

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

The VIP Room, LLC
t/a The VIP
6201 3rd Street, NW,
License No. 94561
Ret CT
Case No. 14-PRO-00038

Protest
Hearing
(Status)

August 13, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson Ruthanne Miller presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERBERT JONES, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member
MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

JOHN SUERO, ABRA Investigator

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

2 (1:52 p.m.)

3 CHAIR MILLER: Good afternoon,
4 everybody. I assume you all are here for the
5 protest hearing for The VIP. And that's case,
6 Number 14-PRO-00038 at 6201 3rd Street, NW,
7 License Number 94561.

8 So those of you who are
9 representing the parties in this case, if you
10 could come forward and take a seat at these
11 tables, we could have the Applicant to my
12 right and the Protestants to my left.

13 (Off the record comments)

14 Okay. And there should be a piece
15 of paper on each table. When you have a
16 chance, if you could sign-in, then that
17 ensures we get your spelling of your name
18 right for the record. Okay.

19 And then, when you are ready, I'm
20 going to start with the Applicants. If you
21 could identify yourselves for the record.

22 MR. BIANCO: Good afternoon, Madam

1 Chair and members of the Board. My name is
2 Richard Bianco on behalf of the Applicant.
3 With me I have Earline Sampson and her son, Bo
4 Sampson.

5 CHAIR MILLER: Okay. And are you
6 both owners of the --

7 MS. SIMPSON: No.

8 MR. BIANCO: Ms. Sampson is the
9 owner.

10 CHAIR MILLER: Okay. Thank you.

11 MR. BIANCO: Bo is her son and a
12 manager of the business.

13 CHAIR MILLER: All right. And
14 Protestants.

15 MS. LEHRMAN: Good afternoon,
16 Madam Chair. My name is Margie Lehrman. I'm
17 so happy to be in this room and actually
18 speaking to you right now.

19 I am here together with Michael
20 Volz who is a new member, recently having
21 graduated from law school and a member of our
22 firm. And hopefully he passed the bar. And

1 I am here on behalf of the Protestants, we
2 have five or more, together with their current
3 spokesperson, Ian Oliver.

4 CHAIR MILLER: Okay.

5 (Off the record comments)

6 CHAIR MILLER: Did you submit an
7 entry of appearance or have you --

8 MS. LEHRMAN: Yes. I did this
9 morning. I did so, and I emailed a copy to
10 Mr. Bianco and to Commissioner Austin.

11 CHAIR MILLER: And who did you
12 submit it to?

13 MS. LEHRMAN: The front.

14 CHAIR MILLER: The front desk?

15 MS. LEHRMAN: Yes.

16 CHAIR MILLER: Okay. All right.

17 MS. LEHRMAN: And would you take a
18 copy of that? I do have that copy here if you
19 --

20 CHAIR MILLER: All right. Why
21 don't we take a look at that just to cross the
22 Ts, dot the Is. Do you want to get it?

1 (Pause)

2 CHAIR MILLER: Okay, great. Good.
3 Okay. And what's your name, the spokesperson
4 for --

5 MR. OLIVER: Ian Oliver.

6 CHAIR MILLER: Ian Oliver, okay.
7 Right, okay. And Ms. Lehrman, are you
8 representing the same group as an attorney for
9 that group?

10 MS. LEHRMAN: Yes, I am.

11 CHAIR MILLER: Okay.

12 MS. LEHRMAN: And we have a law
13 student. So that's who everybody is.

14 CHAIR MILLER: Okay, so this is a
15 protest hearing. However, we have some
16 preliminary issues that need to be addressed
17 first.

18 And I know that there are several
19 motions to dismiss that have been filed. And
20 one was only filed yesterday or something by
21 the Protestant. So the Applicant may not have
22 had a chance to respond.

1 However, the Board has noted,
2 based on the most recent report of our
3 investigator, it's the case report that was
4 done. Mr. Suero, in that report, noted that
5 there is both a school and a recreation center
6 within 400 feet of The VIP Room.

7 And our regulations provide, at
8 25-314 B1, that no license shall be issued for
9 any establishment within 400 feet of a public,
10 private or a parochial primary, elementary or
11 high school, college, or university or
12 recreation area operated by the District of
13 Columbia, Department of Public Works and
14 Recreation, except as provided in Paragraph
15 25.

16 But, in any event, that is the
17 provision that I'm looking at. And that is
18 just a game stopper. If there is a school or
19 a recreation center within 400 feet, we cannot
20 issue a license. And there's no point in
21 having a hearing.

22 So we have this hearing scheduled

1 for today. We have Mr. Suero's report. So
2 what we are proposing to do is hear from our
3 investigator who normally goes first in a
4 protest hearing, in any event.

5 And the Board can ask questions,
6 and the parties can ask questions. And then
7 we're going to stop at that issue, because we
8 don't want to waste everybody's time going
9 into anything else if it's found to be that
10 this establishment is within 400 feet of
11 either one of them.

12 I would say often this matter,
13 this type of matter is decided or determined
14 definitively before our hearing's even held.
15 But in this case, it's my understanding that
16 the GIS was not up to date. And so the
17 information just came to us late.

18 And since we are at this juncture,
19 we thought that was the best way to proceed at
20 this time. Often, in almost all other cases,
21 the parties don't even have a chance to ask
22 questions. But since you're all here, and it

1 was just provided, and it was provided in this
2 report, that we would give you all that
3 opportunity. So if there are questions or
4 anything about that, for how we're going to
5 proceed, I'd be happy to entertain them now.

6 MR. BIANCO: Yes.

7 CHAIR MILLER: Okay.

8 MR. BIANCO: I do have questions
9 and an objection.

10 CHAIR MILLER: Okay.

11 MR. BIANCO: So as a matter of
12 record, we're going to object to Investigator
13 Suero's most recent report, both on the
14 grounds of bias and appropriateness.

15 Second, and I realize that the
16 Board is probably not going to be in a
17 position to move on the admissability of that
18 until hearing from the investigator, but I did
19 want to make sure I noted that up front, that
20 we object to admissability and consideration
21 in any way, shape or form.

22 I think, Madam Chair, you touched

1 on it, that the 400 foot restriction is
2 normally dealt with long in advance of a
3 protest hearing. And I'm surprised to hear
4 you say that it hasn't been, because it
5 clearly has.

6 The GIS is part of the record and
7 was provided by Ms. Fletcher on May the 19th
8 and clearly indicates that there is no school
9 and no rec center within 400 feet.

10 Then, it was provided again by Ms.
11 Fletcher on 7/24. Following that, again,
12 definitive GIS documentation to the Board,
13 Suero goes out and starts interviewing people,
14 taking empirical evidence about lot
15 boundaries.

16 Inappropriate doesn't even begin
17 to describe it. You have a GIS. You have two
18 GISs, both indicating there is neither a
19 school nor a rec center within 400 feet.

20 And then all of sudden, on the
21 Friday before the hearing, this report
22 magically appears saying that Suero talked to

1 somebody at Parks and Rec. And based on that
2 conversation, they somehow gleaned, without
3 measuring anything, that there's a rec center
4 within 400 feet.

5 The report, as a whole, needs to
6 not be considered. The GIS -- the Board
7 should do in this case what it does in every
8 single other case that comes before it, which
9 is rely on the GIS.

10 CHAIR MILLER: Anything from the
11 Protestants?

12 MS. LEHRMAN: Madam Chair and
13 Board, I wasn't privy to the earlier
14 discussions. But I understand that this issue
15 actually was raised previously.

16 So if Applicant had a concern at
17 that point, Applicant could have raised it
18 then. What is before you today is an
19 investigative report that did, in fact, have
20 the benefit of speaking to those in the
21 neighborhood.

22 But the investigative report also

1 included discussions with the Applicant. So
2 we would welcome this Board's finding that the
3 application should be dismissed as a matter of
4 law based upon the current code and
5 regulations.

6 MR. BIANCO: Just to be clear, we
7 don't object to the inspector's original
8 protest report. It's the supplemental one
9 we're talking about that deals with the 400
10 foot issue only.

11 So this inspector did more than
12 one report. And it is my understanding that
13 today we're only addressing the supplemental
14 report dealing with the 400 foot restriction.

15 We agree that his original report,
16 in which he talked to both the Applicant and
17 the Protestants, should be considered should
18 the case go forward to a protest hearing.

19 CHAIR MILLER: Okay. With that
20 being said, your objection's noted. And it's
21 our responsibility to follow this code. And
22 we're here to determine whether or not the

1 establishment is within 400 feet of a
2 recreation center or a school. And so I'm
3 going to call Mr. Suero up now.

4 (Off the record comments)

5 CHAIR MILLER: Okay. Would our
6 investigator come up, Mr. Suero?

7 So the procedure is, Mr. Suero
8 will testify, the Board will then ask
9 questions, then the Applicant and then the
10 Protestants.

11 Do you swear to tell the truth,
12 the whole truth and nothing but the truth?

13 INVESTIGATOR SUERO: I do.

14 CHAIR MILLER: Thank you. Mr.
15 Suero, you have your report which we'd like to
16 hear from. And as you've probably heard me
17 say, we're most interested in your finding
18 with respect to whether the establishment's
19 within 400 feet of a school or a recreation
20 center and what it's based on.

21 INVESTIGATOR SUERO: Do you want
22 me to start at that point?

1 CHAIR MILLER: If you would like
2 to start at another point, that's fine. As to
3 how you got there, that's fine too. But
4 that's the main issue that we're looking at
5 today, not other issues of appropriate manner
6 or anything.

7 INVESTIGATOR SUERO: I'm
8 Investigator John Suero of the Alcoholic
9 Beverage Regulation Administration. Good
10 afternoon.

11 On July the 3rd of 2014, I was
12 assigned a protest investigation for the VIP
13 Room which is located at 6201 3rd Street, NW,
14 in Washington, D.C. At the time of my initial
15 investigation, the District of Columbia
16 geographical information system was not
17 available.

18 CHAIR MILLER: I'm sorry, Mr.
19 Suero. I'm sorry. In all this discussion, we
20 can't remember whether I swore you in. Did I
21 swear you in?

22 INVESTIGATOR SUERO: Yes, ma'am,

1 you did.

2 CHAIR MILLER: Okay, go ahead.

3 Sorry. Thank you. Continue, sorry.

4 INVESTIGATOR SUERO: At the time
5 of my initial investigation, the District of
6 Columbia's geographical information system was
7 not available, was not in use or the system
8 was down. And I could not use it at that
9 time.

10 Subsequent to that, I was asked to
11 do a supplemental report in reference to that
12 investigation, at which time the system was
13 available.

14 (Pause)

15 INVESTIGATOR SUERO: On Thursday,
16 July the 24th, 2014, at approximately 1:40
17 p.m., I visited the National Children's Center
18 School which is located at 201 Rittenhouse
19 Street, NW.

20 I believe that that's where I
21 found it was within close proximity of The VIP
22 Room which is located at 6201 3rd Street, NW.

1 And I requested and received a GIS map
2 outlining a 400 foot buffer from that school
3 address which is 201 Rittenhouse Street, NW.
4 And that is referenced in Exhibit Number 87 in
5 my supplemental report.

6 (Pause)

7 INVESTIGATOR SUERO: That exhibit,
8 if you have it in front of you, shows you the
9 center of 201 Rittenhouse Street, NW. And if
10 you're looking at the picture, to its left
11 there's a block outlined with 6201 3rd Street,
12 NW, indicating that it is within the 400 foot
13 buffer.

14
15 On that same date, I also visited
16 an aquatic center which has an address of 300
17 Van Buren Street in Northwest Washington, D.
18 C. To be clear, that address is not within
19 400 feet of 6201 3rd Street, NW.

20 However the property, according to
21 the DC Parks and Recreation of the Takoma
22 Aquatic, excuse me, the Takoma Community and

1 Aquatic Center, extends from Van Buren Street
2 to Sheridan Street, NW.

3 Having that information, I
4 requested a GIS map of 308 Sheridan Street,
5 NW, which is an address which is directly
6 across from our Parallel 2, the field in
7 question which has a sign clearly stating that
8 it is the property of Takoma Community and
9 Aquatic Center and DC Parks and Recreation.

10 That is referenced in Exhibit
11 Number 8 of my supplemental report. Exhibit
12 Number 8 is the GIS map that clearly states in
13 the center that it's 301 Sheridan Street, NW,
14 which is being used as a point of reference.

15 And if you look down to the right,
16 you'll see 6201 indicating the 400 foot buffer
17 is curvilinear and that 6201 3rd Street, NW,
18 is within that 400 foot buffer.

19 (Pause)

20 INVESTIGATOR SUERO: Also, Exhibit
21 Number 12 of my supplemental report, which is
22 a DC Office of the Surveyor map that shows lot

1 numbers and what they call square numbers,
2 it's showing the location of the address of
3 300 Van Buren Street as being Lot Number 305,
4 Square Number 3272.

5 Unfortunately, you don't have a color
6 copy. The copy that's in color indicates and
7 says the words Takoma Community Center on this
8 side, away from --

9 MR. BIANCO: I actually don't
10 have, I don't think that's 12 on the copy that
11 I was provided.

12 INVESTIGATOR SUERO: For the
13 supplemental report, sir.

14 MR. BIANCO: I have the
15 supplemental report. I have exhibits running
16 up to Number 11.

17 CHAIR MILLER: Okay. Why don't we
18 get you a copy.

19 MS. LEHRMAN: Madam Chair, I need
20 a copy as well.

21 CHAIR MILLER: Okay. Neither of
22 the parties have copies with Exhibit 12.

1 INVESTIGATOR SUERO: Here's one.

2 CHAIR MILLER: Oh, do we have one?

3 (Off the record comments)

4 INVESTIGATOR SUERO: Here's an
5 extra color copy if someone wants to use it.

6 (Off the record comments)

7 CHAIR MILLER: Okay. Are parties
8 ready for Mr. Suero to continue? Okay.

9 INVESTIGATOR SUERO: Exhibit
10 Number 12 of my supplemental report is a map
11 that was provided by the DC Office of the
12 Surveyor. He had been asked if Lot 805,
13 Square 3272, which is the address of 300 Van
14 Buren Street, is within 400 feet of 6201 3rd
15 Street, NW, which it clearly is not.

16 That's located at Square 3342 to
17 the right in your picture. However, if you
18 look at the map, at least the color version,
19 Takoma Community Center is clearly indicated
20 on this side, which is outside of Square 3272
21 which indicates that carries on for some
22 distance.

1 MS. LEHRMAN: Madam Chair, could
2 the Witness, because he was pointing to the
3 document, please identify for the record where
4 on the document he's pointing to?

5 CHAIR MILLER: Okay.

6 MS. LEHRMAN: Just to be clear.

7 CHAIR MILLER: Well, for the
8 record, also if you could describe in words
9 what you were seeing as opposed to just
10 pointing.

11 INVESTIGATOR SUERO: Of course.

12 CHAIR MILLER: Okay.

13 INVESTIGATOR SUERO: Square 3272
14 on this map indicates the address of 300 Van
15 Buren Street, the location of the Takoma
16 Community and Aquatic Center building.

17 And printed on the map, the words
18 Takoma Community Center you'll find on this
19 side of what would be, well, this is actually
20 the plat for Coolidge High School.

21 And to the right of that is a
22 field, DC Parks and Recreation claims it is

1 their property, and there's signs on it
2 clearly indicating that it is their property.

