGZAW: Cigarettes, right.

22 MEMBER JONES: Okay. Just a

1 clarification. So did these individuals bring
2 in their own bottled water?

3 MR. YEGZAW: No, it's -- we throw
4 the trashes. We throw the trash.

5 MEMBER JONES: So you're saying
6 these people weren't drinking these bottled
7 waters? This is trash?

8 MR. YEGZAW: Yes, could be --
9 okay. Let me explain. That's I will say is
10 trash. How? Let's say I and my securities,
11 we checked in the back. That that peoples
12 whoever smoking cigarettes, they don't have no
13 alcohol and they don't have no argument
14 outside and yelling disturbing customers. I
15 mean, neighborhoods. So we go between 5 to 10
16 minutes to check that. So I might have a
17 water. When it's finish, I throw it in the
18 table or in the trash. And at the end of the
19 night we clean all of them. But so, we're not
20 putting the waters on the table.

21 Whoever want to smoke cigarette,
22 he can go and sit in a table and smoke. So it

1 seems like thats water is for him. It seems
2 like thats hookah is for them. But that's not
3 true. So these people, they pull the table
4 and sit and smoke cigarette and trash the
5 cigarette right there. Whenever they finish,
6 they can go back.

7 MEMBER JONES: Okay. So --

8 MR. YEGZAW: When he saw the
9 picture, I mean the alcohol serving with the
10 waitress, should have take a picture right
11 there. When they drinking the beer, should
12 take the picture right there and the waitress
13 clearly. Then I can say, yes, I did serve
14 alcohol. I did serve -- she's my server. I
15 know her. Yes, she did. She went outside on
16 the patio and she took a order of drinks. I
17 will say that. But it's -- none of them
18 that's evidence in here now.

19 MEMBER JONES: I hear what you're
20 saying. So you're providing feedback on how
21 the investigator should do is job, and I
22 respect that, but that's not really what I'm

1 trying to get to the bottom of right now.

2 MR. YEGZAW: Sorry.

3 MEMBER JONES: I'm just trying to
4 get an understanding of -- you're saying that
5 these individuals right here are sitting in
6 front of trash and items that are dirty that
7 need to be cleaned? So you have customers
8 that are -- that you run an establishment
9 where you have your customers sit amongst
10 trash?

11 MR. YEGZAW: Right. Right.

12 MEMBER JONES: Yes?

13 MR. YEGZAW: The trash bags right
14 there, yes. The trashes bags right there and
15 bottle trash is on the table.

16 MEMBER JONES: Okay.

17 MR. YEGZAW: So --

18 MEMBER JONES: And you're saying
19 that these are out here smoking, right? Is
20 this a common smoking area? Is this an
21 established smoking area, I guess I should
22 say?

1 MR. YEGZAW: It's outside, so --

2 MEMBER JONES: Is that an area
3 that's established for smoking, to go outside
4 and sit down and smoke? You said that's the
5 only purpose for that area.

6 MR. YEGZAW: Yes.

7 MEMBER JONES: There's no other
8 purpose for that area?

9 MR. YEGZAW: There's no other
10 purpose, right.

11 MEMBER JONES: No other purpose
12 for that area, correct?

13 MR. YEGZAW: No other purpose,
14 right.

15 MEMBER JONES: So is this an
16 established area for smoking?

17 MR. YEGZAW: I don't exactly what
18 you mean.

19 MEMBER JONES: Is it a designated
20 area where it is communicated to your
21 customers that if you want to smoke, this is
22 an area where it's okay to go smoke?

1 MR. YEGZAW: Yes, I let them go.

2 MEMBER JONES: Okay. Is it set
3 up? Are there things there to facilitate
4 smoking?

5 MR. YEGZAW: Was not set up for
6 that purpose.

7 MEMBER JONES: So it's not set up
8 for that purpose?

9 MR. YEGZAW: Yes, when I bought
10 the -- I mean the business, it was like there.
11 So I prefer my customer go in first floor
12 downstairs and then go outside. So I prefer --
13 they can go shorter way outside in the second
14 floor, which is -- the first floor customer,
15 when they want to smoke cigarette, they have
16 to go first floors.

