

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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A.B.R.A. Agenda : Agenda

: Hearing

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OCTOBER 15, 2014

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

PRESENT:

RUTHANNE MILLER, Chairperson

DONALD BROOKS, Member

NICK ALBERTI, Member

HECTOR RODRIGUEZ, Member

MIKE SILVERSTEIN, Member

JAMES SHORT, Member

HERMAN JONES, Member

ALSO PRESENT:

Eric Briggs

Investigator Mark Brashears

Lieutenant Michael Pullian

Rosa Jones

William Morales

Judy England

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

5:53 p.m.

CHAIR MILLER: Okay, we're back on the record to do the Board's agenda, and I'm going to start with the licensing agendas.

First item on the licensing agenda is a request for extension of safekeeping of license for Skylark Lounge, formerly known as that, 1943 New York Avenue, Northeast, formerly there.

All right, the license number is 090611 and I move that we approve this extension for six months.

MEMBER RODRIGUEZ: Second.

CHAIR MILLER: Mr. Rodriguez seconded the motion. All those in favor say aye.

(Chorus of aye)

CHAIR MILLER: All those opposed? All those abstaining?

(No audible response)

CHAIR MILLER: The motion passes

1 6-0-0. Next is a request for a class change
2 from Retailer B to Retailer A, for Staples
3 Beer & Wine Grocery, LLC, located at 1364
4 Florida Avenue, Northwest, License No. 696494.

5 I move that we refer this back to
6 licensing. A second?

7 MEMBER ALBERTI: Second.

8 CHAIR MILLER: And Mr. Alberti
9 seconded the motion. All those in favor, say
10 aye.

11 (Chorus of aye)

12 CHAIR MILLER: All those opposed?
13 All those abstaining. The motion passes 6-0-
14 0.

15 Number three is a request for a
16 change of hours for Logan Tavern located at
17 1423 P Street, Northwest, License No. 060706,
18 and I move that we approve this change of
19 hours. Do I have a second?

20 MR. SHORT: Second.

21 CHAIR MILLER: Mr. Short seconded
22 the motion. All those in favor say aye.

1 (Chorus of aye)

2 CHAIR MILLER: All those opposed?
3 Abstaining? The motion passes 6-0-0.

4 Number four is a request for
5 change of hours to Premises M Sidewalk Café.
6 This is for Science Club located at 1136 19th
7 Street, Northwest, License No. 074353. I move
8 that we approve this request. Do I have a
9 second?

10 MEMBER SILVERSTEIN: Second.

11 CHAIR MILLER: Mr. Silverstein
12 seconded them motion. All those in favor say
13 aye.

14 (Chorus of aye)

15 CHAIR MILLER: All those opposed?
16 All those abstaining? The motion passes 6-0-
17 0.

18 Number five is an application for
19 sidewalk café endorsement for Bistro Bistro B
20 Lounge, located at 1727 Connecticut Avenue,
21 Northwest, License No. 081479.

22 I move that we placard this

1 application.

2 MEMBER SILVERSTEIN: Second.

3 CHAIR MILLER: Mr. Silverstein
4 seconded the motion. All those in favor say
5 aye.

6 (Chorus of aye)

7 CHAIR MILLER: All those opposed?
8 All those abstaining? The motion passes 6-0-
9 0.

10 Number six, I'm not sure if we're
11 ready to do that one yet. I think we're
12 waiting for some more information. Anybody
13 know whether --

14 MEMBER SILVERSTEIN: That's
15 correct.

16 CHAIR MILLER: -- we got that?

17 MEMBER ALBERTI: Which one?

18 CHAIR MILLER: Six.

19 MR. SHORT: Number six.

20 MEMBER ALBERTI: Baby Whale, there
21 is no outdoor space.

22 CHAIR MILLER: Okay, all right,

1 then I think we're ready to proceed on this
2 then.

3 It's an application for
4 entertainment endorsement for Baby Whale,
5 located at 1124 9th Street, Northwest, License
6 No. 090863. I move that we approve this
7 application.

8 MEMBER SILVERSTEIN: Madam Chair,
9 I would second that, and put on the record
10 that this is being done with an understanding
11 that there is no outdoor space involved in
12 this entertainment endorsement.

13 CHAIR MILLER: Okay, thank you.
14 All right, this motion has been seconded. All
15 those in favor say aye.

16 (Chorus of aye)

17 CHAIR MILLER: All those opposed?
18 All those abstaining? The motion passes 6-0-
19 0.

20 Okay, next is application for
21 onsite sales and consumption permit for
22 Chocolate City Beer, located at 2801 8th

1 Street, Northeast, License No. 085708. I move
2 that we approve this application. Do I have
3 a second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIR MILLER: Mr. Silverstein
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion passes,
11 right, thank you, 6-0-0. So, that was number
12 eight, Chocolate City Beer.

13 I'm going to go back. I skipped
14 number seven, which is a request to cancel
15 tasting endorsement for year two by Best D.C.
16 Supermarket, 1507 U Street, Northwest, License
17 No. 075139. I move that we approve this
18 request. Do I have a second?

19 MEMBER SILVERSTEIN: Second.

20 CHAIR MILLER: Mr. Silverstein
21 seconded the motion. All those in favor say
22 aye.

1 (Chorus of aye)

2 CHAIR MILLER: All those opposed?
3 All those abstaining? The motion passes 6-0-
4 0.

5 Number nine is a manager's
6 application, I mean, an application for a
7 manager's license for Deena A. Ballard, ABRA
8 No. 096422.

9 I move that we deny this
10 application.

11 MR. SHORT: Second.

12 CHAIR MILLER: Mr. Short has
13 seconded the motion. All those in favor say
14 aye.

15 MEMBER ALBERTI: Is this Deena
16 Ballard?

17 CHAIR MILLER: Yes.

18 MEMBER ALBERTI: Okay.

19 CHAIR MILLER: You ready to vote?

20 MEMBER ALBERTI: Yes.

21 CHAIR MILLER: Okay, all those in
22 favor say aye.

1 (Chorus of aye)

2 CHAIR MILLER: All those opposed?

3 MEMBER ALBERTI: I dissent from
4 the majority of the Board on this.

5 CHAIR MILLER: Okay, all those
6 abstaining? So, then the decision is 5-1-0,
7 with Mr. Alberti dissenting.

8 Okay, number 10 is an application
9 for manager's license by Dennis D. Kim, ABRA
10 No. 096862. I move that we approve this
11 application. Do I have a second?