3 And that sign also includes a
4 sign. Madam Chairman, that's all I have
5 relative to the 400 foot buffer which was the
6 issue you asked me to address.

7 CHAIR MILLER: Good. So what you
8 have just testified to was with respect to the
9 Takoma Park, to the recreation center?

10 INVESTIGATOR SUERO: Yes, ma'am.
11 Did you also address the school that's
12 mentioned in your --

13 INVESTIGATOR SUERO: Right. My
14 initial interview that day was the National
15 Children's Center.

16 CHAIR MILLER: Correct.

17 INVESTIGATOR SUERO: This is a
18 private school for children with disabilities,
19 learning, behavioral and other types of
20 disabilities. It is an active school. I saw
21 children there. I spoke to the staff.
22 They've been there actually for several years.

1 They have actually two properties.
2 They have 201 Rittenhouse Street, and they
3 have another facility which sits at 210
4 Sheridan Street, NW. Both of those are within
5 that 400 foot buffer, by the way, Madam
6 Chairman.

7 CHAIR MILLER: Both, okay. You
8 said both are within the 400?

9 INVESTIGATOR SUERO: Yes, ma'am.
10 And I've provided a GIS map for both of those.
11 And that's all in the report.

12 CHAIR MILLER: Okay. So just to
13 clarify, so your conclusion on the school is
14 based on the GIS maps?

15 INVESTIGATOR SUERO: Yes, ma'am.

16 CHAIR MILLER: Which were
17 exhibits, what's your report?

18 INVESTIGATOR SUERO: In my
19 supplemental report they are listed as
20 Exhibits Number 7, I'm sorry, Number 6 and
21 Number 7. Number 6 would be for 201
22 Rittenhouse Street, NW. And Number 7, Exhibit

1 Number 7 is for 201 Sheridan Street, NW, which
2 is the other facility of the National
3 Children's Center.

4 CHAIR MILLER: Okay. Thank you.
5 All right. Do Board members have questions?
6 Mr. Silverstein?

7 MEMBER SILVERSTEIN: Thank you,
8 Mr. Suero. My questions first deal with the
9 National Children's Center.

10 INVESTIGATOR SUERO: Yes, sir.

11 MEMBER SILVERSTEIN: Could you be
12 a little more enlightening as to what you saw
13 in there, why you say this is a school and not
14 necessarily a headquarters or, you know, some
15 kind of bureaucracy for a school that's
16 somewhere else?

17 INVESTIGATOR SUERO: Of course.

18 MEMBER SILVERSTEIN: Tell me why
19 this is an active school?

20 INVESTIGATOR SUERO: Well, sir, I
21 visited the school on, let's see, the date
22 would have been July 24th at approximately

1 1:40 p.m. I met with the principal there. I
2 asked specifically is this a school that has
3 a current curriculum? Do you have students.
4 I saw students.

5 The principal advised me that they
6 are, in fact, a school, regular hours.
7 They're done by 3:00 in the afternoon, Monday
8 through Friday. And this has been going on
9 for several years. It is not administrative
10 offices.

11 MEMBER SILVERSTEIN: Do we have
12 any idea how many students, how many teachers?

13 INVESTIGATOR SUERO: They have
14 approximately, currently some 37 students.

15 MEMBER SILVERSTEIN: And these are
16 learning disabled, or special needs or --

17 INVESTIGATOR SUERO: Yes. They
18 have learning and behavioral disabilities and
19 some physical disabilities as well.

20 MEMBER SILVERSTEIN: Learning
21 disabilities and --

22 INVESTIGATOR SUERO: Learning

1 disabilities, physical disabilities and
2 behavioral issues.

3 MEMBER SILVERSTEIN: And under
4 ADA, they're required and the city is to
5 provide, the District is to provide them an
6 appropriate level of education in a facility
7 that is appropriate to their needs, which is
8 thereby defined under ADA as a school.

9 INVESTIGATOR SUERO: Exactly.
10 What I asked them was are these students,
11 where do they come from?

12 And what they told me was Prince
13 George's County, Maryland, Baltimore City and
14 County, Maryland, Baltimore City Schools,
15 Montgomery County Schools and DC Schools
16 provide the funding for the students that they
17 bring from those jurisdictions where they
18 provide the educational needs that cannot be
19 provided in their own local schools.

20 So the school is made up of
21 students from, matter of fact, the principal
22 advised me that 90 percent of their students

1 are from DC, and our students there are funded
2 by DC Public School System.

3 MEMBER SILVERSTEIN: No further
4 questions.

5 CHAIR MILLER: Mr. Short?

6 MR. SHORT: Yes. Investigator
7 Swarp (sic)?

8 INVESTIGATOR SUERO: Suero.

9 MR. SHORT: Suaro (sic)?

10 INVESTIGATOR SUERO: Suero.

11 MR. SHORT: Suero, sir. Okay.

12 Forgive me for murdering your name.

13 INVESTIGATOR SUERO: That's all
14 right.

15 MR. SHORT: You went to the
16 school. You actually saw it functioning.

17 INVESTIGATOR SUERO: Yes, sir.

18 MR. SHORT: And this was, was it
19 your first time at that school?

20 INVESTIGATOR SUERO: My first time
21 inside, yes.

22 MR. SHORT: Okay. And you went

1 there because you wanted to make sure before
2 this hearing --

3 INVESTIGATOR SUERO: Exactly.

4 MR. SHORT: -- that the testimony
5 you were to give was something you knew to be
6 a fact?

7 INVESTIGATOR SUERO: Absolutely.

8 MR. SHORT: And the District
9 Government does own this property?

10 INVESTIGATOR SUERO: No, sir.
11 It's a private school, but it's funded by --

12 MR. SHORT: Funded by the District
13 Government?

14 INVESTIGATOR SUERO: By the
15 District and other jurisdictions that provide,
16 that use the facility for their students.

17 MR. SHORT: So the District
18 couldn't do that unless they knew that this
19 was a school, a functioning school.

20 INVESTIGATOR SUERO: Of course.

21 MR. SHORT: Okay. And that's all I
22 have. Thank you.

1 CHAIR MILLER: Mr. Alberti?

2 MR. ALBERTI: Mr. Seuro, who did
3 you speak to at the school?

4 INVESTIGATOR SUERO: There were
5 actually two ladies there I spoke to
6 specifically. One is named, let's see, Ms.
7 Tarlesha Wayne, principal of the DC Schools
8 for NCC.

9 MR. ALBERTI: Oh, could you spell
10 it please?

11 INVESTIGATOR SUERO: Her last name
12 is Wayne, common spelling, W-A-Y-N-E. Her
13 first name is spelled T-A-R-L-E-S-H-A. And I
14 also spoke to a Ms. Michelle Young who's also
15 a principal for NCC schools and then Maryland
16 schools.

17
18 MR. ALBERTI: Okay. So Ms. Wayne
19 is the principal for what?

20 INVESTIGATOR SUERO: For the
21 National Children's Center in the District of
22 Columbia, that particular school where I was

1 at.

2 MR. ALBERTI: For that particular
3 school?

4 INVESTIGATOR SUERO: Yes, sir.

5 MR. ALBERTI: Okay. And Ms. Young
6 is, what --

7 INVESTIGATOR SUERO: She's the
8 principal of a school in Maryland. She says
9 her main school is the one that's located in
10 Silver Spring, Maryland.

11 MR. ALBERTI: Okay. So Ms. Wayne
12 is the principal for this school?

13 INVESTIGATOR SUERO: Yes, sir.
14 She is.

15 MR. ALBERTI: She's a --

16 INVESTIGATOR SUERO: Yes.

17 MR. ALBERTI: Okay. Did you ask
18 her the age of the students at that school?

19 INVESTIGATOR SUERO: Yes, sir.
20 Age 6 to adult.

21 MR. ALBERTI: Six to adult. Okay.
22 Did you ask her about what services they

1 provide?

2 INVESTIGATOR SUERO: My main focus
3 at the time of my investigation was is it
4 actually a school and not an office or
5 administrative building and do we have a
6 curriculum.

7 To those she answered that they
8 are a school, they have a curriculum, regular
9 school hours. They provide the kind of
10 services that are specific to students with
11 behavioral, learning and physical
12 disabilities.

13 MR. ALBERTI: What was your
14 understanding of the term curriculum?

15 INVESTIGATOR SUERO: That they
16 actually have classes that they offer, you
17 know, some form of studies, not just a place
18 where you go and sit down.

19 MR. ALBERTI: Do you think that
20 was clear in your conversation with the --

21 INVESTIGATOR SUERO: Yes. She
22 said they had teachers that are, you know,

1 specially trained for these types of students.
2 And they provide education like any other
3 school, they're early morning until 3:00 p.m.
4 is when they get out, Monday through Friday.
5 It's a regular school. It's just a school for
6 specific needs.

7 MR. ALBERTI: Is it residential?

8 INVESTIGATOR SUERO: Oh,
9 absolutely. The area, you say? Is it
10 residential:

11 MR. ALBERTI: No, the school.

12 INVESTIGATOR SUERO: Oh no, it's
13 not a live-in school. No sir, it's not.

14 MR. ALBERTI: I know these are
15 somewhat silly questions, maybe to you, but
16 I'm just trying to get a level of information
17 that we have --

18 INVESTIGATOR SUERO: Of course.

19 MR. ALBERTI: -- for the record.
20 Okay. Right now, I've switched to the rec
21 center part.

22 INVESTIGATOR SUERO: All right.

1 MR. ALBERTI: All right? Now,
2 there is, on the GIS map which shows the 400
3 foot buffer --

4 INVESTIGATOR SUERO: Yes.

5 MR. ALBERTI: -- there is, up at
6 the northern portion of that map, at the
7 corner of Sheridan and 3rd, is a small piece
8 of land that falls within the 400 buffer.

9 INVESTIGATOR SUERO: Let me just
10 look at the map that you're looking at. Would
11 that be Exhibit Number 8, sir?

12 MR. ALBERTI: Pardon?

13 INVESTIGATOR SUERO: Exhibit
14 Number 8 that you're referring to?

15 MR. ALBERTI: Possibly. Yes,
16 that's in Exhibit Number 8, I think.

17 INVESTIGATOR SUERO: Where is says
18 Takoma Community Center, within that area?

19 MR. ALBERTI: No, it's not. Now
20 on Exhibit 8, what I'm trying to figure out --

21 INVESTIGATOR SUERO: My
22 supplemental report, because there was two --

1 MR. ALBERTI: I know, I know, I
2 know, I know. What's Exhibit 7 again, so I
3 can catch up with you?

4 INVESTIGATOR SUERO: Well, the GIS
5 map, I think, for 201. Number 7's a GIS map
6 of NCC. I think so, yes, 210 Sheridan Street.

7 MR. ALBERTI: 210, okay.

8 INVESTIGATOR SUERO: Number --
9 (Simultaneous speaking)

10 MR. ALBERTI: All right. I got
11 you. All right. So, yes, okay. But see, the
12 Exhibit 8 that I have, the one I have is for
13 308 Sheridan Street.

14 INVESTIGATOR SUERO: Right.

15 MR. ALBERTI: Well, that's not the
16 address of this establishment.

17 INVESTIGATOR SUERO: No, sir, it
18 is not. What I was determining with this
19 particular GIS map request was what is within
20 300, I'm sorry, within the 400 foot buffer of
21 the lot which is, you'll see it on top, it
22 says Takoma Community Center?

1 MR. ALBERTI: All right. So I'm
2 looking --

3 INVESTIGATOR SUERO: To the bottom
4 right, you'll see a block.

5 MR. ALBERTI: I'm looking at an
6 earlier map that probably should have been
7 part of your original report. I would like
8 for --

9 INVESTIGATOR SUERO: I did not
10 have any GIS maps at all.

11 MR. BIANCO: Mr. Alberti, if I might, I
12 think I can bring some clarity to this issue.
13 I think what you may be looking at is the
14 actual GIS map which shows the establishment
15 as the center point. And if you're looking
16 for that map which is the relevant inquiry you
17 won't find it attached to this investigative
18 report.

19 MR. ALBERTI: I will not?

20 MR. BIANCO: You will not.

21 MR. ALBERTI: I will not?

22 INVESTIGATOR SUERO: Right.

1 (Simultaneous speaking)

2 MR. BIANCO: -- that seriously
3 calls it into question.

4 MEMBER JONES: So, point of
5 clarification?

6 CHAIR MILLER: Yes?

7 MEMBER JONES: Point of
8 clarification?

9 INVESTIGATOR SUERO: Sure.

10 MEMBER JONES: Well, Member
11 Alberti, if you have the opportunity, can you
12 look at Exhibit 11?

13 MR. ALBERTI: I think I can take
14 that opportunity.

15 MEMBER JONES: Part of the
16 supplemental report it has --

17 MR. ALBERTI: That's a 1,200 foot
18 buffer.

19 MEMBER JONES: Exactly. So I'll
20 let you run with your question and if you
21 don't answer --

22 MR. ALBERTI: Well, I, Madam

1 Chairman, may I introduce this map? I'm
2 making sure that at least the parties have a
3 copy. And I'm giving a copy to the
4 investigator.

5 CHAIR MILLER: What map?

6 MR. ALBERTI: This map that you
7 have in, the color map that you have right to
8 your right. It's sitting to the right of you.

9 CHAIR MILLER: Okay, that's
10 different from Exhibit 11?

11 MR. ALBERTI: Yes, it is. Exhibit
12 11 is a 1,200 buffer. The map I'm looking at
13 is probably what was originally given to the
14 parties --

15 MEMBER JONES: Was a 400 foot
16 buffer.

17 MR. ALBERTI: It was a 400 foot
18 buffer. And it was spoken to by Mr. Bianco in
19 his original remarks, his earlier remarks. So
20 do the parties have this?

21 CHAIR MILLER: No, not Exhibit 12.

22 MR. ALBERTI: Okay, so.

1 MR. BIANCO: Mr. Alberti, I had to
2 request it from the Agency. But I do have it.

3 MR. ALBERTI: You do have it?

4 MR. BIANCO: I do.

5 MR. ALBERTI: Okay. So you have
6 it. Can we provide a copy to the Licensee and
7 to the Protestants?

8 CHAIR MILLER: If you're going to
9 use it to show them, yes, for sure.

10 MR. ALBERTI: I am definitely
11 going to use it.

12 CHAIR MILLER: So, Mr. Suero, you
13 haven't seen this yet, but do you know --

14 (Simultaneous speaking)

15 INVESTIGATOR SUERO: I don't know
16 what it is.

17 CHAIR MILLER: Okay. All right.
18 So we'll wait until you get a copy.

19 (Off the record comments)

20 MR. ALBERTI: And could you run
21 that by Mr. Bianco to make sure that that's
22 consistent with the map that he has?

1 So Mr. Bianco, we're going to show
2 you a map that I'm using, and you can confirm
3 for me, hopefully, that it is the same map
4 that you're looking at.

5 MR. BIANCO: Yes, sir, it is.

6 MR. ALBERTI: Okay. So we're
7 going to give a copy to the Applicant, I mean
8 to the Protestant. And then we're going to
9 give a copy to the investigator. And,
10 Investigator, have you seen this map before?

11 INVESTIGATOR SUERO: I have not.

12 MR. ALBERTI: Okay. I'll give you
13 a moment to take a look at it please. Okay.
14 In the center of this map is the Applicant's
15 address, 6201 3rd Street, NW. Is that
16 correct?