17 MEMBER JONES: So you're saying if
18 you want to smoke a cigarette, the first floor
19 customer has to go down --

20 MR. YEGZAW: Second floor.

21 MEMBER JONES: Second floor, they
22 have to go downstairs?

1 MR. YEGZAW: They have to go
2 downstair and exit and smoking outside.

3 MEMBER JONES: Okay.

4 MR. YEGZAW: Instead of that, why
5 they can go this way in the second floor in
6 the patio and smoking cigarette. I just use
7 it that purpose.

8 MEMBER JONES: Okay. So do you
9 have areas there for collecting the refuse or
10 the trash associated with smokers? Ashtrays?

11 MR. YEGZAW: Yes, I do have
12 ashtray.

13 MEMBER JONES: You do? They're
14 here?

15 MR. YEGZAW: They should be on the
16 table.

17 MEMBER JONES: So you have
18 ashtrays? Can you point to where you can see
19 an ashtray on that table?

20 MR. YEGZAW: I don't see where is
21 the ashtray on the table, but --

22 MEMBER JONES: So you have a

1 designated smoking area where the only purpose
2 of this area is smoking --

3 MR. YEGZAW: Right.

4 MEMBER JONES: -- and you don't
5 have the ability to point out where there are
6 ashtrays on this table for --

7 MR. YEGZAW: Yes.

8 MEMBER JONES: -- people to put
9 out their cigarettes or to put their refuse
10 associated therewith?

11 MR. YEGZAW: (No audible
12 response.)

13 MEMBER JONES: But you do have a
14 hookah pipe on this table and you have what
15 appear to be at least beverages that you're
16 saying are trash. Am I hearing you correctly?

17 MR. YEGZAW: Right.

18 MEMBER JONES: So you have patrons
19 sitting at a table where they're designated to
20 smoke, but there are no ashtrays, but there
21 are bottled waters and a hookah pipe that they
22 aren't supposed to use?

1 MR. YEGZAW: Well, there is
2 ashtray, but I can't see it . Because of the
3 picture is not clear, I can't see where is the
4 ashtray is. But any time they can come, they
5 can check. All the tables has each ashtray.
6 That's why the table's in there.

7 MEMBER JONES: Okay. But there's
8 no ashtray in this picture?

9 MR. YEGZAW: I don't seen an
10 ashtray in here because the picture's not
11 clean and I had -- I mean some of them I
12 didn't -- or I don't know.

13 MEMBER JONES: Okay. Do you leave
14 the door open?

15 MR. YEGZAW: We close.

16 MEMBER JONES: Between the patio,
17 this outdoor area and the bar?

18 MR. YEGZAW: Not always. When
19 somebody's going back and forth, open.
20 Otherwise always close.

21 MEMBER JONES: Okay. So June
22 12th, that night, was it open or closed?

1 MR. YEGZAW: Always close. But
2 that night, when they go outside, they open
3 the door. When they go inside, we close the
4 door.

5 MEMBER JONES: Okay. So --

6 MR. YEGZAW: It is automatically
7 -- I have what do you call it, automatically
8 lock and unlock.

9 MEMBER JONES: So does it
10 automatically open on its own and close on its
11 own?

12 MR. YEGZAW: No, you open it.
13 Even though you leave it, the door goes closed
14 by itself.

15 MEMBER JONES: Okay. So the door
16 was -- your testimony here under oath is that
17 the door was closed the entire night unless
18 someone was actively going into it or coming
19 out of the summer garden area?

20 MR. YEGZAW: Each. Each. If you
21 -- I mean let's say you want to smoke
22 cigarette and you open that door and then you

1 leave it, the door will close. When you come
2 back, you can open it.

3 MEMBER JONES: Okay. Thank you.

4 Thank you, Madam Chair.

5 CHAIRPERSON MILLER: Other Board
6 questions?

7 (No audible response.)

8 CHAIRPERSON MILLER: I just have a
9 very short couple. I just want to clarify.
10 Do you sell bottled water?

11 MR. YEGZAW: Yes, we do.

12 CHAIRPERSON MILLER: Okay. So how
13 do you know that what was on that table in
14 Exhibit 1, Government's Exhibit 1, is trash
15 versus a drink for these persons, whoever
16 many, may be sitting at the table?