12 MEMBER BROOKS: Second.

13 CHAIR MILLER: Mr. Brooks has
14 seconded the motion. All those in favor say
15 aye.

16 (Chorus of aye)

17 CHAIR MILLER: All those opposed?
18 All those abstaining? The motion passes 6-0-
19 0.

20 Number 11 is an application for
21 manager's license by Antonio Williams, ABRA
22 No. 096262, and I move that we approve this

1 application. Do I have a second?

2 MEMBER BROOKS: Second.

3 CHAIR MILLER: Mr. Brooks has
4 seconded the motion. All those in favor say
5 aye.

6 (Chorus of aye)

7 CHAIR MILLER: All those opposed?
8 All those abstaining? The motion passes 5-0-
9 0.

10 Okay, that completes the licensing
11 agenda. We have a supplemental licensing
12 agenda.

13 First on the supplemental
14 licensing agenda is -- okay, number one on the
15 supplemental licensing agenda is a request for
16 a stipulated license to operate for Summer
17 Garden by Chicken Tortilla located at 1324 H
18 Street, Northeast, License No. 088102. I move
19 that we approve. Do I have a second?

20 MEMBER RODRIGUEZ: Second.

21 CHAIR MILLER: Mr. Rodriguez has
22 seconded the motion. All those in favor say

1 aye.

2 (Chorus of aye)

3 CHAIR MILLER: All those opposed?
4 All those abstaining? The motion passes 5-0-
5 0.

6 Number two is a request for a
7 stipulated license by Bon Appetit Management
8 Company, located at 3700 O Street, Northwest,
9 License No. 096001. I move that we approve.
10 Do I have a second?

11 MEMBER BROOKS: Second.

12 CHAIR MILLER: Mr. Brooks has
13 seconded the motion. All those in favor say
14 aye.

15 (Chorus of aye)

16 CHAIR MILLER: All those opposed?
17 All those abstaining? The motion passes 6-0-
18 0.

19 Number three is a request for a
20 stipulated license for Mom's Organic Market,
21 located at 1401 New York Avenue, Northeast,
22 License No. 094996. I move that we postpone

1 consideration of this request. Do I have a
2 second?

3 MR. SHORT: Second.

4 CHAIR MILLER: Mr. Short has
5 seconded the motion. All those in favor say
6 aye.

7 (Chorus of aye)

8 CHAIR MILLER: All those opposed?
9 All those abstaining? The motion passes 6-0-
10 0.

11 Number four is an application for
12 an entertainment endorsement for Cheerz,
13 located at 7303 Georgia Avenue, Northwest,
14 License No. 095178. I move that we placard
15 this application. Do I have a second?

16 MR. SHORT: Second.

17 CHAIR MILLER: Mr. Short has
18 seconded the motion. All those in favor say
19 aye.

20 (Chorus of aye)

21 CHAIR MILLER: All those opposed?
22 All those abstaining? The motion passes 6-0-

1 0.

2 Number five is a change of hours
3 application by Cheerz, and I move that we
4 placard this application, as well. Do I have
5 a second?

6 MEMBER SILVERSTEIN: Second.

7 CHAIR MILLER: Mr. Silverstein
8 seconded the motion. All those in favor say
9 aye.

10 (Chorus of aye)

11 CHAIR MILLER: All those opposed?
12 All those abstaining? The motion passes 6-0-
13 0.

14 That completes our licensing
15 agendas.

16 MEMBER SILVERSTEIN: Okay, let's
17 move onto the cease and desist agenda. I'll
18 read these items and we can vote on them en
19 banc.

20 The following are CT endorsement -
21 - CT licenses that have not made their second
22 year payments.

1 Lace, 2214 Rhode Island Avenue,
2 Northeast, License No. 076369.

3 Indulj, 1208 U Street, Northwest,
4 License No. 079843. Fusion Restaurant & Bar,
5 4815 Georgia Avenue, Northwest, License No.
6 080957.

7 Sesto Senso Lupe Mia, 1214 18th
8 Street, Northwest, License No. 081092. Taste,
9 1812 Hamlin Street, Northeast, 086011.

10 The Cod Mother, 1334 U Street,
11 Northwest, License No. 086231. TouchDown,
12 1334 U Street, Northwest B, License No.
13 086233.

14 Gryphon, 1337 Connecticut Avenue,
15 Northwest, License No. 090830. Federal
16 Lounge, 2477 18th Street, Northwest, License
17 No. 091249.

18 Todd Gray's Muse, 500 17th Street,
19 Northwest, License No. 091907. Union Kitchen,
20 1100 3rd Street, Northeast, License No.
21 091912.

22 National Tap House, NTH, 1331

1 Connecticut Avenue, Northwest, License No.
2 092156. Liv Nightclub LIV, 2001 11th Street
3 Northwest B, License No. 074894. Tattoo, 1413
4 K Street, Northwest, License No. 075156.

5 Recess Bar, this is CN at 727 15th
6 Street, Northwest, License No. 081805.
7 Stadium, also a CN, 2127 Queens Chapel Road,
8 Northeast, License No. 0828005, and Brooklyn
9 Flea D.C. at 945 Florida Avenue, Northwest,
10 License No. 094283, ADT.

11 Those are -- we will vote on a
12 cease and desist for their failure to make
13 second year payment.

14 I move that we vote to issue a
15 cease and desist order on those.

16 MR. SHORT: Second.

17 CHAIR MILLER: Second, and that
18 would be cease and desist order on each of
19 them.

20 MEMBER SILVERSTEIN: To each of
21 them.

22 CHAIR MILLER: Right, okay. All

1 right, there is motion that's been seconded.

2 All those in favor say aye.

3 (Chorus of aye)

4 CHAIR MILLER: All those opposed?

5 All those abstaining? The motion passes 6-0-

6 0.

7 MEMBER SILVERSTEIN: The next are

8 Class B retailers and wholesalers, and these

9 did not renew.

10 Seaton Market B at 1822 North

11 Capitol Street, Northwest, License No. 014355.

12 Kalorama Deli B, at 2343 17th Street,

13 Northwest, License No. 060539, also a B.

14 Fairlawn Market, 2323 Pennsylvania

15 Avenue, Southeast, also a B, and DiVino Sphere

16 and DiVino Direct/Offsite storage, a

17 wholesaler, a B, at 455 Massachusetts Avenue,

18 Northwest, ABRA License No. 090658.

19 Those are all cases where the

20 licensee did not renew. I move that we issue

21 each of them a cease and desist order.