17 INVESTIGATOR SUERO: Yes.

18 MR. ALBERTI: Yes. At the
19 northern end of this is there -- and the map
20 indicates that this black circle on the map is
21 the 400 foot buffer. Is that correct?

22 INVESTIGATOR SUERO: That's

1 correct.

2 MR. ALBERTI: All right. Towards
3 the top is Sheridan Street. Is that correct?

4 INVESTIGATOR SUERO: It is, sir.

5 MR. ALBERTI: At the corner of
6 Sheridan Street and 3rd Street there's a
7 little triangle that's within, that lies, it's
8 at the northwest corner of Sheridan and 3rd
9 Street. It's a little triangle that lies
10 within the 400 foot buffer.

11 INVESTIGATOR SUERO: That's
12 correct.

13 MR. ALBERTI: Okay. Does that
14 look familiar to you in any way with respect
15 to your investigation?

16 INVESTIGATOR SUERO: Yes, sir.

17 MR. ALBERTI: How so?

18 INVESTIGATOR SUERO: I see a
19 physical sign there saying the Takoma Aquatic
20 and Community Center, DC Parks and Recreation.

21 MR. ALBERTI: Okay. Is that piece
22 of land part of anything that you investigated

1 in your investigative agenda, your
2 investigative report?

3 INVESTIGATOR SUERO: Yes.

4 MR. ALBERTI: Can you point me to
5 that map or --

6 INVESTIGATOR SUERO: If you look
7 at a part of Exhibit Number 8 for my
8 supplemental report, although it shows it in
9 a different, it includes the Takoma Community
10 Center as part of that 400 foot buffer.

11 MR. ALBERTI: Okay. And so that
12 would be where on your map?

13 INVESTIGATOR SUERO: On Exhibit
14 Number 8, if you look to the center, because
15 now we're using --

16 MR. ALBERTI: The 1,200 foot
17 buffer.

18 INVESTIGATOR SUERO: -- the
19 location for the center for our 400 foot
20 buffer. But there's a line that's -- may I --
21 where it says it's blocks in 308 Sheridan
22 Street, the corner's right here, it's right

1 here.

2 MR. ALBERTI: Would you describe
3 for us where that corner is?

4 INVESTIGATOR SUERO: It's in the
5 center of the map. And it's being bypassed by
6 a line that indicates that this is 308
7 Sheridan Street, NW.

8 MR. ALBERTI: 308, maybe I'm
9 looking at the wrong page.

10 INVESTIGATOR SUERO: If you look
11 at Exhibit Number 8 in my supplemental report
12 --

13 MR. ALBERTI: Can we go to
14 Exhibit, let's go to Exhibit, well, I think
15 it's easier. Your colored map is Exhibit 11?

16 INVESTIGATOR SUERO: No.

17 MR. ALBERTI: That's Exhibit 12,
18 okay. Let's go back to Exhibit 11.

19 INVESTIGATOR SUERO: Okay.

20 MR. ALBERTI: Can we go to Exhibit
21 11? I think it might be easier to show it to
22 me on that map.

1 INVESTIGATOR SUERO: Would that be
2 Exhibit 11 for the supplemental report?

3 MR. ALBERTI: Yes.

4 INVESTIGATOR SUERO: Okay. Which
5 is the District of Columbia map concluding
6 that there are no ABC establishments within
7 the 1,200 foot barrier. All right.

8 (Pause)

9 INVESTIGATOR SUERO: I have it
10 here.

11 MR. ALBERTI: Okay. So can you
12 describe to me where that little piece of,
13 smidgen of land would lie on this map?

14 INVESTIGATOR SUERO: On this map,
15 if you continue north on 3rd Street, it's
16 indicated in the center of this map. And
17 going toward Sheridan Street and away from
18 Rittenhouse Street, you get to the
19 intersection of Sheridan and 3rd Street, right
20 on your left would be that little block there
21 right along side the corner. That would be
22 Takoma Community and Aquatic Center field.

1 MR. ALBERTI: Okay. So how do you
2 know that?

3 INVESTIGATOR SUERO: Having been
4 there continually for several times to check,
5 and also because these maps are related to
6 each other in the fact that they're describing
7 a similar area.

8 MR. ALBERTI: Well, I want to get
9 more specific.

10 INVESTIGATOR SUERO: All right.

11 MR. ALBERTI: What information do
12 you have in your report that would tell me who
13 owns that piece of land and who administers
14 that piece of land?

15 INVESTIGATOR SUERO: The
16 particular piece of land you're speaking
17 about, which is located parallel to the 300
18 block of Sheridan Street, NW, and pretty much
19 at the intersection of 3rd Street, NW, and
20 Sheridan Street, NW, has signage that
21 indicates that it is the property of the DC
22 Parks and Recreation Department of the

1 District of Columbia. And it specifically
2 says that it is the Takoma Community and
3 Aquatic Center.

4 MR. ALBERTI: Okay.

5 INVESTIGATOR SUERO: And I
6 actually have provided a picture of that sign
7 as an exhibit in my supplemental --

8 MR. ALBERTI: Okay, I understand
9 that. So let's go back to your colored map.

10 INVESTIGATOR SUERO: To the one
11 that I was just provided?

12 MR. ALBERTI: Exhibit 12.

13 INVESTIGATOR SUERO: Okay. All
14 right.

15 MR. ALBERTI: The piece of land
16 we're talking about would be the southeast
17 corner of Square 3285.

18 INVESTIGATOR SUERO: Yes, sir.
19 That's correct.

20 MR. ALBERTI: Do you have any
21 evidence or do you have any information on,
22 from zoning records, from DPR, about that

1 square?

2 INVESTIGATOR SUERO: I do not have
3 any particular information referencing that
4 particular square. No, I do not.

5 MR. ALBERTI: Okay. And I guess I
6 want to go back to the school for one moment,
7 the National Capital Children's Center. Did
8 you discuss anything with, any topic with them
9 that related to their accreditation as a
10 school?

11 INVESTIGATOR SUERO: Absolutely
12 not.

13 MR. ALBERTI: Okay. I have no
14 further questions. Thank you.

15 INVESTIGATOR SUERO: Yes, sir.

16 CHAIR MILLER: Okay, other Board
17 questions? Mr. Short?

18 MR. SHORT: Mr. Suero, again, you
19 did apparently a big canvassing. You
20 canvassed the whole community.

21 INVESTIGATOR SUERO: Of course.

22 MR. SHORT: And what is that

1 community mostly made of?

2 INVESTIGATOR SUERO: It's
3 residential, sir.

4 MR. SHORT: Residential?

5 INVESTIGATOR SUERO: Yes, sir.

6 MR. SHORT: Okay. Thank you very
7 much. That's all I have.

8 MEMBER RODRIGUEZ: Mr. Suero, I'm
9 going to ask you about the school. In terms
10 of you indicated that you had children and
11 some adults, I guess, coming from different
12 areas and that the majority were from DC. How
13 did they get there? What mode of
14 transportation do the students use?

15 INVESTIGATOR SUERO: On my visit,
16 there was a MetroAccess van out front. And
17 I'm going to, although I didn't see anyone
18 going in or out of it, I'm going to make a
19 leap of faith in saying that that might have
20 been used to transport some of those children.

21 MEMBER RODRIGUEZ: A MetroAccess
22 van?

1 INVESTIGATOR SUERO: Yes, a
2 handicap van.

3 MEMBER RODRIGUEZ: A handicap van?

4 INVESTIGATOR SUERO: Yes.

5 MEMBER RODRIGUEZ: And you
6 couldn't detect what jurisdiction?

7 INVESTIGATOR SUERO: No, sir. I
8 couldn't.

9 MEMBER RODRIGUEZ: No, okay. So
10 would you know if the, for example, the DC
11 students, how were they transported in?

12 INVESTIGATOR SUERO: I do now
13 know.

14 MEMBER RODRIGUEZ: Okay.

15 INVESTIGATOR SUERO: I only asked
16 them what's the makeup of their school.

17 MEMBER RODRIGUEZ: Yes, sir.

18 INVESTIGATOR SUERO: And they
19 explained to me that the students come from
20 different jurisdictions that I delineated and
21 why they go to that school.

22 MEMBER RODRIGUEZ: So you assume

1 then that this vehicle there provided
2 transportation for everyone?

3 INVESTIGATOR SUERO: Well, I don't
4 know that for a fact. But what I will say is,
5 and I believe I provided an exhibit for their
6 facility that's located at 201 Sheridan
7 Street.

8 MEMBER RODRIGUEZ: Yes, sir.

9 INVESTIGATOR SUERO: I believe the
10 picture that I provided shows their own
11 personal, their own, excuse me, their own
12 school vehicles with their own school emblems
13 on them, that are vans. And I would presume
14 they might use those for transporting their
15 students.

16 MEMBER RODRIGUEZ: Okay.

17 INVESTIGATOR SUERO: Let me just
18 give you the exhibit number. Exhibit Number
19 2 is a photo, if I might reference that. I
20 believe I have the -- 2B, I'm sorry.

21 MEMBER RODRIGUEZ: 2B?

22 INVESTIGATOR SUERO: And in

1 Exhibit 2B of my supplemental report, it shows
2 a van in the parking lot of their 210 Sheridan
3 facility. And I'm not sure it's clear there,
4 but the van does have NCC on the back of it,
5 if you can see it.

6 (Off the record comments)

7 CHAIR MILLER: Are you finished?

8 MEMBER RODRIGUEZ: Okay. Thank
9 you, sir.

10 INVESTIGATOR SUERO: You're quite
11 welcome.

12 CHAIR MILLER: Others? Mr. Jones?

13 MEMBER JONES: Thank you, Madam
14 Chair. Just really quickly, Investigator, I'm
15 just trying to confirm. There's an Exhibit
16 11, I believe, there's a map there with a
17 buffer. It appears to be a 1,200 foot buffer.
18 What was the intent of that exhibit?

19 INVESTIGATOR SUERO: This exhibit
20 is used to show any other current ABC licensed
21 establishments within 1,200 feet of the
22 Applicant. That is its only purpose, sir.

1 MR. SHORT: Okay, got it. In
2 terms of Exhibit 12 -- oh, I'm sorry, back up.
3 At any point did you get or request a map with
4 a 400 foot buffer?

5 INVESTIGATOR SUERO: I did request
6 maps with a 400 foot buffer. Let me grab
7 that. I was trying to, not using 6201 as the
8 center of that buffer, but the locations that
9 might be an issue, in other words, the school,
10 I wanted to know is the school within 400
11 feet. And so when I get --

12 MR. SHORT: Within 400 of feet of
13 what? I'm sorry.

14 INVESTIGATOR SUERO: If the school
15 is within 400 feet of the Applicant's address
16 at 6201 3rd Street, NW. So using the school
17 and using that as a location, what is within
18 400 feet of the school?

19 MR. SHORT: Okay.

20 INVESTIGATOR SUERO: And I did the
21 same with the community center lot.

22 MR. SHORT: In that exhibit, it

1 shows that the school is within, well, I guess
2 the licensed establishment --

3 INVESTIGATOR SUERO: Yes, sir.

4 MR. SHORT: -- is within 400 feet
5 of the school?

6 INVESTIGATOR SUERO: Yes.

7 MR. SHORT: It's which exhibit?

8 INVESTIGATOR SUERO: Right. It's
9 actually exhibits, excuse me, Exhibits Number
10 7 and Number 8 of my supplemental. One is for
11 the facility located at 210 Sheridan Street
12 and the other one for the facility located at
13 201 Rittenhouse Street, NW.

14 MR. SHORT: Okay. So Exhibit 7
15 and Exhibit 8?

16 INVESTIGATOR SUERO: Yes, sir.

17 MR. SHORT: Okay. So the nature
18 of how this, excuse me, for Exhibit 7 --

19 INVESTIGATOR SUERO: Yes?

20 MR. SHORT: -- how was that
21 exhibit produced? And I ask specifically the
22 nature of the buffer is not uniform nor

1 standard. And I'm trying to understand how it
2 is we arrived at drawing the buffer in this
3 way.

4 INVESTIGATOR SUERO: Let me
5 clarify and say that I don't personally
6 provide the, I make a request. And when the
7 request is filled, I receive what I receive
8 and that's what I use, sir.

9 I'm not sure that answers your
10 question. So what parameters they use, I
11 asked for a 400 buffer of a particular address
12 and --

13 MR. SHORT: This is what was
14 produced?

15 INVESTIGATOR SUERO: Yes, sir.

16 MR. SHORT: Okay. A secondary
17 question, on Exhibit 7 there is an address
18 which is a center point, which is 210 Sheridan
19 Street, NW.

20 INVESTIGATOR SUERO: Right.

21 MR. SHORT: Is that one of the
22 locations for NCC School?

1 INVESTIGATOR SUERO: Yes, sir. It
2 is.

3 MR. SHORT: Okay. Relatively, can
4 you direct me through your voice to where the
5 VIP Room is in relation to 210 Sheridan
6 Street, NW, in accordance with Exhibit 7?

7 INVESTIGATOR SUERO: Let me pull
8 the exhibit, sir, and I'll do that.

9 MR. SHORT: And to make it easier,
10 there appear to be numbers which relate to
11 blocks.

12 INVESTIGATOR SUERO: Yes, sir. If
13 you're looking at Exhibit Number 6 --

14 MR. SHORT: Number 7.

15 INVESTIGATOR SUERO: I'm sorry,
16 which is it? 201, I'm sorry, you want the --

17 MR. SHORT: I want 210 Sheridan
18 Street, NW --

19 INVESTIGATOR SUERO: Right, 210
20 Sheridan Street.

21 MR. SHORT: Exhibit 7.

22 INVESTIGATOR SUERO: Okay, 210

1 Sheridan Street.

2 MR. SHORT: Right. And --

3 INVESTIGATOR SUERO: If you're
4 looking at it straight on, you look to your
5 left, there's a place that's blocked in almost
6 like it's highlighted a little darker. It
7 says 6201.

8 MR. SHORT: 6201.

9 INVESTIGATOR SUERO: Right. And
10 you'll see it says 3rd Street on part of that.
11 That is 6201 3rd Street, which is the address
12 for the VIP Room, sir.

13 MR. SHORT: Okay. Thank you.

14 INVESTIGATOR SUERO: You're
15 welcome.

16 MR. SHORT: Same question for 308
17 Sheridan Street, NW, for Exhibit 8. Excuse
18 me.

19 INVESTIGATOR SUERO: Yes, sir. In
20 Exhibit 8, if you look to the right near the
21 bottom, it's also blocked out, 6201. And it's
22 indicated to the north of it that that is 3rd

1 Street, NW. Again, that is the address of the
2 VIP Room.

3 MR. SHORT: Got it, okay. Now,
4 just to make sure I'm clear, there's also
5 another location that's on Exhibit 8. It's
6 labeled as Goldie's Child Development Center
7 2 and Goldie's Child Development Center.

8 INVESTIGATOR SUERO: Yes, sir.

9 MR. SHORT: Do you see those on
10 that exhibit?

11 INVESTIGATOR SUERO: Let's see.
12 Which exhibit number was that, sir? I'm
13 sorry.

14 MR. SHORT: It's Exhibit 8.

15 INVESTIGATOR SUERO: Yes, sir.
16 The daycare center, yes, sir.

17 MR. SHORT: Okay. From your own
18 experience, what is the proximity of either
19 Goldie's Child Development Center or Child
20 Development Center 2 to the NCC school that
21 you've established as being a school? Do they
22 share a lot, do they share a wall? What's the

1 proximity?