17 MR. YEGZAW: Okay. Why makes me
18 say that, because we don't let our customers
19 taking anything, waters or drinks. Because
20 why, they might consider that was alcohol.
21 Because some people they put alcohol in the
22 bottle water and they say, oh, that's right,

1 this is alcohol because we don't have to bring
2 it anything in the outside.

3 CHAIRPERSON MILLER: Do you have a
4 security guard or somebody at the door that
5 prevents them from bringing food and drink
6 outside?

7 MR. YEGZAW: Yes, I do.

8 CHAIRPERSON MILLER: And who is
9 that?

10 MR. YEGZAW: The Metropolitan
11 Security Service.

12 CHAIRPERSON MILLER: It's a
13 security person?

14 MR. YEGZAW: Yes.

15 CHAIRPERSON MILLER: How many
16 security people do you have?

17 MR. YEGZAW: In that particular
18 day --

19 CHAIRPERSON MILLER: Okay. That
20 day. Fine.

21 MR. YEGZAW: -- I will say two,
22 maybe more. I have see the schedule. But 100

1 percent I have two always. But there might be
2 more; I have to see the schedule, who was
3 security. But I 100 percent I'll be sure two.

4 CHAIRPERSON MILLER: And how many
5 tables and chairs do you have out on this
6 patio? Is this the only one?

7 MR. YEGZAW: No, no. Maybe four,
8 five.

9 CHAIRPERSON MILLER: So why do you
10 have four or five tables out there?

11 MR. YEGZAW: Like I said, I used
12 it sometimes as a storage. Right, the
13 storage. If I run out of tables inside, I
14 bring it inside and used it, unless I leave it
15 there. It's metal chairs, so rain and
16 anythings it doesn't affect them, so I left in
17 outside.

18 CHAIRPERSON MILLER: Okay. And
19 have you applied for a summer garden
20 endorsement?

21 MR. YEGZAW: Yes, I do.

22 CHAIRPERSON MILLER: You have?

1 MR. YEGZAW: Yes.

2 CHAIRPERSON MILLER: Okay. When
3 did you do that?

4 MR. YEGZAW: Huh?

5 CHAIRPERSON MILLER: When?

6 MR. YEGZAW: A month ago or so.

7 CHAIRPERSON MILLER: Okay. All
8 right.

9 MR. YEGZAW: I have a copy.

10 CHAIRPERSON MILLER: Okay. I
11 don't have any other questions.

12 MEMBER JONES: I do.

13 CHAIRPERSON MILLER: Okay. Mr.
14 Jones?

15 MEMBER JONES: Madam Chair, thank
16 you.

17 So what's the total maximum amount
18 of security people you're going to have at
19 your establishment on any one night? Maximum
20 any night?

21 MR. YEGZAW: Three, four. Four is
22 the maximum.

1 MEMBER JONES: So maximum is four?

2 MR. YEGZAW: Four, right.

3 MEMBER JONES: Okay. What's the
4 layout of your establishment? You've already
5 indicated there's a floor and a second floor.
6 So explain to me how you distribute your
7 security personnel. Do you have somebody at
8 the door?

9 MR. YEGZAW: It -- yes, somebody
10 in the doors.

11 MEMBER JONES: All right. So
12 there's one person at the door, or two?

13 MR. YEGZAW: One person is always
14 in the door. One.

15 MEMBER JONES: One person always
16 at the door?

17 MR. YEGZAW: Yes.

18 MEMBER JONES: Okay. Then where
19 is the second, third and fourth person?

20 MR. YEGZAW: It depend which floor
21 is busy. First floor busy, I'll let two
22 securities down there. If the second floor is

1 busy, I'll let the two securities upstairs.

2 MEMBER JONES: So you need two
3 security upstairs, one downstairs if upstairs
4 is busy and downstairs is not? If downstairs
5 is busy, you'll have three downstairs and one
6 upstairs maximum. Because one person's at the
7 door, correct?

8 MR. YEGZAW: Right.

9 MEMBER JONES: You'll have two
10 people roaming the floor on the first floor if
11 the first floor is busy, correct?

12 MR. YEGZAW: Right.

13 MEMBER JONES: And you'll have one
14 person upstairs up on the second floor if the
15 second floor isn't busy, correct? Did I hear
16 you correctly?