22 MEMBER RODRIGUEZ: Second.

1 MEMBER SILVERSTEIN: Seconded by -

2 -

3 CHAIR MILLER: Okay, there's been
4 a motion that's been seconded by Mr.
5 Rodriguez. All those in favor say aye.

6 (Chorus of aye)

7 CHAIR MILLER: All those opposed?
8 All those abstaining? The motion passes 6-0-
9 0.

10 MEMBER SILVERSTEIN: Madam Chair?

11 CHAIR MILLER: Thank you very
12 much. Okay.

13 MEMBER ALBERTI: And now, back to
14 our regular broadcast.

15 CHAIR MILLER: I don't have the
16 broadcast, but at least -- now, we're going to
17 turn to our legal agenda.

18 First, we have a legal agenda and
19 a supplemental legal agenda.

20 So, looking at the legal agenda.

21 First item is a review of an amendment to a
22 settlement agreement among ANC 2E, the

1 Citizen's Association of Georgetown and Gypsy
2 Sally's, which is located at 3401 K Street,
3 Northwest, License No. 090582.

4 Okay, so, I move that we approve
5 this settlement agreement, with modifications
6 to numbers two, three and six, as being un-
7 enforceable.

8 With respect to numbers two and
9 three, numbered paragraphs two and three, it's
10 clear to the Board, at least what they're
11 referring to, with respect to their different
12 evenings.

13 So, that needs to be worked out,
14 and number six, there is a reference to Vinyl
15 Lounge, which is not clear to the Board, what
16 that is. Do I have a second?

17 MEMBER ALBERTI: I'll second, yes,
18 it's unclear what portion of the building is
19 defined as the vinyl lounge.

20 CHAIR MILLER: Okay, any other
21 comments? All right, then it's a motion to
22 approve with modifications to paragraphs two

1 and three and six.

2 All those in favor say aye.

3 (Chorus of aye)

4 CHAIR MILLER: All those opposed?
5 All those abstaining? The motion passes 6-0-
6 0.

7 Number two is a settlement
8 agreement between ANC 3 E and Dancing Crab.
9 Dancing Crab is located at 4615 41st Street,
10 Northwest, License No. 090297.

11 I move that we approve this
12 settlement agreement with modification to
13 paragraph number three, and the objecting
14 language in number three is that which refers
15 to the applicant being required to provide a
16 copy of the engineer's report to the ANC for
17 review and comment, prior to reopening up the
18 business? Is there a second?

19 MEMBER ALBERTI: Second.

20 CHAIR MILLER: Is there further
21 comment? Okay, not hearing any, then all
22 those in favor say aye.

1 (Chorus of aye)

2 CHAIR MILLER: All those opposed?
3 All those abstaining? The motion passes 6-0-
4 0.

5 Number three is a settlement
6 agreement among ANC 2E Citizen Association of
7 Georgetown Protestant Robin Young and After
8 Peacock Room.

9 After Peacock Room is located at
10 2622 P Street Northwest, License No. 095964.
11 I move that we approve this settlement
12 agreement. Do I have a second?

13 MEMBER SILVERSTEIN: Second.

14 CHAIR MILLER: Mr. Silverstein
15 seconded the motion. All those in favor say
16 aye.

17 (Chorus of aye)

18 CHAIR MILLER: All those opposed?
19 All those abstaining? The motion passes 6-0-
20 0.

21 Number four is a settlement
22 agreement between Celia Properties, LLC and

1 Terminal Alley, dated October 6, 2014.

2 Terminal Alley is located at 3701
3 Benning Road, Northeast, License No. 09386,
4 and I move that we approve this --

5 MEMBER SILVERSTEIN: Second.

6 CHAIR MILLER: -- settlement
7 agreement, but I have some modifications.

8 With modifications to paragraph
9 two, which refers to substantial change and
10 paragraph three, which refers to abutting
11 property owned by Protestants, which we feel
12 should be clarified and ABRA 4.

13 MEMBER ALBERTI: Right.

14 CHAIR MILLER: Right, there is
15 language in there, with respect to Show Cause,
16 and okay, I think our General Counsel has more
17 appropriate language for the Show Cause and
18 substantial change wording.

19 Okay, so, then I would move to
20 approve with modifications to paragraphs two,
21 three and four as I --

22 MR. SHORT: Second.

1 CHAIR MILLER: -- described, and
2 Mr. Short has seconded the motion. All those
3 in favor say aye.

4 (Chorus of aye)

5 CHAIR MILLER: All those opposed?
6 All those abstaining? The motion passes 6-0-
7 0.

8 Number five is review of the
9 settlement agreement between ANC 1B and
10 Hilltop Restaurant, dated September 17, 2014,
11 and Hilltop Restaurant is located at 2737
12 Avenue Northwest, License No. 060236, and I
13 move that we approve the settlement agreement.
14 Do I have a second?

15 MEMBER ALBERTI: Second.

16 CHAIR MILLER: Mr. Alberti
17 seconded the motion. All those in favor say
18 aye.

19 (Chorus of aye)

20 CHAIR MILLER: All those opposed?
21 All those abstaining? The motion passes 6-0-
22 0.

1 Number six is an amendment to a
2 settlement agreement between Kalorama
3 Citizen's Association and Casa Oaxca, located
4 at 2106 18th Street, Northwest, License No.
5 076070. I move that we approve the settlement
6 agreement. Do I have a second?

7 MEMBER SILVERSTEIN: Second.

8 CHAIR MILLER: Mr. Silverstein
9 seconded the motion. All those in favor say
10 aye.

11 (Chorus of aye)

12 CHAIR MILLER: All those opposed?
13 All those abstaining? The motion passes 6-0-
14 0.

15 Number seven is a petition to
16 unilaterally amend the terminated settlement
17 agreement for Georgia Line Convenience Store,
18 located at 5125 Georgia Avenue, Northwest,
19 License No. 091196. I move that we placard
20 this petition. Do I have a second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIR MILLER: Mr. Silverstein

1 seconded the motion. All those in favor say
2 aye.

3 (Chorus of aye)

4 CHAIR MILLER: All those opposed?
5 All those abstaining? The motion passes 6-0-
6 0.

7 Number eight is review of petition
8 to unilaterally amend or terminate a
9 settlement agreement for Jubilee Market,
10 located at 2316 4th Street, Northeast, License
11 No. 074162. I move that we placard this, as
12 well. Do I have a second?

13 MR. SHORT: Second.

14 CHAIR MILLER: Okay, all those in
15 favor say aye.

16 (Chorus of aye)

17 CHAIR MILLER: All those opposed?
18 All those abstaining? The motion passes 6-0-
19 0.

20 Number nine is a petition to
21 unilaterally amend or terminate a settlement
22 agreement for Martha's Market, located at 2400

1 Minnesota Avenue, Southeast, License No.
2 20020. I move that we placard this
3 application. Do I have a second?

4 MEMBER RODRIGUEZ: Second.

5 CHAIR MILLER: Mr. Rodriguez has
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion passes 6-0-
11 0.

12 Number 10 is a petition to
13 unilaterally amend or terminate a settlement
14 agreement for 1101 Convenience Mart located at
15 1101 H Street, Northwest, License No. 086305.