2 INVESTIGATOR SUERO: No, no.
3 Those schools are separate, completely
4 separate. However, if you're looking at
5 Exhibit Number 8 --

6 MR. SHORT: Yes.

7 INVESTIGATOR SUERO: -- you'll see
8 where it says North Dakota Avenue. The word
9 is actually typed in, North Dakota Avenue, to
10 your right.

11 MR. SHORT: Yes.

12 INVESTIGATOR SUERO: If you
13 continue that to, I think, it looks like it
14 says 217 underneath that little triangle.

15 MR. SHORT: Yes.

16 INVESTIGATOR SUERO: The school is
17 actually over to the right.

18 MR. SHORT: Okay, I'm sorry. I'm
19 looking for the --

20 INVESTIGATOR SUERO: And it
21 doesn't show it on here, but it's over to the
22 right of it.

1 MR. SHORT: So on Exhibit 8 --

2 INVESTIGATOR SUERO: Right.

3 MR. SHORT: -- there is a center,
4 there's a circle which is centered at the
5 address of 308 Sheridan Street, NW?

6 INVESTIGATOR SUERO: Exactly.

7 MR. SHORT: That 308 Sheridan
8 Street, NW, I was taking from your testimony
9 that that was the address of one of the NCC
10 locations. Is that correct?

11 INVESTIGATOR SUERO: No, no, no,
12 sir. I asked for the 400 foot buffer for
13 using 308 Sheridan Street, NW, only to show
14 where the Takoma Community Center lot was. It
15 was not in any way to indicate anything in
16 reference to the school.

17 MR. SHORT: Okay. So is there
18 anything relevant about 308 Sheridan Street,
19 NW?

20 INVESTIGATOR SUERO: It's just an
21 address I used to show where the Takoma
22 Community Center property is at. That's all.

1 MR. SHORT: Okay. So from the
2 standpoint of the school, the only exhibit
3 that is speaking directly to that is Exhibit
4 7? Is there another piece here --

5 INVESTIGATOR SUERO: Yes. Six and
6 seven.

7 MR. SHORT: Six and seven, all
8 right.

9 INVESTIGATOR SUERO: Exhibits
10 Number 6 and Number 7.

11 MR. SHORT: My apologies. So on
12 Item 6, are we looking at, so for Exhibit 6 --

13 INVESTIGATOR SUERO: Yes, sir.

14 MR. SHORT: -- there's a school
15 location at 201 Rittenhouse Street, NW?

16 INVESTIGATOR SUERO: Exactly.

17 MR. SHORT: And the licensed
18 establishment, VIP Room, is --

19 INVESTIGATOR SUERO: To the left
20 where it says 62, one block up.

21 MR. SHORT: Okay. So the same
22 spot.

1 INVESTIGATOR SUERO: Yes, sir.

2 MR. SHORT: Got it. Okay. And
3 this map is also a 400 foot buffer --

4 INVESTIGATOR SUERO: Yes, sir.

5 MR. SHORT: -- surrounding the
6 location of NCC School. And everything within
7 that dark outline is within 400 feet --

8 INVESTIGATOR SUERO: Yes, sir.

9 MR. SHORT: -- of that circle
10 centered at 201 Rittenhouse Street, NW?

11 INVESTIGATOR SUERO: That is
12 correct, sir.

13 MR. SHORT: Okay, thank you.

14 INVESTIGATOR SUERO: Absolutely.

15 MR. SHORT: Thank you, Madam
16 Chair.

17 CHAIR MILLER: Others? Okay. Mr.
18 Suero?

19 INVESTIGATOR SUERO: Yes.

20 CHAIR MILLER: I just wanted you
21 to clarify for me Exhibit 12. That's the
22 color photo of the square?

1 INVESTIGATOR SUERO: Yes.

2 CHAIR MILLER: Thank you. Sorry,
3 I was asking Mr. Suero if he could clarify for
4 me Exhibit 12 which is the colored photo with
5 the squares imposed on them.

6 So I understood you to show the
7 Takoma Recreation Center, or Recreation and
8 Aquatic Center, whatever, to be two squares.
9 Is that correct, 3272 and 3283? Or is that
10 not correct?

11 INVESTIGATOR SUERO: 3272 appears
12 to be what was used as the street address of
13 300 Van Buren Street.

14 CHAIR MILLER: Okay.

15 INVESTIGATOR SUERO: But if you
16 look at the, if you have the color photo graph
17 in front of you --

18 CHAIR MILLER: Right.

19 INVESTIGATOR SUERO: -- if you
20 look at Square 3283, it appears that these
21 squares kind of cut the building in half.

22 CHAIR MILLER: Okay.

1 INVESTIGATOR SUERO: So the
2 building actually is, even from their own
3 picture, extends on both sides of that square.
4 And superimposed on the photograph at Squares
5 3283 and 3284 is the word Takoma Community
6 Center. I don't know if you can see it in
7 your copy or not.

8 CHAIR MILLER: Okay, okay.

9 INVESTIGATOR SUERO: And then if
10 you continue down to the square at 3285, a
11 little brown, looks like a little brown
12 circle. That's actually where the batting
13 cage, I guess, would be in the diamond.

14 CHAIR MILLER: In the right-hand -
15 -

16 INVESTIGATOR SUERO: Yes, ma'am.
17 And the top of that is the sign that actually
18 says Takoma Aquatic, excuse me, Takoma
19 Community and Aquatic Center, DC Parks and
20 Recreation. That's at the corner of Sheridan
21 Street, NW, and 3rd Street, NW.

22 CHAIR MILLER: Oh, okay.

1 MEMBER SILVERSTEIN: So then the
2 property line --

3 (Off the record comments)

4 MEMBER SILVERSTEIN: So the
5 property line that is closest to the Licensee
6 --

7 INVESTIGATOR SUERO: Sir.

8 MEMBER SILVERSTEIN: -- would be
9 in the lower right-hand corner of Square 3285,
10 and the two little dots, the two little
11 squares there would correspond to that little
12 slice that was in the 400 foot buffer zone?

13 INVESTIGATOR SUERO: Exactly.
14 You're exactly correct.

15 MR. ALBERTI: I think, just for
16 the record, Mr. Silverstein, you're talking
17 about the two little squares that are on the
18 seven --

19 MEMBER SILVERSTEIN: The extreme
20 lower right-hand corner.

21 MR. ALBERTI: The lower right-hand
22 corner of that square.

1 MEMBER SILVERSTEIN: Of Square
2 3285.

3 (Simultaneous speaking)

4 MEMBER SILVERSTEIN: -- exactly
5 the same thing. Yes, sir. Thank you.

6 MR. ALBERTI: You're welcome.

7 CHAIR MILLER: Okay, thank you
8 very much. Okay, any other questions? Does
9 the Applicant have any questions for Mr.
10 Suero?

11 MR. BIANCO: Yes.

12 CHAIR MILLER: Okay.

13 MR. BIANCO: Mr. Suero, it's
14 Richard Bianco, and I represent the Applicant.
15 I'm going to have some questions for you.

16 INVESTIGATOR SUERO: Good
17 afternoon.

18 MR. BIANCO: Good afternoon to you,
19 sir. What's a GIS?

20 INVESTIGATOR SUERO: The GIS is a
21 graphic information system that provides
22 demographic and geographic information based

1 on parameters that are provided to it. That's
2 my understanding of what it is.

3 MR. BIANCO: Okay. Is there
4 someone at the Agency that started with the
5 responsibility of running GIS inquiries?

6 INVESTIGATOR SUERO: Yes.

7 MR. BIANCO: What's that person's
8 name?

9 INVESTIGATOR SUERO: Ms. Laverne
10 Fletcher.

11 MR. BIANCO: Does she do that in
12 all cases?

13 INVESTIGATOR SUERO: As far as I
14 know, yes.

15 MR. BIANCO: Okay. How long have
16 you been an investigator?

17 INVESTIGATOR SUERO: I've been
18 working for ABRA as of June 3rd, 2013.

19 MR. BIANCO: And in that time, have
20 all investigations -- I'm sorry, let me take
21 a step back. Have you handled investigations
22 for new license applications?

1 INVESTIGATOR SUERO: Are you
2 referring to protest investigations?

3 MR. BIANCO: Yes, for new licenses.

4 INVESTIGATOR SUERO: I believe my
5 prior protest investigations have all been for
6 existing licenses, not new.

7 MR. BIANCO: Very good. At what
8 point do you become involved in the protest
9 process?

10 INVESTIGATOR SUERO: I become
11 involved only to the extent of being assigned
12 the protest investigation.

13 MR. BIANCO: When does that happen?

14 INVESTIGATOR SUERO: There's not a
15 set date and time. Whenever these protests
16 come to the Board, they're assigned by our
17 chief at his discretion.

18 MR. BIANCO: Okay. And after you
19 have a protest investigation assigned to you,
20 at what point do you make a request for a GIS
21 inquiry?

22 INVESTIGATOR SUERO: My normal

1 practice is to make it immediately, the day
2 that I receive the investigation.

3 MR. BIANCO: And how is that
4 request made?

5 INVESTIGATOR SUERO: Email.

6 MR. BIANCO: Okay. And what
7 specifically do you ask for when you're asking
8 for your GIS inquiry?

9 INVESTIGATOR SUERO: This is pretty
10 much a standard process for all investigators
11 who need the same information. So I simply
12 send an email to Ms. Fletcher advising her
13 that I have a protest for what location and
14 requesting the GIS information for that
15 location.

16 MR. BIANCO: And did that happen in
17 this case?

18 INVESTIGATOR SUERO: Of course.

19 MR. BIANCO: Okay. And the product
20 that you get back, what is it, what does that
21 show?

22 INVESTIGATOR SUERO: Well, we get

1 two things back. We get a map indicating a
2 1,200 foot buffer around the establishment to
3 show what other alcohol, ABC licensed
4 establishments are within that 1,200 foot
5 buffer.

6 We also receive a GIS map
7 indicating if there are any schools,
8 libraries, parks, recreation centers, within
9 400 feet of the establishment in question.

10 MR. BIANCO: And is that what
11 happened in this case?

12 INVESTIGATOR SUERO: At the time of
13 my initial request when I initially did the
14 protest investigation, I was advised that the
15 GIS system was not running, was inoperable.
16 And I could not obtain it at that time.

17 MR. BIANCO: So when it was back up
18 and running, did you just get the response to
19 the GIS inquiry or did you have to make
20 another request?

21 INVESTIGATOR SUERO: To my best
22 recollection, I made another request.

1 MR. BIANCO: Okay. And do you
2 remember when that request was in this case?

3 INVESTIGATOR SUERO: It would have
4 been some time mid to late July. It would
5 have been in July some time, but I can't give
6 you the exact date. I don't have that in
7 front of me here.

8 MR. BIANCO: And to the best of
9 your recollection, it was just a standard
10 request to have this --

11 INVESTIGATOR SUERO: The exact same
12 request.

13 MR. BIANCO: Okay. And what did
14 you get back?

15 INVESTIGATOR SUERO: Beg your
16 pardon?

17 MR. BIANCO: What did you get back
18 from Laverne?

19 INVESTIGATOR SUERO: Well, when the
20 system was again available, I of course
21 received the 1,200 foot buffer. And then I
22 got the maps for the 400 feet of the locations

1 that I requested.

2 MR. BIANCO: Well, wait a minute.
3 Wait a minute. If I'm not mistaken, you just
4 testified that you used the standard request
5 in each case.

6 INVESTIGATOR SUERO: Right.

7 MR. BIANCO: Saying I've got an
8 investigation for this address. And in this
9 case it was 6201 3rd Street.

10 INVESTIGATOR SUERO: Right.

11 MR. BIANCO: But what you're saying
12 now is, instead of getting back a GIS for 6201
13 3rd Street, instead you got back --

14 INVESTIGATOR SUERO: I did get it,
15 sir. No, what I said was I did get the 1,200
16 foot buffer GIS. I certainly did.

17 MR. BIANCO: How about the 400 foot
18 buffer?

19 INVESTIGATOR SUERO: I have a,
20 let's see what I've got. Well, for my
21 supplemental report, I requested and received
22 the addresses which I requested which was,

1 excuse me, 6201 3rd Street, NW, with a 1,200
2 foot buffer.

3 I requested 308 Sheridan Street,
4 NW, because I was asked to identify this
5 property and where it was for the community
6 center lot, field, if you like, the school
7 which is 201 Sheridan Street, NW, and the
8 school's other property located at 210
9 Sheridan Street, NW.

10 MR. BIANCO: I understand that.
11 And I understand that that's part of your
12 report. But if you made a standard request
13 for a GIS, why did you get back --

14 INVESTIGATOR SUERO: I asked for
15 these specifically.

16 MR. BIANCO: You asked for those.
17 So you didn't make a standard request for
18 them.

19 INVESTIGATOR SUERO: Well, I did
20 ask for the 1,200 foot buffer which is a
21 standard request. And then I did ask for
22 these specific locations.

1 MR. BIANCO: Why did you not just
2 do a standard request for 6201 3rd Street in
3 this particular case?

4 INVESTIGATOR SUERO: Because there
5 had been a question about, first of all, if we
6 needed to know, first of all, at least I was
7 asked to determine whether or not NCC was
8 actually a school.

9 So once I went there, visited and
10 said, okay, it is a school, then I said, well,
11 let me just find out what is it within 400
12 feet. Because I don't walk these things off
13 to measure them myself, obviously. And once
14 I determined that it actually was a working
15 school, I requested the map for those areas
16 400 feet of the school.

17 MR. BIANCO: So let me just make
18 sure I understand your testimony.

19 INVESTIGATOR SUERO: Okay.

20 MR. BIANCO: You did not do a
21 standard request for the property at 6201 3rd
22 Street, NW?

1 INVESTIGATOR SUERO: I did in the
2 terms of the 1,200 foot buffer. I don't
3 believe, or at least I don't recall, whether
4 I got what were asked for. Normally, let me
5 clarify this.

6 MR. BIANCO: Please.

7 INVESTIGATOR SUERO: Because maybe
8 I'm confusing you, and I don't mean to. When
9 I ask for a GIS map of a location, it is not
10 a separate request. It is not a request for
11 1,200 foot and 400 foot. It's one request.

12 MR. BIANCO: So if you made one
13 request, why did you get different things?

14 INVESTIGATOR SUERO: No. You were
15 asking about a standard request. A standard
16 request is just GIS map information for that
17 location. I don't specifically, and neither
18 does any other investigator, specifically ask
19 for 1,200 feet of or 400 feet of. That's what
20 we are provided as a standard.

21 MR. BIANCO: I get it.

22 INVESTIGATOR SUERO: I specifically

1 asked for these others because I did not, I
2 just wanted to be sure that the school was
3 absolutely within 400 feet.

4 MR. BIANCO: Okay. So you didn't
5 make a standard request in this case.

6 INVESTIGATOR SUERO: I did, sir.
7 That is not what I said. I said I made a
8 standard request, but I also asked for more.

9 MR. BIANCO: So you made a standard
10 request and an additional request.

11 INVESTIGATOR SUERO: Yes.

12 MR. BIANCO: And did you make those
13 at the same time or at different times?

14 INVESTIGATOR SUERO: That I don't
15 recall.

16 MR. BIANCO: Okay. And in the
17 response to the standard request portion of
18 what you were asking for --

19 INVESTIGATOR SUERO: Right.

20 MR. BIANCO: -- did you get the map
21 that Mr. Alberti showed you dated July 24th,
22 2014?

1 (Pause)

2 INVESTIGATOR SUERO: I'm checking
3 amongst my exhibits just to be sure. Because
4 I don't recall having that map. But let me
5 confirm that.