17 MR. YEGZAW: That's it.

18 MEMBER JONES: Okay. The
19 individual on the second floor, if the second
20 floor isn't busy and you have that one person
21 there, is he always going to be stationed at
22 the doorway between the outdoor garden, or the

1 summer garden and the bar, in the interior
2 area?

3 MR. YEGZAW: Well, yes.

4 MEMBER JONES: Is his
5 responsibility to always be stationed at that
6 door entrance?

7 MR. YEGZAW: Part of that.

8 MEMBER JONES: Is his
9 responsibility to always be stationed there?

10 MR. YEGZAW: Yes.

11 MEMBER JONES: Or is it to other
12 things as well?

13 MR. YEGZAW: He's doing other
14 things to well.

15 MEMBER JONES: Okay. What do
16 those other things include?

17 MR. YEGZAW: Checking between the
18 tables, everybody's having a good time and not
19 making a problem. And grabbing some stuff.
20 Like say that somebody throwing bottles water
21 in the floor, he grab them. And make sure the
22 atmospheres inside is okay.

1 MEMBER JONES: Okay. So that one
2 individual that serves as security for the
3 second floor if the second floor isn't that
4 busy, his duties include to roam the floor, to
5 check on hospitality, to check on the
6 environment to make sure that patrons are
7 happy, your customers are happy, to remove
8 items from the tables and dispose of them, I
9 presume, to put them in the trash.

10 MR. YEGZAW: Right.

11 MEMBER JONES: Right? And does
12 this individual have an opportunity to go to
13 the bathroom?

14 MR. YEGZAW: Okay. No, no, no.
15 Bathroom is not his responsibility, no.

16 MEMBER JONES: No, I'm talking
17 about for bio breaks, to use it.

18 MR. YEGZAW: I don't understand
19 what you're --

20 MEMBER JONES: So if you have one
21 security person that's stationed on the second
22 floor, what happens when that one security

1 person has to go to the bathroom?

2 MR. YEGZAW: Okay. I am there,
3 the owner. I have a manager and I have a
4 assistant manager. So especially we can just
5 -- three of us on the top of security, three
6 of us, we have a schedule all over there.
7 So --

8 MEMBER JONES: Okay. But you said
9 you always had that one security person at a
10 minimum stationed at the door.

11 MR. YEGZAW: Yes.

12 MEMBER JONES: Right? That's what
13 you indicated before my first round of
14 questioning. And then you talked to the
15 Chairperson. And now we're talking to me
16 again. And how you're saying that you have
17 one security person that is always on the
18 second floor, but not necessarily always at
19 that door entrance.

20 MR. YEGZAW: Yes.

21 MEMBER JONES: Okay. So just to
22 make sure I'm clear, the security person isn't

1 necessarily assigned to monitor the door and
2 only the door?

3 MR. YEGZAW: It's not only the
4 door.

5 MEMBER JONES: Okay. So is it
6 possible that someone could go in and out of
7 that door without the security person checking
8 them to confirm that they do or do not have a
9 beverage in their hand?

10 MR. YEGZAW: That's possible.

11 MEMBER JONES: It is possible?

12 MR. YEGZAW: But -- yes.

13 MEMBER JONES: Okay. Thank you.

14 MR. YEGZAW: It is possible.

15 MEMBER JONES: Thank you, Madam
16 Chair.

17 MR. YEGZAW: Let me -- can I
18 answer that?

19 CHAIRPERSON MILLER: Yes, you can
20 continue.

21 MR. YEGZAW: Okay. But if he gone
22 -- let's say he might go bathroom and he might

1 check something else in there, I will be on
2 the door. And my manager and my assistant
3 manager, they will be the door and checking
4 the door. But he can go restroom. He can
5 downstairs. He can somewhere that he feel
6 will go and check it. But somebody has to be
7 there. They have to substitute him.

8 CHAIRPERSON MILLER: Okay. Any
9 other questions?

10 (No audible response.)

11 CHAIRPERSON MILLER: Any other
12 questions based on Board questions?

13 MS. GEPHARDT: Just one other
14 question. So you mentioned that there was --
15 the security guard, and there was that one
16 security guard on this night?