16 I move that we placard this
17 petition.

18 MEMBER SILVERSTEIN: Second.

19 CHAIR MILLER: Mr. Silverstein has
20 seconded the motion. All those in favor say
21 aye.

22 (Chorus of aye)

1 CHAIR MILLER: All those opposed?
2 All those abstaining? The motion passes 6-0-
3 0.

4 Okay, number 11 and 12 are both
5 letters from Kwamina Williford, and 11 is on
6 behalf of Echostage, located at 2135 Queens
7 Chapel Road, Northeast, License No. 090250 and
8 number 12 is on behalf of Barcode, located at
9 1701 L Street, Northwest, License No. 082039.

10 We're seeing these letters very
11 late. I think number 11 is dated August 28th.
12 They both are.

13 So, that's -- this is the first
14 we're seeing of them. That's why we're
15 addressing them at this point.

16 So, I don't know what happened,
17 but in any event, she is making a request that
18 the investigative reports be provided,
19 basically as soon as possible, and prior to
20 when their PIF was due, and it's already moot
21 at this point.

22 But I think in general, she is

1 requesting that the investigative reports be
2 provided earlier than they have been.

3 So, I think it's a reasonable
4 request on her part, but I think it probably
5 involves a lot on the Agency.

6 So, I think this is something we
7 should just take as an FYI, you know, consider
8 it and see.

9 Does anybody have another comment
10 on that?

11 MEMBER ALBERTI: I think that we
12 need to evaluate the practicality of providing
13 them, you know.

14 CHAIR MILLER: Yes.

15 MEMBER ALBERTI: And basically,
16 her request would mean that we would have to
17 provide it two weeks prior to the hearing, and
18 I think there is some practical -- concerns
19 about practicality and the effect it would
20 have on workload of the Agency.

21 CHAIR MILLER: Right.

22 MEMBER ALBERTI: So, we'd have to

1 weigh that and consider that.

2 CHAIR MILLER: Right, like she's
3 asking for her, prior to the submission of the
4 protest information form.

5 MEMBER ALBERTI: And that's
6 required one week ahead of time, so really,
7 you need it one week prior to that.

8 CHAIR MILLER: Yes.

9 MEMBER ALBERTI: That's two weeks
10 before the hearing.

11 CHAIR MILLER: So, I agree.

12 MEMBER ALBERTI: Yes.

13 CHAIR MILLER: I agree. I think we
14 -- it's just something that has to really be
15 looked into, with respect to whether the
16 Agency can do that, yes.

17 MEMBER ALBERTI: Right.

18 CHAIR MILLER: Okay, so, yes.

19 MR. SHORT: Madam Chair, one other
20 comment.

21 Is it possible that persons
22 referring that type of request could FOIA that

1 information through Freedom of Information
2 Act? I'll leave it alone.

3 MEMBER ALBERTI: Well, I mean, not
4 really because information isn't available
5 until the report is done.

6 MR. SHORT: Okay.

7 MEMBER ALBERTI: So.

8 CHAIR MILLER: Yes, that's the
9 thing. We've got them --

10 MR. SHORT: Timeliness,
11 timeliness.

12 CHAIR MILLER: We got the report
13 as soon as it's ready.

14 MEMBER ALBERTI: It's timeliness.
15 It's not a matter of making it available.

16 CHAIR MILLER: Yes.

17 MEMBER ALBERTI: It's a matter of
18 when it's available.

19 CHAIR MILLER: Right.

20 MEMBER ALBERTI: In fact, we
21 provide it -- I mean, we're providing it
22 really essentially -- right now, the way --

1 for many reasons, we providing it as soon as
2 we can.

3 CHAIR MILLER: Yes.

4 MR. SHORT: I wanted that on the
5 record.

6 CHAIR MILLER: Yes, yes.

7 MR. SHORT: But a good
8 explanation.

9 CHAIR MILLER: It's just a
10 question of whether can anything be done
11 differently? I don't know, but we can --

12 MR. SHORT: It's not practical.

13 CHAIR MILLER: -- look into it.
14 Well, we can look into it.

15 Okay, I don't think that we need
16 to vote on this then.

17 MEMBER ALBERTI: No.

18 CHAIR MILLER: Okay, all right,
19 number 14 is a request for offsite storage
20 dated October 3, 2014, submitted by Paul
21 Pascal on behalf of Ema Pizza Stores, that has
22 multiple locations and multiple license

1 numbers.

2 I move that we approve this
3 request. Do I have a second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIR MILLER: Mr. Silverstein
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion passes 6-0-
11 0.

12 Number 15 is a review of a
13 settlement offer, dated July 23, 2014
14 contesting approval of application without
15 entertainment endorsement and agreement to
16 prohibit Martin Scahill from holding
17 additional ABC licenses, submitted by Camelia
18 Mazard on behalf of Melles Hospitality Group,
19 LLC, trading as the Alibi Restaurant and
20 Lounge, located at 237 South Street,
21 Northwest, application for new retailers Class
22 CR, License No. 23491, 93491? Okay, maybe I

1 didn't say that.

2 All right, so, I move that we
3 reject the settlement offer. Do I have a
4 second?

5 MEMBER SILVERSTEIN: Second.

6 CHAIR MILLER: And thereby
7 schedule a hearing for date to be determined
8 by our General Counsel.

9 Mr. Silverstein seconded the
10 motion. Okay, all those in favor say aye.

11 (Chorus of aye)

12 CHAIR MILLER: All those opposed?
13 All those abstaining? The motion passes 6-0-
14 0.

15 Okay, number 16 is a letter
16 entitled 'Substantial Evidence Loss' submitted
17 by Martin Scahill, in his individual capacity,
18 related to application for a new retailer CR
19 license, filed by Melles Hospitality Group,
20 that I referenced above.

21 I believe this is an FYI and that
22 no action is required.

1 Okay, following documents in 17,
2 18, 19 and 20, also referring to the same
3 case, Melles Hospitality Group, LLC.

4 The first is a petition in protest
5 to the application of Melles Hospitality
6 Group, and motion to placard, and I -- let's
7 see.

8 MEMBER ALBERTI: Which one is
9 this?

10 CHAIR MILLER: So, 17 is a
11 petition in protest to the application of
12 Melles Hospitality, moved by Charles Parsons.
13 He is not a party to the case and he appears
14 to be seeking to intervene with the filing of
15 this petition.