6 (Off the record comments)

7 INVESTIGATOR SUERO: I do not have
8 that map.

9 MR. BIANCO: Now, I'll direct your
10 attention to that particular exhibit.

11 INVESTIGATOR SUERO: Yes.

12 MR. BIANCO: You have not seen this
13 before today. Is that your testimony?

14 INVESTIGATOR SUERO: I don't
15 believe so.

16 MR. BIANCO: Okay. On the right-
17 hand side, there's some text at the top
18 beginning with the heading Alcoholic Beverage
19 Regulation Administration. Do you see what
20 I'm talking about there?

21 INVESTIGATOR SUERO: Yes, I see it.

22 MR. BIANCO: And then below that,

1 there's a narrative. And reading from the
2 narrative, it says, "There are no schools,
3 recreation centers or public libraries located
4 within 400 feet."

5 INVESTIGATOR SUERO: That's
6 correct.

7 MR. BIANCO: Okay. And is that
8 narrative typical of what is on these GIS
9 reports in your experience?

10 INVESTIGATOR SUERO: It is.

11 MR. BIANCO: And you're not the
12 person charged with the responsibility of
13 doing the exact measurements, correct?

14 INVESTIGATOR SUERO: Of course not.

15 MR. BIANCO: That's Ms. Fletcher.

16 INVESTIGATOR SUERO: Of doing the
17 measurement, sir?

18 MR. BIANCO: Yes, of generating the
19 measurements.

20 INVESTIGATOR SUERO: I don't, in
21 any way, put the map together, if that's the
22 question.

1 MR. BIANCO: Very good. Now,
2 looking further down the right-hand side of
3 that particular map, and this is true of this
4 map as well as the ones you actually attached
5 to your investigative report, let's see, a
6 ledger, if you will.

7 INVESTIGATOR SUERO: Yes.

8 MR. BIANCO: Okay. And as part of
9 that, there are symbols for childcare centers,
10 correct? Do you see what I'm talking about
11 there?

12 INVESTIGATOR SUERO: Yes.

13 MR. BIANCO: And it looks like
14 that's a small green box with a red top.

15 INVESTIGATOR SUERO: Yes.

16 MR. BIANCO: And there are two
17 child development centers within the 400 foot
18 buffer on this particular map. Is that
19 correct?

20 INVESTIGATOR SUERO: Yes.

21 MR. BIANCO: And next to those
22 child -- and those centers are noted with that

1 green box with red top that corresponds to the
2 map you have?

3 INVESTIGATOR SUERO: Yes.

4 MR. BIANCO: Correct? Do you see
5 anywhere within the 400 foot buffer a symbol
6 showing there's a charter school, independent
7 school, public school or college and
8 university?

9 INVESTIGATOR SUERO: There are no
10 public schools, colleges, universities, or
11 independent schools listed.

12 MEMBER JONES: Excuse me.

13 CHAIR MILLER: Who is that?

14 MEMBER JONES: Be careful with your
15 microphone.

16 FEMALE PARTICIPANT: Sorry.

17 MEMBER JONES: Thank you.

18 MR. BIANCO: And that's also true
19 of the GIS maps that you attached to your
20 investigative report at Exhibit 6 and 7.

21 INVESTIGATOR SUERO: That's
22 correct.

1 MR. BIANCO: And you used the
2 address at 201 Rittenhouse and 210 Sheridan?

3 INVESTIGATOR SUERO: That's
4 correct.

5 MR. BIANCO: And on those addresses
6 there's no symbol for any type of school.

7 INVESTIGATOR SUERO: Oh, that's not
8 correct. There is no symbol for a private
9 school, because private schools don't come
10 under these parameters and therefore would not
11 be listed.

12 MR. BIANCO: But what's an
13 independent school?

14 INVESTIGATOR SUERO: I don't know.
15 It's not a private school, apparently.

16 MR. BIANCO: Well, but there's an
17 alternative possibility isn't there, that
18 that's actually not a school?

19 INVESTIGATOR SUERO: Well, sir,
20 although I'm not an expert of the GIS system,
21 my understanding is that it only reads or
22 views certain parameters.

1 Private school is not one of them.
2 So therefore, NCC would not be on here in any
3 way. And clearly, it's not indicated,
4 although it's actually there.

5 And since this is the method you
6 provided me, if you look at that corner,
7 that's where it would be. And that's actually
8 where it is.

9 MR. BIANCO: I understand. And
10 looking at, let's look at your Exhibit 6 and
11 7 on your report.

12 INVESTIGATOR SUERO: Okay.

13 MR. BIANCO: The NCC facility has
14 three addresses. Isn't that true?

15 INVESTIGATOR SUERO: It has two
16 addresses that I know of on that location.

17 MR. BIANCO: Looking at your
18 Exhibit 6 which is GIS system center point of
19 201 Rittenhouse Street, NW --

20 INVESTIGATOR SUERO: Okay.

21 MR. BIANCO: -- it appears to me,
22 and please correct me if I'm wrong, but there

1 is one large building with three numbers on
2 it.

3 INVESTIGATOR SUERO: Where would
4 that be?

5 MR. BIANCO: 201 Rittenhouse, 210,
6 and then 6200 2nd Street.

7 INVESTIGATOR SUERO: I see the
8 6200.

9 MR. BIANCO: And does that appear
10 to you to be part of the same building?

11 INVESTIGATOR SUERO: I wouldn't
12 know. I have no way of knowing that.

13 MR. BIANCO: Did you, well, you
14 went there. You investigated.

15 INVESTIGATOR SUERO: I went to two
16 --

17 CHAIR MILLER: I'm sorry. I'm
18 sorry, could you identify what you're looking
19 at again please, which exhibit and where --

20 MR. BIANCO: Yes. We're looking at
21 Exhibit 6 which is the GIS system map, 201
22 Rittenhouse Street at the center. And what

1 we're discussing is one building, three
2 addresses.

3 MR. ALBERTI: Just to be helpful,
4 Mr. Bianco, I think it's even clearer in
5 Exhibit 7. Because Rittenhouse isn't written
6 over quite a bit.

7 MR. BIANCO: It is a little clearer
8 in Exhibit 7 which is going to be helpful.
9 Thank you, sir.

10 INVESTIGATOR SUERO: I visited the
11 building that's located at 201 Rittenhouse
12 Street. It appears to have, maybe it
13 connects, there're some kind of 210 Sheridan
14 Street. I can't be certain. The 6200 Avenue,
15 I couldn't tell you. It doesn't appear to be
16 a different building, if that's the question.

17 MR. BIANCO: I'm just asking if
18 it's the same building. You were there, I
19 wasn't. I'm just looking at the map.

20 INVESTIGATOR SUERO: I went to 201
21 Rittenhouse Street, and I went to 210 Sheridan
22 Street.

1 (Pause)

2 MR. BIANCO: Okay. So the basis
3 for your conclusion that this property is a
4 school or this facility is a school was your
5 site visit, correct?

6 INVESTIGATOR SUERO: If you mean my
7 conversation with the principal, yes.

8 MR. BIANCO: And that took place on
9 the site of the facility, correct?

10 INVESTIGATOR SUERO: Right at 201,
11 exactly. I went --

12 MR. BIANCO: Now, and I think Mr.
13 Alberti alluded to this a little bit, but
14 schools are required to have licenses. Is
15 that consistent with your experience?

16 INVESTIGATOR SUERO: My
17 understanding, in order for a school to
18 provide education to a student, they must meet
19 certain requirements, yes.

20 MR. BIANCO: And one of those
21 requirements is some type of licence, is it
22 not?

1 INVESTIGATOR SUERO: I imagine so.

2 MR. BIANCO: Okay. Accreditation?

3 INVESTIGATOR SUERO: Well, I think
4 you will find that, in our day and age, you
5 can get a PhD through some place that says
6 they're a school. It's not accredited. So
7 I'm not sure about that answer.

8 MR. BIANCO: Fair enough. But in
9 this case, we don't know one way or another,
10 because you didn't check.

11 INVESTIGATOR SUERO: I checked to
12 see if they were an actually working school,
13 which they are. I obtained a brochure a from
14 them. I saw students. I saw staff.

15 It'd be kind of hard to pass off as
16 a school, and provide education to children
17 from different jurisdictions and be funded by
18 all these different jurisdictions without
19 being an actual school.

20 MR. BIANCO: Well, I'm not doubting
21 that NCC operates some school somewhere. I'm
22 just trying to figure out what evidence you

1 have that it's here. And your answer has been
2 by my site visit. So --

3 INVESTIGATOR SUERO: No, sir. I
4 never said that. You actually asked the
5 question --

6 MR. BIANCO: Which you responded to
7 --

8 INVESTIGATOR SUERO: -- were you
9 there by a site visit. What I answered was
10 are you referring to my interview of the
11 principal. Your question almost alludes that
12 I looked at the building and walked away.
13 That's not quite what happened.

14 MR. BIANCO: Well, what I'm asking
15 you now is whether or not you checked their
16 licensure, to which you answered no, whether
17 or not you checked on accreditation, to which
18 you answered, well, anybody can get accredited
19 for anything these days.

20 And now what I'm asking you is this
21 particular facility occupies a building within
22 the District of Columbia. Does it not?

1 INVESTIGATOR SUERO: It does.

2 MR. BIANCO: And when facilities
3 occupy buildings within the District of
4 Columbia, they're required to have
5 certificates of occupancy, aren't they?

6 INVESTIGATOR SUERO: That's my
7 understanding.

8 MR. BIANCO: And those certificates
9 of occupancy state with specificity what the
10 use is for that particular building, don't
11 they?

12 INVESTIGATOR SUERO: That's my
13 understanding as well.

14 MR. BIANCO: That seems to me to be
15 a pretty definitive answer to the question as
16 to whether or not something is a school. So
17 why didn't you check?

18 CHAIR MILLER: Are you testifying?
19 I'm sorry, Mr. Bianco. It sounded like you
20 were testifying.

21 MR. BIANCO: What?

22 CHAIR MILLER: It sounded like you

1 were testifying as to what was good evidence
2 of a school. And you can ask Mr. Suero
3 questions --

4 MR. BIANCO: Why didn't you check
5 on the certificate of occupancy to determine
6 whether or not this particular facility is a
7 school?

8 INVESTIGATOR SUERO: I did not
9 check on their accreditation, I did not check
10 on certificate of occupancy. I only checked
11 to see if they were, in fact, an operational
12 school, which they advised me they are, which
13 it appeared to be from my personal
14 observation.

15 I obtained a brochure from them to
16 get some information as to what kind of school
17 they are and asked questions relative to that.
18 Relative to the fact of whether they are
19 properly accredited or not, I did not.

20 MR. BIANCO: I understand that.
21 You've made that clear that the basis for your
22 conclusion that it's a school is you went

1 there and you asked Michelle, the principal,
2 is this a school? She said yes. You said
3 good enough for me.

4 CHAIR MILLER: Okay, Mr. Bianco --

5 INVESTIGATOR SUERO: Those are not
6 my words, sir.

7 CHAIR MILLER: Right, those are not his
8 words.

9 MR. BIANCO: What I'm asking you,
10 what the pending question is that you still
11 haven't answered is why didn't you pull the
12 certificate of occupancy and check to see if
13 this was a school?

14 INVESTIGATOR SUERO: I didn't find
15 that to be necessary, sir.

16 MR. BIANCO: Why?

17 INVESTIGATOR SUERO: That's my
18 answer.

19 MR. BIANCO: Why?

20 INVESTIGATOR SUERO: Because of my
21 57 years and my past life, I have enough
22 intelligence and common sense to determine

1 what is or is not a school.

2 And in this particular case, I
3 walked into a building that has, clearly
4 marked to be a school. I spoke to a principal
5 who identified herself as a principal of that
6 particular school. I observed students, I
7 observed staff, I obtained what information I
8 could relative to that.

9 MR. BIANCO: What was your past
10 life, just to be curious.

11 INVESTIGATOR SUERO: I'm a retired
12 police sergeant.

13 MS. LEHRMAN: Madam Chair, this is
14 not my Witness, but I'm going to object to
15 this line of questioning. Because it's
16 clearly badgering the witness at this point.

17 CHAIR MILLER: Are you finished
18 with this line of questioning?

19 MR. BIANCO: No. I'm just taking
20 out the certificates of occupancy --

21 CHAIR MILLER: He didn't check the
22 certificates of occupancy.

1 MR. BIANCO: I understand that.

2 CHAIR MILLER: So why are you
3 taking out the certificates of occupancy?

4 MS. LEHRMAN: And I would object on
5 that grounds as well, because this has been
6 asked and answered.

7 MR. BIANCO: Well, the issue before
8 the Board is whether or not this is a school.

9 CHAIR MILLER: He said he didn't
10 check the certificates of occupancy. So why
11 would you need to show them to him?

12 (Pause)

13 MR. BIANCO: Who's Ms. Johnson?

14 INVESTIGATOR SUERO: I beg your
15 pardon?

16 MR. BIANCO: Who's Ms. Johnson? In
17 your report you indicate you spoke with
18 somebody at Parks and Rec named Ms. Johnson.

19 INVESTIGATOR SUERO: Oh, that's the
20 name I was given of a lady who was at the
21 facility when I visited.

22 MR. BIANCO: Do you know what her

1 job is?

2 INVESTIGATOR SUERO: I believe what
3 I was told that day is that she's the person
4 in charge. I'm not sure what her actual title
5 is.

6 MR. BIANCO: Do you know if she's
7 a surveyor or an engineer?

8 INVESTIGATOR SUERO: I don't know
9 that.

10 MR. BIANCO: Do you have any idea
11 what the basis of her opinion with regard to
12 the property boundaries of the Takoma Park Rec
13 Center was?

14 INVESTIGATOR SUERO: What I believe
15 her words were is that their property extends
16 from Van Buren Street to Sheridan Street, and
17 she asked me if I had noticed that they have
18 a field that extends to that intersection of
19 Sheridan Street and 3rd Street and that their
20 children use that area.

21 MR. BIANCO: And did you check with
22 anybody else to verify property boundaries for

1 that particular location?

2 INVESTIGATOR SUERO: I contacted,
3 in the DC Parks and Recreation, I had called
4 a Mr. Jeffrey McGuiness who works for land
5 development and capital planning to ask about
6 that property. That was the phone call I
7 made.

8 MR. BIANCO: Are you referring to
9 the conversation you had on Tuesday, August
10 the 5th with Roland Dreest?

11 INVESTIGATOR SUERO: Sir, what I
12 advised is I called a Mr. Jeffrey McGuiness of
13 DC Parks and Recreation. It's not the same
14 person.

15 MR. BIANCO: Okay. Did you ever
16 have a conversation with someone named Roland
17 Dreest?

18 INVESTIGATOR SUERO: I sent him an
19 email.

20 MR. BIANCO: Okay. And Mr. Dreest
21 is the surveyor of the District of Columbia,
22 correct?

1 INVESTIGATOR SUERO: That's my
2 understanding.

3 MR. BIANCO: And Mr. Dreest
4 provided you with an opinion that 300 Van
5 Buren Street is not within 400 feet of the VIP
6 Room, correct?