17 MR. YEGZAW: Not only one. Like I
18 said, 100 percent have to be two, maybe more.

19 MS. GEPHARDT: Did you have a
20 person looking after that door on the night
21 that the -- when the police and ABRA arrived?

22 MR. YEGZAW: Yes. Actually, first

1 of all, my securities let me know some
2 officers and ABRA officers and DCRA officers,
3 they are outside and in front of the door. I
4 went there. I check. My securities let me
5 know that. But, you know, most of --

6 MS. GEPHARDT: So you did have
7 somebody looking out -- at that door that
8 night?

9 MR. YEGZAW: Always, yes.

10 MS. GEPHARDT: All right. That's
11 the only other question I had.

12 CHAIRPERSON MILLER: Okay. So
13 that concludes your case? Do you have
14 anything else you wanted to submit?

15 MR. YEGZAW: No.

16 CHAIRPERSON MILLER: Okay. So now
17 we're ready for closing.

18 MS. GEPHARDT: Yes. Board
19 Members, today you have heard two kind of
20 testimony. You've heard the credible
21 testimony of Investigator Jones who states
22 that he observed first hand four patrons

1 enjoying alcoholic beverages out on the back
2 patio. This was on June the 16th, 2012 at
3 approximately 2:35 a.m. This was at a time
4 when the establishment was open for business.
5 You heard him state that they were open until
6 3:00 a.m. on this evening.

7 He took a photograph which he
8 testified that he took that night and he took
9 around 2:40 a.m. And in the photograph you
10 can see -- while it's somewhat blurry, you can
11 clearly see people at the table and you can
12 also see alcoholic beverages on the table and
13 also a bottle of water.

14 Contrast to Mr. Yegzaw's
15 testimony, which I believe is not credible.
16 He changed his account several times in
17 describing what was going on out there, what
18 you could see in the photo. And so therefore
19 it's hard to believe what the truth is.

20 We heard him say that these people
21 were sitting around trash at one point. So
22 there's a water bottles and they're just

1 sitting there at the table around trash. That
2 seems hard to believe that on a Saturday night
3 people would be sitting out on a patio just
4 around trash.

5 He then said that this was a
6 designated smoking area and that he would have
7 ashtrays on the table. We don't see any
8 ashtrays on the table. But again, if this was
9 a designated smoking area, you know, why would
10 you have four people sitting around a table
11 with drinks?

12 He says that he has a security
13 guard at the door that monitors the ingress
14 and egress out to this patio. However, again
15 it seems like there were various kinds of
16 drinks on the table, as you can see in the
17 photograph.

18 Mr. Yegzaw also testified that he
19 doesn't let customers out on the patio with
20 drinks. And you heard Investigator Jones
21 testify that he clearly could see a beer in
22 the photograph, which he circled.

1 Mr. Yegzaw changed his testimony
2 again when he said that the only thing they do
3 out there is they clean hookahs. He said that
4 the waitresses go out there, clean the hookahs
5 and bring them back in. Again, we see four
6 people at the table. It doesn't appear that
7 these people are cleaning a hookah.

8 In conclusion, it seems that Mr.
9 Yegzaw is using this area as a patio for the
10 consumption of alcoholic beverages for his
11 patrons, and therefore I would urge the Board
12 to find Mr. Yegzaw liable for substantially
13 changing his method of operation without Board
14 approval, and that is for not having a summer
15 garden endorsement on the evening of Saturday,
16 June 16th, 2012.

17 And just one other thing I wanted
18 to mention. You also heard that Investigator
19 Jones went back to ABRA, I guess it was on
20 Monday the 18th, and he determined that there
21 was no summer garden endorsement for this
22 establishment.

1 CHAIRPERSON MILLER: Thank you.

2 Okay. Mr. Yegzaw, do you have some final
3 words?

4 MR. YEGZAW: Yes. The final word
5 is according to Ms. Gephardt, she should have
6 to say a certain alcohol which is in the
7 patio. He should have an full evidence and --
8 or picture or words or some evidence. We can
9 call whoever was there and the police officer
10 and DCRA. They never said anything. They
11 didn't see any alcohol in there. So I believe
12 and I'm sure I don't serve any alcohol in the
13 patio and except those people, like I said,
14 smoking cigarette. That's all.