16 I would move that we deny that
17 petition, the placarding issue is moot and the
18 construction issues, there is not an issue
19 related to this case dealing with that, and
20 that's under DCRA, and that's what that issue
21 is here.

22 So, I would deny the -- I would

1 move to deny the petition. Do I have a
2 second?

3 MEMBER BROOKS: Second.

4 CHAIR MILLER: Okay, are there
5 other comments on this?

6 Okay, the motion has been seconded
7 then. All those in favor say aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion to deny
11 passes 6-0-0 vote.

12 Eighteen is a supplement points of
13 authority since the petition in protest to the
14 application, submitted August 25, 2014, filed
15 by Charles Parsons. He was identified as an
16 intervener, but he has not been granted
17 intervener status.

18 I think that this supplemental
19 points of authority is moot, as a result of
20 our denying number 17.

21 Does anybody else have another
22 view on that?

1 Okay, this isn't on. Did we vote
2 on this? I can't remember. When it says
3 'moot', do we vote?

4 MEMBER ALBERTI: No, you don't
5 have to vote. It's just moot.

6 CHAIR MILLER: Okay, all right.
7 So, it's moot. I hear the consensus of the
8 Board. So, we don't need to vote on that.

9 The next one is number 19. It's
10 applicant's response to petitions in protest
11 to the application of Melles Hospitality
12 Group.

13 So, this one is in response to the
14 protest that we have denied in number 17. So,
15 this one, number 19 is moot, as well.

16 Number 20 is a review of Board
17 Order No. 2014-119 and 2014-129, issued in the
18 matter of Melles Hospitality Group, and wait
19 a second. I just wanted to look at that order
20 again for a minute.

21 Okay, my understanding is the
22 effect of these orders, what we're voting on

1 is to set this case for a hearing.

2 So, I move that we set the case
3 for a hearing, by approving these orders. Do
4 I have a second?

5 MR. SHORT: Second.

6 CHAIR MILLER: Mr. Short seconded
7 the motion. Okay, all those in favor say aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion passes 6-0-
11 0. That completes the legal agenda, and we
12 have a supplemental legal agenda, and then
13 we'll be finished.

14 Okay, number one on the
15 supplemental legal agenda is a request for
16 reconsideration of Board Order No. 2014-274
17 dated August 11th, submitted by Kalorama
18 Citizen's Association and the Reed Cook
19 Neighborhood Association. One second.

20 Okay, number one is a request for
21 reconsideration of Board Order No. 2014-274,
22 dated August 11th, 2014, submitted by Kalorama

1 Citizen's Association, the Reed Cook
2 Neighborhood Association. It's related to Pi,
3 located at 2309 18th Street, Northwest, and
4 there is also a motion for - - number two is
5 a petition for reconsideration or
6 clarification, dated August 11, 2014,
7 submitted by Richard Bianco on behalf of Pi.

8 So, these two are related to our
9 order in the Pi case and we'll be issuing one
10 order, I think addressing both.

11 But I would move that we deny
12 Kalorama Citizen Association and the Reed Cook
13 Neighborhood Association's request for
14 reconsideration with respect to -- especially
15 with respect to occupancy and when they need
16 to sell food, but that we can clarify the
17 hours for the deck. I think those were their
18 three issues.

19 So, I guess the -- my motion would
20 be to deny the request for reconsideration,
21 with respect to their proposed language for
22 the food issue and the occupancy issue.

1 MEMBER SILVERSTEIN: Second.

2 CHAIR MILLER: Okay, and Mr.
3 Silverstein seconded the motion. Any other
4 comments?

5 Okay, all those in favor then of
6 denying the motion by Kalorama Citizen's
7 Association and Reed Cook Neighborhood
8 Association, say aye.

9 (Chorus of aye)

10 CHAIR MILLER: All those opposed?

11 MEMBER ALBERTI: Abstaining. Mr.
12 Alberti abstains.

13 CHAIR MILLER: Okay, and all those
14 opposed, okay, and Mister -- and all those
15 abstaining is Mr. Alberti, is abstaining.

16 Right, he was not on the case,
17 actually.

18 MEMBER ALBERTI: I did not hear
19 the original case.

20 CHAIR MILLER: Yes, you don't even
21 -- yes, not participating.

22 MEMBER ALBERTI: Right.

1 CHAIR MILLER: That's what we'll
2 say. Okay, then the second one is a petition
3 for reconsideration or clarification submitted
4 by the applicant, and I move that we grant the
5 reconsideration, with respect to granting full
6 hours for the inside of the establishment.

7 MEMBER RODRIGUEZ: Second.

8 CHAIR MILLER: And Mr. Rodriguez
9 has seconded that motion, and my other comment
10 is that I think this will be addressed -- I'm
11 sure it will be addressed in our order, but
12 both parties, I think ask for clarification
13 about the deck, and my understanding is that
14 the deck will retain the same hours, right
15 now, that it's restricted to in the settlement
16 agreement, but they may apply for later hours.

17 MEMBER SILVERSTEIN: I would
18 agree, Madam Chair, and I would caution anyone
19 against reading anything into this, they may
20 apply. That is exactly what it says.

21 CHAIR MILLER: Right, I think
22 there just is a real question of well, yes,

1 how did it affect them now, yes.

2 Okay, anything? Any other
3 comments?

4 (No audible response)

5 CHAIR MILLER: Okay, all those
6 then in favor say aye.

7 (Chorus of aye)

8 CHAIR MILLER: All those opposed?
9 All those abstaining? The motion passes 6-0-
10 0.

11 All right, number three, four and
12 five related to BarCode. Number three is a
13 motion to declare burden on Petitioner, dated
14 September 26, 2014, submitted by Roderic
15 Wilson, on behalf of BarCode, located at 1701
16 L Street, Northwest, License No. 0823039.

17 Number four is an opposition to
18 that motion, dated October 2, 2014, submitted
19 by Mike O'Hipi on behalf of Protestants, and
20 number five is Protestants opposition to the
21 motion to declare burden on Petitioner.

22 Okay, I guess I would move to deny

1 the motion.

2 MEMBER SILVERSTEIN: Number three?

3 CHAIR MILLER: Number three, to
4 declare the burden on Petitioner on the
5 grounds that the applicant has the burden of
6 proof to show appropriateness in both cases --
7 in renewals, as well, original applications.