7 INVESTIGATOR SUERO: No. He
8 actually provided that information to Laverne
9 Fletcher. I received a copy.

10 MR. BIANCO: You received a copy of
11 that?

12 INVESTIGATOR SUERO: Of that email,
13 yes.

14 MR. BIANCO: And why didn't that
15 make it into your report?

16 INVESTIGATOR SUERO: There was no
17 question that 300 Van Buren Street is not
18 within 400 feet of 6201 3rd Street, NW.

19 MR. BIANCO: But isn't that the
20 address of the rec center?

21 INVESTIGATOR SUERO: It is the
22 address of the rec center, yes.

1 MR. BIANCO: Just like 201 Sheridan
2 is the address of the facility you allege is
3 the school?

4 INVESTIGATOR SUERO: Exactly.

5 MR. BIANCO: Okay. So isn't that
6 really the relevant inquiry?

7 INVESTIGATOR SUERO: The relevant
8 inquiry for my supplemental was is the
9 property of the rec center within 400 feet.

10 MR. BIANCO: Okay. And what did
11 Mr. Dreest tell you when you asked him that?

12 INVESTIGATOR SUERO: Sir, again, I
13 never asked him anything.

14 MR. BIANCO: Did you think that the
15 surveyor's office would be the appropriate
16 follow-up point for that particular inquiry?

17 CHAIR MILLER: What was the
18 question?

19 MR. BIANCO: Did I think the
20 surveyor's office, Mr. Dreest, the DC
21 surveyor, would be the appropriate follow-up
22 for that particular inquiry?

1 INVESTIGATOR SUERO: Which inquiry?

2 MR. BIANCO: The question about
3 whether or not property lies within 400 feet
4 of the Applicant.

5 INVESTIGATOR SUERO: The email that
6 was sent to him, not by me, apparently asked
7 the question is 300 Van Buren Street within
8 400 feet of 6201 3rd Street, NW.

9 His response, I believe, indicated
10 that Lot 805, Square 3272, is not within 400
11 feet of 6201 3rd Street, NW, which is clear.
12 It's obviously not.

13 MR. BIANCO: And you didn't follow-
14 up further on that one?

15 INVESTIGATOR SUERO: I included
16 that map in my report, sir. And I believe
17 that's already stated in the report as well.

18 MR. BIANCO: All right.

19 INVESTIGATOR SUERO: I had no
20 questions about that. I knew that 300 Van
21 Buren Street was no where near 6201 3rd
22 Street, NW. That was never a question for me.

1 (Off the record comments)

2 MR. BIANCO: Brief indulgence,
3 Madam Chair.

4 (Pause)

5 MR. BIANCO: I don't have any
6 further questions of this Witness.

7 CHAIR MILLER: Okay. Protestants?

8 MS. LEHRMAN: I actually do have
9 several questions. Good afternoon, Mr. Suero?

10 INVESTIGATOR SUERO: Suero is --
11 good afternoon. How are you?

12 MS. LEHRMAN: Okay. Mr. Suero.
13 I'm Margie Lehrman, again, on behalf of the
14 Protestants, two plus five.

15 I would like to follow-up on a
16 little bit of the questioning by Applicant's
17 Counsel on your experience as an investigator.
18 You've already testified that you joined ABRA,
19 I believe, in June of 2013 is what you said.

20 INVESTIGATOR SUERO: Yes, ma'am.
21 That's correct.

22 MS. LEHRMAN: Okay. Before we get

1 to any kind of training that ABRA might have
2 had for you, I'd like to know a little bit
3 about your background prior to coming to ABRA.

4 INVESTIGATOR SUERO: Well, I'm a
5 graduate of the Prince George County Police
6 Academy. I graduated in 1980. I'm 57 years
7 old, if that kind of clarifies that.

8 I was a patrol officer for some
9 time, and then I was a detective with the
10 criminal investigation division. I was then
11 asked to take over patrol squad. I was the
12 patrol sergeant. And I was a polygraph
13 examiner for my squad.

14 MS. LEHRMAN: And with that
15 background and experience, was there anything
16 by way of either education or training that
17 prepared you to become an investigator for
18 ABRA?

19 INVESTIGATOR SUERO: I hold a
20 bachelor's and a master's degree in
21 information systems. My master's is from
22 American University. I have a considerable

1 amount of investigative experience ranging
2 from child abuse cases to homicide, fraud,
3 rape, robbery. So I have a good degree of
4 investigative experience prior to coming to
5 ABRA.

6 MS. LEHRMAN: And when you came to
7 ABRA, was there any kind of training offered
8 to you in your current position as an
9 investigator?

10 INVESTIGATOR SUERO: Of course.

11 MS. LEHRMAN: Would you describe a
12 little bit of that training for us please?

13 INVESTIGATOR SUERO: A new ABRA
14 investigator spends a considerable amount of
15 time with a training officer, another
16 investigator, if you will, that helps you to
17 get a clear understanding of the function of
18 an ABRA investigator, the role of the Board,
19 of course, and their requirements of us, and
20 also the laws and regulations of the District
21 of Columbia pertaining to the sale,
22 consumption of alcohol and alcohol

1 establishments.

2 MS. LEHRMAN: So in your
3 investigation, are you investigating more than
4 new licenses?

5 INVESTIGATOR SUERO: Of course.

6 MS. LEHRMAN: Okay. And are you
7 investigating more than renewal licenses?

8 INVESTIGATOR SUERO: Yes.

9 MS. LEHRMAN: Okay. You testified
10 previously that this is, in fact, a new
11 license, correct?

12 INVESTIGATOR SUERO: It is.

13 MS. LEHRMAN: Is there a difference
14 between your investigations for a new license
15 versus a renewal license?

16 INVESTIGATOR SUERO: No. The
17 protest investigations are all timely, they're
18 extremely thorough. They're involved, as you
19 can see. They take a lot of effort, and a lot
20 of detail is required. And we do them all in
21 that same vein.

22 MS. LEHRMAN: Okay. And how many

1 cases would you say you're handling at any one
2 time?

3 INVESTIGATOR SUERO: Well, let me
4 just say I've been here since 2013, June. My
5 investigative reports have totaled about
6 something over 90 already.

7 MS. LEHRMAN: In each of the cases
8 that you are asked to investigate or, strike
9 that. I'm going to rephrase that. Have you
10 requested from a school previously a
11 certificate of occupancy in any of the cases
12 that you have investigated?

13 INVESTIGATOR SUERO: Never.

14 MS. LEHRMAN: Okay. I would like
15 to direct your attention and the Board and
16 Counsel to what you had submitted in terms of
17 the supplemental investigative report. And
18 specifically, I'd like you to look at the NCC,
19 National Children's Center, exhibit, it's this
20 one, exhibit, please, 3B.

21 INVESTIGATOR SUERO: 3B?

22 MS. LEHRMAN: Yes. Would you

1 identify please, for the record, what we are
2 looking at?

3 INVESTIGATOR SUERO: While I was at
4 the school, I asked for and received a color
5 brochure, because I wanted some information on
6 the school. And this is what I was provided.

7 MS. LEHRMAN: Okay. I'd like to
8 have you turn your attention to the area that
9 is listed as academics.

10 INVESTIGATOR SUERO: Yes, ma'am.

11 MS. LEHRMAN: Okay. Going down in
12 that paragraph, would you please read for the
13 record starting with each student works?

14 INVESTIGATOR SUERO: "Each student
15 works towards goals that are outlined in an
16 individualized educational program (IEP) which
17 is developed and updated by the student, as
18 appropriate, his or her guardian and an
19 interdisciplinary team of professionals."

20 MS. LEHRMAN: Okay. I'd like to
21 stop you there. IEP, are you familiar with
22 IEPs?

1 INVESTIGATOR SUERO: I am not.

2 MS. LEHRMAN: Okay. Are you aware
3 that IEPs are used, an IEP is mandated by the
4 Federal Government when children have
5 disabilities and need special services?

6 INVESTIGATOR SUERO: I was not
7 aware.

8 MS. LEHRMAN: When you attended,
9 I'm sorry, when you approached the school, you
10 previously testified that there were students.

11 INVESTIGATOR SUERO: Yes, ma'am.

12 MS. LEHRMAN: You also testified
13 that some of these students had physical
14 disabilities.

15 INVESTIGATOR SUERO: That's
16 correct.

17 MS. LEHRMAN: And you also
18 testified that, at least the principal told
19 you that some of these students operate with
20 mental challenges as well.

21 INVESTIGATOR SUERO: She used the
22 term behavioral, but yes.

1 MS. LEHRMAN: Behavioral, okay. So
2 would it be a fair assumption that some of the
3 students, while perhaps disabled physically or
4 otherwise, still walk.

5 INVESTIGATOR SUERO: Yes. I saw
6 some that's walking.

7 MS. LEHRMAN: Because I heard you
8 testify that there was a van at least that
9 took students to and from the Metro,
10 MetroAccess, I think, bus. Do you --

11 INVESTIGATOR SUERO: That's what I
12 saw outside. I didn't see any students
13 interacting with it. It was just parked
14 outside when I went by.

15 MS. LEHRMAN: So is it possible
16 that some of the students who attend that
17 particular school also walk to and from that
18 school?

19 INVESTIGATOR SUERO: It's very
20 possible.

21 MS. LEHRMAN: Okay. Is it possible
22 that students who attend that school also take

1 school buses other than that Metro van?

2 INVESTIGATOR SUERO: It is
3 possible.

4 MS. LEHRMAN: Okay. When you were
5 there, did you see students with pens or
6 pencils? What did you observe?

7 INVESTIGATOR SUERO: I did not walk
8 into a classroom. But in the hallway, which
9 is close to the office where I was, there were
10 students walking around, some with
11 disabilities, clearly. And some didn't have
12 any physical disabilities that I could see.

13 MS. LEHRMAN: Okay. So if you saw
14 some students who could walk, it's also
15 possible that they could walk to and from this
16 particular school?

17 INVESTIGATOR SUERO: Of course.

18 MS. LEHRMAN: Okay. We heard quite
19 a bit of testimony about your supplemental
20 report. And I'd like to address your
21 attention to that for a little bit. What
22 prompted you to create a supplemental report?

1 INVESTIGATOR SUERO: I was asked to
2 complete a supplemental report because, at the
3 initial time of my initial report, the GIS
4 system was not available.

5 So therefore, we were trying to get
6 the most information obviously that we could
7 and the most complete information. So when
8 the system became available, I was asked to do
9 the supplemental.

10 MS. LEHRMAN: Had the
11 system been down in other places?

12 INVESTIGATOR SUERO: I can't answer
13 that, not for mine. But it hasn't been down
14 before.

15 MS. LEHRMAN: Would it be standard
16 operating procedure if you did not have access
17 to records that you needed that you would go
18 back and request that when available?

19 INVESTIGATOR SUERO: Of course.

20 MS. LEHRMAN: Okay. Have you done
21 a supplemental report previously?

22 INVESTIGATOR SUERO: Yes.

1 MS. LEHRMAN: Did this case differ
2 from any of the other supplemental reports
3 that you performed in the past?

4 INVESTIGATOR SUERO: Not
5 especially, no.

6 MS. LEHRMAN: Your initial report
7 reflected that there were at least two daycare
8 centers --

9 INVESTIGATOR SUERO: That's
10 correct.

11 MS. LEHRMAN: -- in addition to the
12 National Children's Center.

13 INVESTIGATOR SUERO: That's
14 correct.

15 MS. LEHRMAN: Did you interview the
16 principal subsequent to the initial report
17 that you did, the principal of the National
18 Children's Center?

19 INVESTIGATOR SUERO: Yes, as part
20 of my supplemental, yes, it was.

21 MS. LEHRMAN: And the initial
22 investigative report it looks like you did on

1 July 10th?

2 INVESTIGATOR SUERO: It was early
3 on. It's possible, yes.

4 MS. LEHRMAN: Okay. The subsequent
5 one looks like it was conducted on July 24th.

6 INVESTIGATOR SUERO: It was
7 actually completed, I believe, by the 23rd,
8 maybe turned in on the 24th.

9 MS. LEHRMAN: Okay. And would you
10 please describe the process after you complete
11 a supplemental report? What physically
12 happens to it? What happens next?

13 INVESTIGATOR SUERO: It goes to a
14 supervisor for review. And at some point
15 after that, it'll end up in the desk of our
16 chief of enforcement.

17 MS. LEHRMAN: Okay. And then do
18 you know what happens to it after that point?

19 INVESTIGATOR SUERO: My
20 understanding is, I believe, it's scanned into
21 the system so that people can get it
22 electronically. And then copies are made and

1 provided to the Board.

2 MS. LEHRMAN: Do you have any
3 responsibility directly to get it to the
4 parties after you complete the investigation?

5 INVESTIGATOR SUERO: To the
6 Applicant and Protestant, no, ma'am. That's
7 not my responsibility.

8 MS. LEHRMAN: Okay. There was
9 quite a bit of discussion also in terms of
10 testimony about the Takoma Park Community
11 Center, the recreation --

12 INVESTIGATOR SUERO: It's the
13 Takoma Community and Aquatic Center.

14 MS. LEHRMAN: Okay.

15 INVESTIGATOR SUERO: Takoma Park is
16 a separate city in Maryland.

17 MS. LEHRMAN: That's true.

18 (Laughter)

19 MS. LEHRMAN: We have a physical
20 building as a part of that center, correct?

21 INVESTIGATOR SUERO: Yes.

22 MS. LEHRMAN: And it looks like

1 from your exhibit on supplemental, I'm looking
2 at Exhibit 12.

3 INVESTIGATOR SUERO: Yes, ma'am.

4 MS. LEHRMAN: It looks like from
5 that map, at least, ends where 3284, that we
6 still have property belonging to the Takoma
7 Community Center.

8 INVESTIGATOR SUERO: Yes, ma'am.
9 It does appear so.

10 MS. LEHRMAN: Okay. And it looks,
11 also from that exhibit, like Square 3285
12 similarly is a part of that property.

13 INVESTIGATOR SUERO: It does appear
14 so.

15 MS. LEHRMAN: Okay. And in the
16 bottom right corner of Square 3285, I believe
17 you testified that the lighter color, sort of
18 tan color --

19 INVESTIGATOR SUERO: Yes.

20 MS. LEHRMAN: -- is a playing
21 field?

22 INVESTIGATOR SUERO: Well, it's the

1 cage for where you bat, the cage for batting.

2 MS. LEHRMAN: Where you would bat?

3 INVESTIGATOR SUERO: Yes, ma'am.

4 MS. LEHRMAN: Okay.

5 INVESTIGATOR SUERO: That's

6 hardball.

7 MS. LEHRMAN: Does it appear that

8 that was a piece of property that's used?

9 INVESTIGATOR SUERO: It does.

10 MS. LEHRMAN: And what do you base

11 that on?

12 INVESTIGATOR SUERO: Well, it's

13 worn, that sand area is worn. I mean, there's

14 no grass on it. It appears to be used.

15 MS. LEHRMAN: Okay. One moment.

16 (Pause)

17 MS. LEHRMAN: Okay. That's Exhibit

18 12. Thank you. I have no further questions.