15 CHAIRPERSON MILLER: Okay. Does
16 that conclude your statement?

17 MR. YEGZAW: Yes.

18 CHAIRPERSON MILLER: Okay. Thank
19 you. All right. Then --

20 MS. GEPHARDT: Oh, I apologize.

21 CHAIRPERSON MILLER: You have a --

22 MS. GEPHARDT: I wanted to make a

1 recommendation for a fine.

2 CHAIRPERSON MILLER: Okay.

3 MS. GEPHARDT: You are
4 recommending a fine of \$1,500 in this case.

5 CHAIRPERSON MILLER: Okay. The
6 Board will just take that under advisement.
7 The Board has the authority to set a fine if
8 we find you liable, and that is the
9 Government's recommendation. Okay.

10 All right. I'm going to close the
11 record then in this case. I think you've put
12 in all the evidence that you want. And I'm
13 going to ask you if you want to file any
14 proposed findings of facts and conclusions of
15 law.

16 MS. GEPHARDT: No, thank you.

17 CHAIRPERSON MILLER: Okay. That
18 is like submitting a legal brief after the
19 transcript comes out and identifying for the
20 Board in writing what findings you would like
21 us to make and what legal conclusions. And
22 it's something that's offered to all parties,

1 and most parties decline, that they rest on
2 their case that they made, you know, today.
3 Do you understand that?

4 MR. YEGZAW: Not clearly. I
5 couldn't --

6 CHAIRPERSON MILLER: Yes, often
7 lay people have difficulty understanding that.
8 It's a right you have if you want to put in
9 writing after the transcript comes out.
10 Remember we kept saying speak up because
11 there's a transcript --

12 MR. YEGZAW: Oh, okay.

13 CHAIRPERSON MILLER: -- that's
14 going to me made --

15 MR. YEGZAW: Yes.

16 CHAIRPERSON MILLER: -- with all
17 the words that were said today at this
18 hearing?

19 MR. YEGZAW: Yes.

20 CHAIRPERSON MILLER: You would
21 study that transcript and then you would file
22 a written document asking the Board to look at

1 certain facts and make findings in your favor.
2 And then you would argue the law also in
3 writing.

4 MR. YEGZAW: Okay.

5 CHAIRPERSON MILLER: So it's kind
6 of a difficult task.

7 MS. GEPHARDT: The Government has
8 chosen not to do that. We have chosen not to
9 do it.

10 MR. YEGZAW: Yes, I chose not to
11 do that. I mean as long as most of them I
12 understand.

13 CHAIRPERSON MILLER: Okay. So
14 both parties waive.

15 All right. Then the Board will
16 issue an order within 90 days. We will
17 deliberate in closed session, so I'm just
18 going to read for the Board our instructions
19 for that and they're going to vote on
20 deliberating in closed session. And you can
21 stay and listen. Otherwise, you're finished
22 with respect to your presentations.

1 Okay. As Chairperson of the
2 Alcoholic Beverage Control Board for the
3 District of Columbia and in accordance with
4 Section 405 of the Open Meetings Amendment Act
5 of 2010, I move that the ABC Board hold a
6 closed meeting for the purpose of seeking
7 legal advice from our counsel on Case No. 12-
8 CMP-00228, Climax Restaurant & Hookah Bar and
9 deliberating upon this case for the reasons
10 cited in Section 405(b)(13) of the Open
11 Meetings Amendment Act of 2010. Is there a
12 second?

13 MEMBER BROOKS: Second.

14 CHAIRPERSON MILLER: Mr. Brooks
15 has seconded the motion. I'll now take a roll
16 call vote. Mr. Brooks?

17 MEMBER BROOKS: I agree.

18 CHAIRPERSON MILLER: Ms. Miller
19 approves. Mr. Silverstein?

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I agree.

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CHAIRPERSON MILLER: Okay. It appears that the motion has passed by a vote of 4-0-0. I hereby give notice that the ABC Board will hold a closed meeting on this case either later today or next Wednesday in accordance with the Open Meetings Amendment Act of 2010 and issue an order within 90 days.

So that concludes this case.

(Whereupon, the hearing was concluded at 4:52 p.m.)

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