8 MEMBER SILVERSTEIN: Second.

9 CHAIR MILLER: It may play out
10 differently, but they still have the ultimate
11 burden of proof.

12 Okay, so, there is a motion to
13 deny that's been seconded. Any other
14 comments?

15 Not hearing any, all those in
16 favor say aye.

17 (Chorus of aye)

18 CHAIR MILLER: All those opposed?
19 All those abstaining? The motion passes 6-0-
20 0.

21 Which brings us to number six.
22 Six, seven and eight and nine all relate to

1 Penn Quarter Sports Tavern located at 639
2 Indiana Avenue, Northwest, License No. 076039.

3 So, it's a motion for
4 reconsideration of Board Order No. 2014-258.

5 I move that we deny this motion
6 for reconsideration on the grounds that it's
7 asserting facts late, after the record has
8 been closed. Do I have a second?

9 MEMBER SILVERSTEIN: Second.

10 CHAIR MILLER: Any other comments?

11 MEMBER ALBERTI: This is number
12 six?

13 CHAIR MILLER: This is number six,
14 yes.

15 MEMBER ALBERTI: Okay, no, no
16 comment.

17 CHAIR MILLER: Okay, all those in
18 favor then to deny the motion, say aye.

19 (Chorus of aye)

20 CHAIR MILLER: All those opposed?

21 All those abstaining? The motion passes 6-0-
22 0.

1 Number seven is a request for
2 reconsideration of Board Order, same one,
3 2014-258, submitted by ANC 2C, and I would
4 move to deny this request because the ANC is
5 not a party to this case.

6 MEMBER ALBERTI: Second.

7 CHAIR MILLER: Mr. Alberti
8 seconded the motion. Okay, all those in favor
9 say aye.

10 (Chorus of aye)

11 CHAIR MILLER: All those opposed?
12 All those abstaining? The motion passes 6-0-
13 0.

14 Number eight is a petition for
15 reconsideration and clarification dated
16 September 19, 2014, by Roberto Facundus, on
17 behalf of Penn Quarter Sports, and in this
18 petition for reconsideration, the petitioner
19 is actually asking for different relief than
20 in the case before the Board at the -- that
21 was brought before the Board at the hearing.
22 It's asking for a termination now, and at the

1 hearing, he specifically asked for only an
2 amendment to certain provisions.

3 So, it's too late to ask for that
4 relief. So, I would move that we deny the
5 petition.

6 MEMBER ALBERTI: Second.

7 CHAIR MILLER: And Mr. Alberti has
8 seconded the motion. Any other comments?

9 Okay, not hearing any, all those
10 in favor say aye.

11 (Chorus of aye)

12 CHAIR MILLER: All those opposed?
13 All those abstaining? The motion passes 6-0-
14 0.

15 Okay, number nine -- no, it's
16 number nine, okay.

17 Number nine is an opposition to
18 petition to reconsideration and clarification
19 submitted by Dominick Cardella, the abutting
20 property owner, and that opposition is -- was
21 considered, but we could consider it moot, in
22 light of our ruling on the petition for

1 reconsideration and clarification.

2 Okay, that we just ruled on in
3 number right. So, no action is required.

4 Numbers 10, 11, 12 and 13 all
5 relate to VIP Room, and number 10 is
6 applicant's motion to dismiss and number --
7 VIP Room is located at 620 13th Street,
8 Northwest, License No. 094561.

9 Number 11 is group of five or more
10 Protestants opposition to applicant's motion
11 to dismiss.

12 Number 12 is a letter dated August
13 18, 2014 submitted by Commissioner Ronald
14 Austin of ANC 4B06, and number 13 is group of
15 five or more Protestants motion to dismiss
16 application for CT license.

17 Numbers -- I guess number 10 --
18 they're all -- no action is actually required
19 on any of them.

20 Number 10, 11 and 13, I would say
21 are moot because, and this is the main point,
22 the Board held all of these motions in

1 abeyance pending its consideration of whether
2 or not it in fact, had jurisdiction of this
3 case, or whether the case should be dismissed,
4 because the establishment is within 400 feet
5 of a school or recreation center, and the
6 Board has made its decision, and that's in
7 Order 2014-37, which we'll be issuing that the
8 case should be dismissed because the
9 establishment is within 400 feet of a school.

10 So, those other pleadings are moot
11 because the case is being dismissed, and
12 number 12 is just an FYI, that is a letter
13 being submitted by the Commissioner, or at
14 least that's the way we can treat that one.

15 I think that we should vote on
16 that order, even though it's not an agenda
17 item, perhaps. I mean, I'm referring it,
18 unless people -- you know, 2014-37, that we
19 don't -- we're dismissing for lack of
20 jurisdiction because it's within 400 feet of
21 a school.

22 MEMBER ALBERTI: It's the --

1 CHAIR MILLER: We're signing it.

2 MEMBER ALBERTI: We're signing it?

3 CHAIR MILLER: We're signing it.

4 Okay, we don't have to, okay.

5 MEMBER ALBERTI: I don't think so.

6 It's not on our agenda. So, we can't.

7 CHAIR MILLER: All right, well,
8 parties can -- we'll find it and see that it's
9 been signed.

10 MEMBER ALBERTI: Well, the parties
11 will be sent the order. They'll not only find
12 it --

13 CHAIR MILLER: Yes, they will.

14 MEMBER ALBERTI: -- they'll find
15 it in their mailboxes.

16 CHAIR MILLER: They'll find our
17 signatures. Okay, number 14 is a motion to
18 continue a hearing, dated October 10, 2014,
19 submitted by Andrew Kline on behalf of
20 Midtown, and Midtown is located at 1219
21 Connecticut Avenue, Northwest, License No.
22 072087, and I move that we grant this motion

1 to continue the hearing and that the hearing
2 will be scheduled for November 12th at 10:00
3 a.m. Do I have a second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIR MILLER: Mr. Silverstein
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of aye)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? The motion passes 6-0-
11 0.

12 Number 12 is our review of
13 proposed rule making for administrative and
14 technical rule making, and I move that we
15 approve this proposed rule making.

16 MEMBER RODRIGUEZ: Second.

17 CHAIR MILLER: And Mr. Rodriguez
18 has seconded the motion. All those in favor
19 say aye.

20 (Chorus of aye)

21 CHAIR MILLER: All those opposed?
22 All those abstaining? The motion passes 6-0-

1 0.

2 Number 16 is the proposed rule
3 making for Chapter 16 of the DCMR, and I move
4 that we approve that proposed rule making, as
5 well. Do I have a second?

6 MEMBER SILVERSTEIN: Second.

7 CHAIR MILLER: Mr. Silverstein
8 seconded the motion. All those in favor say
9 aye.

10 (Chorus of aye)

11 CHAIR MILLER: All those opposed?
12 All those abstaining? The motion passes 6-0-
13 0.

14 Okay, I think that completes our
15 agendas.

16 Okay, as Chairperson of the
17 Alcoholic Beverage Control Board for the
18 District of Columbia, in accordance with
19 Section 405 of the Open Meetings Amendment Act
20 of 2010, I move that the ABC Board hold a
21 closed meeting on October 22, 2014, for the
22 purpose of seeking legal advice from our

1 Counsel on the matters identified on the
2 Board's agenda for October 22, 2014, as
3 published in the D.C. Register on October 17,
4 2014. Is there a second?