19 CHAIR MILLER: Okay, thank you.

20 Are there any other Board questions?

21 MALE PARTICIPANT: I think Mr.

22 Jones.

1 CHAIR MILLER: Mr. Jones?

2 MEMBER JONES: Thank you, Madam
3 Chair.

4 CHAIR MILLER: Okay.

5 MEMBER JONES: Investigator, you
6 have the Exhibit 12 that you were just being
7 questioned about.

8 INVESTIGATOR SUERO: Yes, sir.

9 MEMBER JONES: It was Square 3285.

10 INVESTIGATOR SUERO: Yes.

11 MEMBER JONES: I think I know the
12 answer, I just want to confirm. Do you have
13 any information from the Office of the
14 Surveyor that indicates the ownership of
15 Square 3285?

16 INVESTIGATOR SUERO: I do not. The
17 question that apparently was posed to him, not
18 by me, was about Square 3272 specifically and
19 nothing else.

20 MEMBER JONES: Understood. There's
21 a track, looks like there's a standard 400
22 meter track.

1 INVESTIGATOR SUERO: Yes, sir.

2 MEMBER JONES: That is also located
3 in 3285.

4 INVESTIGATOR SUERO: Yes, sir.

5 MEMBER JONES: Do you have any
6 understanding of to whom that track belongs or
7 to what entity that track belongs?

8 INVESTIGATOR SUERO: Having been
9 there personally, sir, that is the track of
10 Coolidge Senior High School.

11 MEMBER JONES: Coolidge Senior High
12 School?

13 INVESTIGATOR SUERO: Yes, sir.

14 MEMBER JONES: Got it. So looking
15 at Exhibit 12, that top right corner of Square
16 3285, that you've been pointed to before,
17 there's what appears to be a softball or
18 baseball diamond.

19 INVESTIGATOR SUERO: Yes.

20 MEMBER JONES: Okay. Keep that in
21 your mental note. We're going to go to
22 Exhibit 4, I believe.

1 INVESTIGATOR SUERO: Of the
2 supplemental report, sir?

3 MEMBER JONES: Yes, sir. Do you
4 see Exhibit 4?

5 INVESTIGATOR SUERO: Let me find
6 it. One second, please. Yes, sir. I do.

7 MEMBER JONES: That sign that is
8 prominently displayed in that photograph --

9 INVESTIGATOR SUERO: Yes, sir?

10 MEMBER JONES: -- is that sign at
11 the top right-hand corner of Square 3285?

12 INVESTIGATOR SUERO: Yes. It's
13 right behind where that kind of light brown
14 area is, sir. Yes, sir.

15 MEMBER JONES: So is that yes?
16 It's at the top right-hand corner of Square
17 3285?

18 INVESTIGATOR SUERO: Well, it would
19 be the bottom, I guess. From my perspective,
20 right here.

21 MEMBER JONES: Okay. So at 3285,
22 that is, is it in Square 3285?

1 INVESTIGATOR SUERO: Yes, sir, it
2 is.

3 MEMBER JONES: Okay. Cool. I
4 asked that because there are two diamonds that
5 are displayed on Exhibit 12. There's one in
6 3283 --

7 INVESTIGATOR SUERO: Yes, sir.

8 MEMBER JONES: -- and there's one
9 in 3285. I just wanted to confirm that the
10 picture of that sign is in Square 3285.

11 INVESTIGATOR SUERO: Yes, sir, it
12 is.

13 MEMBER JONES: That is correct,
14 okay. While we're on Exhibit 12, just as a
15 quick follow-up, can you identify or locate
16 the location of the NCC school as you've
17 testified to? What square is that on Exhibit
18 12?

19 INVESTIGATOR SUERO: I'm not
20 certain that it would be in my --

21 MEMBER JONES: Do you have Exhibit
22 12?

1 INVESTIGATOR SUERO: Let me just
2 say that 3342, it was my understanding, is
3 6201 3rd Street or the lot where it would be.
4 And it would be up here somewhere. So it's
5 not in the map, as far as I can tell.

6 MEMBER JONES: You're looking at
7 Exhibit 12?

8 INVESTIGATOR SUERO: Yes, sir.

9 MEMBER JONES: Okay. Do you see
10 Square 3341?

11 INVESTIGATOR SUERO: I do.

12 MEMBER JONES: Square 3341, does
13 that resemble the NCC school location that you
14 indicated or testified to as having visited?

15 INVESTIGATOR SUERO: Actually, now
16 I do see it. Yes, sir, that's it.

17 MEMBER JONES: Okay.

18 INVESTIGATOR SUERO: Absolutely.

19 MEMBER JONES: Thank you. That
20 structure --

21 INVESTIGATOR SUERO: Yes, sir.
22 That structure is it, where it has an address

1 and part of it on Sheridan Street. Yes, sir,
2 that's it.

3 MEMBER JONES: All right. Can you
4 point to me out with your words --

5 INVESTIGATOR SUERO: Yes.

6 MEMBER JONES: -- how you entered
7 the facility that is located at Square 3341 at
8 either of the addresses that you noted?

9 INVESTIGATOR SUERO: At 201
10 Sheridan Street, the entrance is pretty much
11 where the S would be in the Square 3341.

12 MEMBER JONES: Okay.

13 INVESTIGATOR SUERO: The entrance
14 is there, sir.

15 MEMBER JONES: The entrance is
16 there?

17 INVESTIGATOR SUERO: Yes, sir.

18 MEMBER JONES: Is it your
19 understanding that that structure where you
20 entered at the S --

21 INVESTIGATOR SUERO: Yes.

22 MEMBER JONES: -- that structure,

1 that building that is pictured there, that
2 building makes up NCC school as you understand
3 it?

4 INVESTIGATOR SUERO: Yes, sir.

5 MEMBER JONES: Okay. If you look
6 immediately to the left of the S and down
7 slightly, there's another structure that
8 appears to be connected to but not the same
9 structure. Do you see that structure?
10 There's a number on top of that's in green.

11 INVESTIGATOR SUERO: Yes, sir.

12 MEMBER JONES: It's 812.

13 INVESTIGATOR SUERO: Yes, sir. I
14 see it.

15 MEMBER JONES: That building right
16 there, is it your understanding that that
17 building is also part of NCC school?

18 INVESTIGATOR SUERO: Yes, sir.

19 That is 210 Sheridan Street, NW.

20 MEMBER JONES: All right. Thank
21 you very much. That's all I have. Thank you,
22 Investigator.

1 INVESTIGATOR SUERO: You're quite
2 welcome.

3
4 CHAIR MILLER: Okay, Mr. Rodriguez?

5 MEMBER RODRIGUEZ: Mr. Suero, I'm
6 going to get back to the school.

7 INVESTIGATOR SUERO: Yes, sir.

8 MEMBER RODRIGUEZ: Can you please
9 repeat for me the fundamental mission of that
10 school that you learned during your visit?

11 INVESTIGATOR SUERO: My
12 understanding from what I learned from the
13 principal is that they provide the educational
14 services for children and adults who have
15 behavioral, learning and physical disabilities
16 that cannot be provided by their own schools
17 in their own jurisdictions. And they are
18 provided funding to provide that education
19 from the jurisdiction that sends students to
20 them.

21 MEMBER RODRIGUEZ: Okay. You
22 mentioned the jurisdiction that sends them to

1 that facility.

2 INVESTIGATOR SUERO: Yes, sir.

3 MEMBER RODRIGUEZ: So did you
4 determine then what jurisdiction sends them to
5 those facilities?

6 INVESTIGATOR SUERO: Yes, sir.
7 You'll see students from Montgomery County
8 Public Schools, from Prince George's County
9 Public Schools, from Baltimore City Public
10 Schools and from the District of Columbia
11 Public Schools.

12 MEMBER RODRIGUEZ: So by your
13 answer, I can understand then that the
14 children, let's say from DC schools --

15 INVESTIGATOR SUERO: Yes, sir.

16 MEMBER RODRIGUEZ: -- are
17 authorized. They're sent to the school for
18 services.

19 INVESTIGATOR SUERO: Yes, sir, for
20 educational services. Yes, sir. That's
21 correct.

22 MEMBER RODRIGUEZ: Thank you so

1 much.

2 INVESTIGATOR SUERO: You're quite
3 welcome.

4 CHAIR MILLER: Any other Board
5 questions? Mr. Short?

6 MR. SHORT: Yes, Mr. Suero, again,
7 from your testimony during your background in
8 investigating, I think we're very fortunate as
9 a Board and ABRA to have you as an
10 investigator.

11 INVESTIGATOR SUERO: Thank you,
12 sir.

13 MR. SHORT: It sounds like you did
14 a very thorough job of investigating, and then
15 your supplemental put the icing on the cake as
16 far as this Board member's concerned.

17 I would just like to ask you if you
18 could give a synopsis of that community in
19 which this Applicant is applying. How would
20 you describe it?

21 INVESTIGATOR SUERO: The
22 neighborhood surrounding 6201 3rd Street, NW,

1 is a very residential, appears to be very
2 quiet with a small amount of what I would call
3 boutique type stores in that block, a café,
4 some daycare centers. It's a very homey
5 neighborhood, it's very residential. It's
6 very nice.

7 MR. SHORT: Okay. So you would say
8 right now the peace, order and the quiet in
9 that community appears to be intact?

10 INVESTIGATOR SUERO: Yes, sir.

11 MR. SHORT: Thank you. That's all
12 I have for you. That's all I have, Madam
13 Chair.

14 CHAIR MILLER: Okay, thank you.
15 Now that it for Board questions? Okay. We
16 usually let, if there's a question based
17 specifically on a Board question, an area that
18 the Board had opened up, you can ask it.
19 Otherwise --

20 INVESTIGATOR SUERO: Madam
21 Chairman, can I be excused?

22 CHAIR MILLER: Well, one minute.

1 I just --

2 INVESTIGATOR SUERO: Oh, okay.

3 CHAIR MILLER: Oh, no. Thank you.

4 (Laughter)

5 CHAIR MILLER: I want to make sure
6 there aren't any other questions just based on
7 Board questions. All right. So not hearing
8 any, thank you very much.

9 INVESTIGATOR SUERO: Thank you very
10 much.

11 CHAIR MILLER: You did a good job.
12 We appreciate it.

13 INVESTIGATOR SUERO: All right.

14 CHAIR MILLER: Okay. So that
15 completes the only Witness that there is with
16 respect to this issue. I don't know if we
17 have any requests from parties. I would say
18 that that would complete our hearing for
19 today.

20 Because this is the threshold
21 issue. We're not going to proceed any further
22 into other issues. I know you filed motions,

1 et cetera. But they're all being noted if the
2 Board finds that the establishment is within
3 400 feet of a school or rec center.

4 And that's been presented in the
5 investigator's report. And it's been
6 challenged certainly by the Protestant, and
7 Board members have asked questions.

8 So what I anticipate is that the
9 Board will take this under advisement and
10 study the facts, the evidence. And then we
11 will let the parties know. We'll make a
12 decision on this 400 foot -- just a minute.
13 Okay.

14 (Off the record comments)

15 CHAIR MILLER: Okay. Mr.
16 Siverstein has a request. And the purpose of
17 the request, and he can articulate it
18 primarily himself, is to understand what the
19 objections are for sure.

20 I mean, we've heard them in the
21 hearing today but just so that we want to make
22 sure that we consider the Protestant's

1 objections. Go ahead, Mr. Silverstein.

2 MEMBER SILVERSTEIN: My questions
3 are to the Applicant's Counsel. Is your
4 objection that this is not a school or that
5 there is somehow that the National Children's
6 Center does not qualify for some reason as a
7 school? What is it that you're asking us to
8 rule here?

9 MR. BIANCO: Well, what I'm asking
10 to rule here is that it doesn't qualify as a
11 school at this particular location.

12 MEMBER SILVERSTEIN: Why not?

13 MR. BIANCO: As I mentioned, I
14 don't doubt that NCC provides the services
15 that it claims to provide and what is attached
16 to the investigator's report.

17 However, I think there is some
18 clear doubt that they provide it at the
19 addresses claimed by the investigator. And I
20 think that clear doubt is established by the
21 Board's own standard process using the
22 geographic information to locate where schools

1 are.

2 And I think it's also established
3 by the public records regarding what the
4 particular use is for these facilities. And
5 I think, and what my request was going to be,
6 when Madam Chair asked if we had any requests,
7 would be that the Board review certified
8 copies of the public record that I have that
9 the investigator didn't take the time to look
10 at.

11 CHAIR MILLER: Okay, that's not --
12 okay, I'm sorry. I thought you were saying he
13 didn't take the time here --

14 MR. BIANCO: So I don't doubt that
15 NCC operates schools according to the
16 investigator's testimony. They have several
17 locations in the District of Columbia and
18 Maryland.

19 I'm sure they do a wonderful job.
20 They provide a valuable service. But at this
21 particular location, I don't think you could
22 point to it and say that's a school. He

1 showed --

2 MEMBER SILVERSTEIN: How would we
3 determine that there, you know, we received
4 testimony that there were students there, that
5 there were students who had obvious
6 disabilities. We've seen photos of, you know,
7 Down Syndrome children and young adults. How
8 do we determine that they're not receiving
9 services at that area. I mean, what is your
10 --

11 MR. BIANCO: Quite simple, I think.

12 MEMBER JONES: Madam Chair, is this
13 proper?

14 CHAIR MILLER: This is an unusual
15 hearing. We don't usually have a hearing on
16 this issue. So it's not improper if a Board
17 member needs some answers to make a decision.

18 MR. BIANCO: One thing DC's really
19 good at is generating paper and regulations.
20 I think it's very simple to determine what
21 particular use a building is being put to when
22 somebody's required to tell the government

1 what they're doing at a particular building on
2 their certificate of occupancy.

3 MEMBER SILVERSTEIN: Very well.

4 MR. BIANCO: And I think frequently
5 students can be found at administration
6 buildings where no actual teaching or learning
7 is going on. And by virtue of their presence
8 there it doesn't necessarily make it a school.
9 It can be an auxiliary building.

10 For example, in the investigator's
11 report he indicates that the 210 Sheridan
12 address is an adult learning facility and not
13 a school for children.

14 So I think there is a lot of
15 explanations that are possible for what the
16 investigator's observations are. And I think
17 the status of this particular building in
18 terms of its use can be very easily confirmed,
19 should have been confirmed and wasn't. This
20 is a simple answer.

21 MEMBER SILVERSTEIN: Thank you.

22 MR. BIANCO: And that's what my

1 objection is.

2 MEMBER JONES: Madam Chair?

3 CHAIR MILLER: Yes, Mr. Jones?

4 MR. SHORT: I apologize if you were
5 intending to get to this point and/or if you
6 mentioned it I missed it. But just from the
7 standpoint, is the record going to be closed
8 in the sense that the parties will not have an
9 opportunity to provide any feedback? Or are
10 we leaving it open so the parties do have an
11 opportunity to provide their own feedback?

12 CHAIR MILLER: Okay. So we didn't
13 get to that. Mr. Bianco just said he wanted
14 to put in --

15 MR. BIANCO: I had --

16 CHAIR MILLER: -- certificates of
17 occupancy. Is that right?

18 MR. BIANCO: I have certified
19 records from the Department of Consumer and
20 Regulatory Affairs with regards to
21 certificates of occupancy.

22 CHAIR MILLER: So how many records

1 do you have?

2 MR. BIANCO: Two or three.

3 CHAIR MILLER: Two or three?

4 MR. BIANCO: Hardly voluminous.

5 CHAIR MILLER: Oh, that's okay.

6 That's not the standard anyway, it just goes
7 to --

8 MR. BIANCO: No, I understand. The
9 record's consistent with a couple of
10 certificates of occupancy and two affidavits
11 of search for certificates of occupancy at the
12 address of 201 and 210 Sheridan for which
13 there is no separate certificate of occupancy.