5 MEMBER BROOKS: Second.

6 CHAIR MILLER: Mr. Brooks has
7 seconded the motion. I'll now take a roll
8 call vote on the motion, now that it's been
9 seconded.

10 (Roll call vote)

11 CHAIR MILLER: It appears that the
12 motion has passed by a 6-0-0 vote, pursuant to
13 the Open Meetings Amendment Act of 2010. The
14 ABC Board will hold this aforementioned closed
15 meeting and notice will be posted on the ABC
16 Board hearing room bulletin board, placed on
17 the electronic calendar, ABRA's website and
18 published in the D.C. Register in as timely a
19 manner as practical.

20 As Chairperson of the Alcohol
21 Beverage Control Board for the District of
22 Columbia, and in accordance with Section 405

1 of the Open Meetings Amendment Act of 2010, I
2 move that the ABC Board hold a closed meeting
3 on October 22, 2014 for the purpose of
4 discussing and hearing reports concerning
5 ongoing or planned investigations of alleged
6 criminal or civil misconduct, or violations of
7 law or regulation, and seeking legal advice
8 from our Counsel on the Board's investigative
9 agenda for October 22, 2014, as published in
10 the D.C. Register on October 17, 2014, is
11 there a second?

12 MEMBER RODRIGUEZ: Second.

13 CHAIR MILLER: Mr. Rodriguez
14 seconded the motion. I'll now take a roll
15 call vote on the motion before us, now that
16 it's been seconded.

17 (Roll call vote)

18 CHAIR MILLER: It appears the
19 motion has passed by a 6-0-0 vote. I hereby
20 give notice that the ABC Board will hold this
21 aforementioned closed meeting, pursuant to the
22 Open Meetings Amendment Act of 2010, and

1 notice will also be posted on the ABC Board
2 hearing room bulletin board, placed on the
3 electronic calendar and ABRA's website, and
4 published in the D.C. Register as timely a
5 manner as practical.

6 That concludes our business, at
7 least on the dias, for October 15th, 2014, and
8 we are adjourned.

9 (Whereupon, the above-entitled
10 matter went off the record at 6:45 p.m.)
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A				
A.B.R.A 1:9	11:11,12,14,15	appears 34:13	5:20 12:21 13:13	50:17 51:21
a.m 49:3	14:17 18:17,18,19	51:11 52:18	15:1,5,14 16:1,9	Bianco 38:7
ABC 32:17 50:20	18:20 37:11,12,15	Appetit 12:7	17:15,17 23:12	Bistro 5:19,19
51:14,15 52:2,20	47:16 48:6 51:2	applicant 20:15	24:18 26:1 43:2	board 1:3,18 10:4
53:1	52:9	40:4 42:5	48:21	19:10,15 36:8,16
abeyance 47:1	agendas 3:5 14:15	applicant's 36:10	aye 3:17,18 4:10,11	37:16,21 43:4
above-entitled 53:9	50:15	46:6,10	4:22 5:1,13,14 6:5	44:2,20,21 46:22
ABRA 9:7 10:9,21	agree 29:11,13	application 5:18	6:6 7:15,16 8:7,8	47:6 50:17,20
17:18 22:12	40:18	6:1 7:3,7,20 8:2	8:22 9:1,14,22	51:14,16,16,21
ABRA's 51:17 53:3	agreement 18:22	9:6,6,10 10:8,11	10:1,15,16 11:5,6	52:2,20 53:1,2
abstaining 3:20	19:5 20:8,12 21:6	10:20 11:1 13:11	12:1,2,14,15 13:6	Board's 3:4 51:2
4:13 5:3,16 6:8	21:12,22 22:7	13:15 14:3,4 26:3	13:7,19,20 14:9	52:8
7:18 8:10 9:3	23:9,13 24:2,6,17	32:14,21 33:18	14:10 17:2,3 18:5	Bon 12:7
10:6,18 11:8 12:4	25:9,22 26:14	34:5,11 35:14	18:6 20:2,3,22	Brashears 2:18
12:17 13:9,22	32:15 40:16	36:11 46:16	21:1,16,17 23:3,4	Briggs 2:17
14:12 17:5 18:8	ahead 29:6	applications 42:7	23:18,19 24:10,11	brings 42:21
20:5 21:3,19 23:6	Alberti 2:9 4:7,8	apply 40:16,20	25:2,3,15,16 26:7	broadcast 18:14,16
23:21 24:13 25:5	6:17,20 9:15,18	appropriate 22:17	26:8,21,22 32:7,8	Brooklyn 16:8
25:18 26:10 27:2	9:20 10:3,7 18:13	appropriateness	33:10,11 35:7,8	Brooks 2:8 10:12
32:10 33:13 35:10	19:17 20:19 22:13	42:6	37:7,8 39:8,9 41:6	10:13 11:2,3
37:10 39:11,15,15	23:15,16 28:11,15	approval 32:14	41:7 42:16,17	12:11,12 35:3
41:9 42:19 43:21	28:22 29:5,9,12	approve 3:12 4:18	43:18,19 44:9,10	51:5,6
44:12 45:13 49:10	29:17 30:3,7,14	5:8 7:6 8:2,17	45:10,11 49:7,8	brought 44:21
49:22 50:12	30:17,20 31:17	10:10,22 11:19	49:19,20 50:9,10	building 1:19 19:18
abstains 39:12	34:8 36:4 39:11	12:9 19:4,22		bulletin 51:16 53:2
abutting 22:10	39:12,15,18,22	20:11 21:11 22:4	B	burden 41:13,21
45:19	43:11,15 44:6,7	22:20 23:13 24:5	B 4:2 5:19 15:12	42:4,5,11
Act 30:2 50:19	45:6,7 47:22 48:2	32:2 49:15 50:4	16:3 17:8,10,12	business 20:18 53:6
51:13 52:1,22	48:5,10,14	approving 37:3	17:13,15,17	
action 33:22 46:3	Alcohol 51:20	asked 45:1	Baby 6:20 7:4	C
46:18	Alcoholic 1:3,17,18	44:22	back 3:3 4:5 8:13	café 5:5,19
additional 32:17	50:17	asserting 43:7	18:13	calendar 51:17
addressed 40:10,11	Alibi 32:19	Association 19:1	Ballard 9:7,16	53:3
addressing 27:15	alleged 52:5	21:6 24:3 37:18	banc 14:19	call 51:8,10 52:15
38:10	Alley 22:1,2	37:19 38:1,2,12	Bar 15:4 16:5	52:17
adjoined 53:8	amend 24:16 25:8	39:7,8	Barcode 27:8 41:12	Camelia 32:17
administrative	25:21 26:13	Association's 38:13	41:15	cancel 8:14
49:13	amendment 18:21	audible 3:21 41:4	basically 27:19	capacity 33:17
ADT 16:10	24:1 45:2 50:19	August 27:11 35:14	28:15	Capitol 17:11
advice 50:22 52:7	51:13 52:1,22	37:17,22 38:6	Beer 4:3 7:22 8:12	Cardella 45:19
affect 41:1	ANC 18:22 20:8,16	46:12	behalf 27:6,8 31:21	Casa 24:3
aforementioned	21:6 23:9 44:3,4	Austin 46:14	32:18 38:7 41:15	case 34:3,13,19
51:14 52:21	46:14	authority 46:14	41:19 44:17 48:19	37:1,2 38:9 39:16
Agency 28:5,20	Andrew 48:19	authority 35:13,19	believe 33:21	39:19 44:5,20
29:16	Antonio 10:21	available 30:4,15	Benning 22:3	47:3,3,8,11
agenda 1:9,9 3:4,6	anybody 6:12 28:9	30:18	Best 8:15	cases 17:19 42:6
	35:21	Avenue 3:9 4:4	Beverage 1:3,17,18	Cause 22:15,17