14 CHAIR MILLER: Okay. Why don't you
15 show them to the Protestant's Counsel and --

16 MR. BIANCO: I'm going to need just
17 a second to dig them out here.

18 CHAIR MILLER: Okay. Mr. Jones, I
19 don't know if, I'm trying to figure out if,
20 you know, if they're going to want to submit
21 anything else or not. And if not, we can
22 close the record.

1 MEMBER JONES: Fair enough, thank
2 you.

3 CHAIR MILLER: Okay.

4 MS. LEHRMAN: Madam Chair, may I
5 just respond to one thing that was --

6 CHAIR MILLER: Yes.

7 MS. LEHRMAN: -- suggested, that to
8 move a child who has a disability to a
9 location for the purpose of parsing them out
10 to other places to have educational services
11 is rather absurd.

12 So we heard the investigator
13 testify. I think what you are suggesting, Mr.
14 Bianco, that simply is not the place.

15 MR. BIANCO: No. That is the
16 possibility existed that it was an
17 administrative building or facility.

18 MS. LEHRMAN: That would have
19 children with disabilities brought to it?

20 MR. BIANCO: I didn't suggest that
21 at all.

22 MS. LEHRMAN: Okay, then I

1 misunderstood what you were saying.

2 CHAIR MILLER: Ms. Lehrman, do you
3 have any interest in supplementing the record
4 on this matter?

5 MS. LEHRMAN: I think your record
6 is replete with information at this point. I
7 wouldn't burden you with anything original.

8 CHAIR MILLER: Okay, thank you,
9 thank you.

10 MS. LEHRMAN: You're welcome.

11 CHAIR MILLER: Okay.

12 (Off the record comments)

13 MEMBER SILVERSTEIN: So are we
14 going to get this from Mr. Bianco?

15 CHAIR MILLER: I'm waiting to hear
16 if the Protestant's have a specific objection.

17 MEMBER SILVERSTEIN: Oh, okay. I'm
18 sorry.

19 CHAIR MILLER: That's okay. And
20 then we'll be about done.

21 MS. LEHRMAN: We do have an
22 objection to the certificate of occupancy for

1 6200 2nd Street, NW. I don't believe that was
2 in the investigator's report.

3 CHAIR MILLER: Okay. I don't have
4 a copy. Do you have another copy, Mr. Bianco?

5 MR. BIANCO: I do. I guess it's
6 actually in the exhibit to the investigator's
7 report marked 3B where it says contact us for
8 more information, National Children's Center,
9 6200 2nd Street, NW.

10 MS. LEHRMAN: And this is in the
11 supplemental?

12 MR. BIANCO: It's in the
13 supplemental, yes. Exhibit --

14 CHAIR MILLER: Where? I have no
15 idea where you're --

16 MR. BIANCO: Exhibit 3B.

17 CHAIR MILLER: Exhibit 3B.

18 MR. BIANCO: 3B, yes.

19 MS. LEHRMAN: So on the brochure
20 itself would be the language.

21 (Off the record comments)

22 MEMBER BROOKS: Ms. Miller, it was

1 mentioned in the testimony.

2 CHAIR MILLER: National Children's

3 --

4 MR. BIANCO: That's already

5 admitted.

6 MEMBER BROOKS: Well --

7 CHAIR MILLER: Well --

8 MR. BIANCO: If it was mentioned,

9 you know --

10 CHAIR MILLER: So there's an
11 address, 6200 2nd Street, that's attributed to
12 National Children's Center. And you have a
13 certificate of occupancy that goes to that?

14 MR. BIANCO: That's correct.

15 CHAIR MILLER: And I haven't seen
16 it. I don't know what it says.

17 MR. BIANCO: I have copies for the
18 Board. But I was waiting to hand them up to

19 --

20 CHAIR MILLER: Well, I certainly
21 have to see an exhibit to decide whether it's
22 admissible.

1 MR. BIANCO: Sure.

2 CHAIR MILLER: So if you could, I'm
3 not really sure what harm it would do.

4 MS. LEHRMAN: I agree. I'll
5 withdraw the objection.

6 CHAIR MILLER: Okay. So you have
7 6200 and what are the other ones?

8 MR. BIANCO: 201 --

9 CHAIR MILLER: 201 Sheridan?

10 MR. BIANCO: Rittenhouse.

11 CHAIR MILLER: Rittenhouse, okay.
12 What's the other one, or just two? Is that
13 it?

14 MR. BIANCO: Well, there's three
15 total.

16 CHAIR MILLER: Yes.

17 MR. BIANCO: There's two for 6200
18 2nd Street.

19 CHAIR MILLER: Okay.

20 MR. BIANCO: And then one each for
21 201 and 210.

22 MEMBER SILVERSTEIN: 210 Sheridan

1 and 201 Rittenhouse?

2 MR. BIANCO: That's correct. And
3 I have copies for all the Board members.

4 CHAIR MILLER: And, okay, let me
5 just ask. I don't see it. You think it's,
6 why do you think 6200 2nd Street is relevant?
7 That's not the property that's before us, is
8 it?

9 MR. BIANCO: There's a couple of
10 reasons. One, it's their address as set forth
11 on their brochure. Two, according to the maps
12 that were attached by the investigator, it's
13 all one building with three addresses, 6200,
14 and 201 and 210 is all one building with three
15 separate addresses.

16 CHAIR MILLER: Okay. All right.
17 There's not an objection. So if I see it I'll
18 rule on it.

19 (Off the record comments)

20 CHAIR MILLER: The exhibit, Mr.
21 Alberti, that you referred to, Mr. Alberti?

22 MR. ALBERTI: Pardon?

1 CHAIR MILLER: This GIS map that
2 you referred to --

3 MR. ALBERTI: Yes.

4 CHAIR MILLER: -- did you want it
5 to be identified in the record as like a Board
6 exhibit or something?

7 MR. ALBERTI: Yes, I would like to
8 have it identified as a Board exhibit.

9 CHAIR MILLER: Okay. Why don't we
10 just do that for the record then. Board
11 Exhibit 1 will be the GIS map dated July 24th,
12 2014, with 6201 3rd Street, NW, in the center.
13 Okay.

14 (Pause)

15 CHAIR MILLER: Mr. Bianco, you
16 don't have them identified, do you?

17 MR. BIANCO: I don't have them
18 separately identified, no.

19 CHAIR MILLER: Okay. So there's
20 three pieces of paper, right? Four? Oh, I'm
21 still waiting one minute, okay.

22 Okay, while I'm waiting, I guess

1 the Applicant's Exhibit Number 1 is a letter
2 dated August 12th, 2014, from Judge Mason with
3 respect to 201 Rittenhouse. Number 2 is a
4 letter from Judge Mason dated October 12th,
5 2014 (sic), with respect to 210 Sheridan.

6 Number 3 is a certificate of
7 occupancy for 6200 2nd Street. And Number 4
8 is a certificate of occupancy also for 6200
9 2nd Street, first floor. It's Number B112576.
10 Okay. Yes?

11 MR. ALBERTI: Can I ask a question
12 about these?

13 CHAIR MILLER: Yes.

14 MR. ALBERTI: Because I'm a bit
15 confused, Mr. Bianco. Just to make sure, you
16 just have to verify that I'm reading this
17 correctly and not misunderstanding it. So I'm
18 not sure which exhibit this is, but it's an
19 office copy of a certificate of occupancy,
20 timed and dated August 12th, 2014. It's the
21 one that has the colored map of the city in
22 the center.

1 MR. BIANCO: Yes.

2 MR. ALBERTI: It's 6200 2nd Street,
3 NW.

4 MR. BIANCO: Correct.

5 MR. ALBERTI: What is that and how
6 does that differ from the C of O which is of
7 first floor for 6200 2nd Street, NW, the one
8 that has the big C of O in the upper right-
9 hand corner?

10 MR. BIANCO: Well, I think the
11 difference is that it's simply the blue, the
12 one that's blue in color is from 1979. And
13 that's how the certificates of occupancy
14 looked at that point.

15 But I can say, what I didn't want
16 to say for the Board is whether the newer one
17 replaced the older one. This is merely what
18 the Agency had on the record for this
19 particular property.

20 MR. ALBERTI: And the new one,
21 obviously the reason I've asked, because the
22 new one says approved building code use is

1 child development center.

2 MR. BIANCO: That's correct, which
3 is the code use they use for daycare centers,
4 like Goldie's.

5 MR. ALBERTI: Okay.

6 MR. BIANCO: But again, the Board
7 can speak with an attorney and --

8 MR. ALBERTI: Thank you.

9 (Off the record comments)

10 CHAIR MILLER: We don't have
11 anybody yet. We don't have anybody here to
12 testify to B12, right. But they are what they
13 are.

14 MR. ALBERTI: They are what they
15 are. I just wanted to make sure --

16 CHAIR MILLER: Yes.

17 MR. ALBERTI: All right.

18 CHAIR MILLER: I appreciate that
19 suggestion. I do, yes. Okay. I think that's
20 it then. I think we have a full record of
21 information upon which to make this finding of
22 whether or not there's a school or a

1 recreation center within 400 feet. So we're
2 going to close the record then at this time.
3 And the Board will --

4 MR. ALBERTI: Madam Chair, when you
5 say that you close the record, is it possible
6 for the Board to --

7 CHAIR MILLER: Do you not want to
8 close the record?

9 MR. ALBERTI: Well, is it possible
10 for the Board to ask our staff, I mean, we
11 sort of are the administrative body that holds
12 these records and does this research. Can we
13 ask our staff for additional information, if
14 we so deem it necessary?

15 CHAIR MILLER: I would think so.
16 I mean, you know, I think --

17 MR. ALBERTI: I just want to make
18 sure that that's understood.

19 CHAIR MILLER: You're right. And
20 I would think so, because this issue is
21 something we normally get information from our
22 staff on. So I agree with you that we

1 shouldn't be restricted if staff were to come
2 up with more information. And if that's the
3 case, in any event, our finding would reflect
4 that, and the parties would see what that is,
5 you know, I guess.

6 MR. ALBERTI: And I will say that,
7 just for the argument's sake and everyone's
8 sake, that this issue, this is not the first
9 time we've faced an issue like this. And it's
10 not the first time that we've had this many
11 questions that involved investigation. This
12 is not a unique situation. And the amount of
13 work, and investigation and machinations that
14 are going into this are not unique.

15 MS. LEHRMAN: Madam Chair, before
16 you close the record completely, may I ask one
17 question --

18 CHAIR MILLER: Yes.

19 MS. LEHRMAN: -- which is in line
20 with the staff asking questions. Would that
21 also include, especially since the certificate
22 of occupancy was just introduced and marked,

1 would that also include looking at an
2 administrative building entrance versus the
3 school entrance for the children?

4 CHAIR MILLER: Okay. So --

5 MS. LEHRMAN: The document you just
6 received is for only one part of that
7 particular entity.

8 CHAIR MILLER: Okay. I think it's
9 really kind of open. So, you know, if there's
10 anything else you want to say on the record
11 now, obviously because we don't need to
12 supplement the record further really. I think
13 that we had an exhaustion of the issues here.

14 And what is unusual, at least in my
15 experience, I've only been here a little over
16 two years, that we've actually brought this
17 issue to a hearing and had the parties, you
18 know, question an investigator.

19 But, you know, normally it's a part
20 of the investigation, and we get information
21 that is either within or without 400 feet and
22 we proceed. So this is a pretty factual

1 issue, though I understand there're different
2 nuances that have been placed on it.

3 So, no. But back to what Mr.
4 Alberti was saying, was no, we don't want to
5 preclude ourselves if somebody in our staff,
6 you know, found another certificate of
7 occupancy, we wouldn't want to say, oh, well
8 the record was closed.

9 So what we're going to do is just
10 come up with a definitive answer based on the
11 evidence. And then we will write that up in
12 a decision most likely. And then there'll be
13 a Protest Hearing or it'll be over.

14 MS. LEHRMAN: Sure, okay.

15 CHAIR MILLER: Okay. So after we
16 rule, you will definitely hear from us. So
17 we're going into recess for a few weeks. So
18 I'm not exactly sure how soon you'll hear from
19 us. But we'll let you know as soon as we can.
20 Okay. So if there're no other questions, that
21 concludes our hearing. And I guess I will --

22 MR. ALBERTI: I think you can just

1 take this under advisement. This is not a
2 real --

3 CHAIR MILLER: We're going to make
4 a finding. Are you saying we won't have a --

5 MR. ALBERTI: Yes. I mean, this
6 will be done on our agendas, as a regular
7 agenda item, I think, when we add it. So it's
8 up to you. You can close it.

9 CHAIR MILLER: I don't really know.
10 It just kind of depends.

11 MR. ALBERTI: Yes. You can close
12 it.

13 CHAIR MILLER: I'll let you know
14 one way or the other.

15 (Off the record comments)

16 CHAIR MILLER: All right. As a
17 matter of precaution, since we're going to be
18 gone a few weeks, in the event we decide to
19 just discuss this in closed session, I'm going
20 to ask the Board to vote on that.

21 But, you know, we may not. But we
22 may discuss it on the agenda. He was saying

1 we're not exactly sure how we're going to
2 discuss it.

3 But in the event there's any
4 discussion in closed session, we'll take a
5 vote to do that in accordance with the Open
6 Meetings Act. So one second, let me look at
7 the calendar. Sorry, there I am.

8 (Off the record comments)

9 CHAIR MILLER: As Chairperson of
10 the Alcoholic Beverage Control Board for the
11 District of Columbia, in accordance with
12 Section 405 of the Open Meetings Amendment Act
13 of 2010, I move that the ABC Board hold a
14 closed meeting for the purpose of seeking
15 legal advice from our Counsel on Case Number
16 14-PRO-00038, The VIP, per Section 405(b)4 of
17 the Open Meetings Amendment Act of 2010, and
18 potentially deliberating in closed session for
19 the reasons cited in 405(b)13 of the Open
20 Meetings Amendment Act of 2010. Is there a
21 second?

22 MR. SHORT: Second.

1 CHAIR MILLER: Mr. Short has
2 seconded the motion. I'll now take a roll
3 call vote of the motion now that it's been
4 seconded. Mr. Brooks?

5 MEMBER BROOKS: I agree.

6 CHAIR MILLER: And Mr. Alberti?

7 MR. ALBERTI: I agree.

8 CHAIR MILLER: Mr. Rodriguez?

9 MEMBER RODRIGUEZ: I agree.

10 CHAIR MILLER: Ruth Miller agrees.
11 Mr. Siverstein?

12 MEMBER SILVERSTEIN: I agree.

13 CHAIR MILLER: Mr. Short?

14 MR. SHORT: I agree.

15 CHAIR MILLER: Mr. Jones?

16 MEMBER JONES: I agree.

17 CHAIR MILLER: Okay. It appears
18 that the motion has passed by a vote of seven
19 to zero to zero. I hereby give notice that
20 the ABC Board may hold a closed meeting on
21 this in the ABC Board conference room pursuant
22 to the Open Meeting Amendment Act of 2012.

1 And we will get back to you as to
2 our decision. Thank you all very much for
3 coming down, all of you.

4 (Whereupon, the above-entitled
5 matter went off the record at 4:03 p.m.)

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