caution 40:18	Chicken 11:17	concerns 28:18	40:14	53:3
cease 14:17 16:12 16:15,18 17:21	Chocolate 7:22 8:12	concludes 53:6	declare 41:13,21 42:4	Ema 31:21
Celia 21:22	Chorus 3:18 4:11	Connecticut 5:20 15:14 16:1 48:21	Deena 9:7,15	en 14:18
center 47:5	5:1,14 6:6 7:16	consensus 36:7	defined 19:19	endorsement 5:19 7:4,12 8:15 13:12 14:20 32:15
certain 45:2	8:8 9:1 10:1,16	consider 28:7 29:1 45:21	Deli 17:12	enforceable 19:7
Chair 3:3,15,19,22 4:8,12,21 5:2,11 5:15 6:3,7,16,18 6:22 7:8,13,17 8:5 8:9,20 9:2,12,17 9:19,21 10:2,5,13 10:17 11:3,7,21 12:3,12,16 13:4,8 13:17,21 14:7,11 16:17,22 17:4 18:3,7,10,11,15 19:20 20:4,20 21:2,14,18 22:6 22:14 23:1,5,16 23:20 24:8,12,22 25:4,14,17 26:5,9 26:19 27:1 28:14 28:21 29:2,8,11 29:13,18,19 30:8 30:12,16,19 31:3 31:6,9,13,18 32:5 32:9 33:6,12 34:10 35:4,9 36:6 37:6,9 39:2,10,13 39:20 40:1,8,18 40:21 41:5,8 42:3 42:9,18 43:10,13 43:17,20 44:7,11 45:7,12 48:1,3,7 48:13,16 49:5,9 49:17,21 50:7,11 51:6,11 52:13,18	11:6 12:2,15 13:7 13:20 14:10 17:3 18:6 20:3 21:1,17 23:4,19 24:11 25:3,16 26:8,22 32:8 33:11 35:8 37:8 39:9 41:7 42:17 43:19 44:10 45:11 49:8,20 50:10	consideration 13:1 47:1	denied 36:14	engineer's 20:16
18:3,7,10,11,15	Citizen 21:6 38:12	considered 45:21	Dennis 10:9	England 2:22
19:20 20:4,20	Citizen's 19:1 24:3 37:18 38:1 39:6	construction 34:18	deny 9:9 34:16,22 35:1,10 38:11,20 41:22 42:13 43:5 43:18 44:4 45:4	entertainment 7:4 7:12 13:12 32:15
21:2,14,18 22:6	City 7:22 8:12	consumption 7:21	denying 35:20 39:6	entitled 33:16
22:14 23:1,5,16	civil 52:6	contesting 32:14	described 23:1	Eric 2:17
23:20 24:8,12,22	clarification 38:6 40:3,12 44:15 45:18 46:1	continue 48:18 49:1	desist 14:17 16:12 16:15,18 17:21	especially 38:14
25:4,14,17 26:5,9	clarified 22:12	Control 1:3,17,18 50:17 51:21	determined 33:7	essentially 30:22
26:19 27:1 28:14	clarify 38:16	Convenience 24:17 26:14	dias 53:7	establishment 40:6 47:4,9
28:21 29:2,8,11	class 4:1 17:8 32:21	Cook 37:18 38:1,12 39:7	different 19:11 44:19	evaluate 28:12
29:13,18,19 30:8	clear 19:10,15	Counsel 22:16 33:8 51:1 52:8	differently 31:11 42:10	evenings 19:12
30:12,16,19 31:3	closed 43:8 50:21 51:14 52:2,21	CR 32:22 33:18	Direct/Offsite 17:16	event 27:17
31:6,9,13,18 32:5	Club 5:6	Crab 20:8,9	discussing 52:4	Evidence 33:16
32:9 33:6,12	CN 16:5,7	criminal 52:6	dismiss 46:6,11,15	exactly 40:20
34:10 35:4,9 36:6	Cod 15:10	CT 14:20,21 46:16	dismissed 47:3,8,11	explanation 31:8
37:6,9 39:2,10,13	Columbia 1:1 50:18 51:22		dismissing 47:19	extension 3:7,13
39:20 40:1,8,18	comment 20:17,21 28:9 29:20 40:9 43:16	D	dissent 10:3	
40:21 41:5,8 42:3	comments 19:21 35:5 39:4 41:3 42:14 43:10 45:8	D 10:9	dissenting 10:7	F
42:9,18 43:10,13	Commissioner 46:13 47:13	D.C 1:20 8:15 16:9 51:3,18 52:10 53:4	District 1:1 50:18 51:21	fact 30:20 47:2
43:17,20 44:7,11	Company 12:8	Dancing 20:8,9	DiVino 17:15,16	facts 43:7
45:7,12 48:1,3,7	completes 11:10 14:14 37:11 50:14	date 33:7	documents 34:1	Facundus 44:16
48:13,16 49:5,9	concerning 52:4	dated 22:1 23:10 27:11 31:20 32:13 37:17,22 38:6 41:13,18 44:15 46:12 48:18	Dominick 45:19	failure 16:12
49:17,21 50:7,11		DCMR 50:3	DONALD 2:8	Fairlawn 17:14
51:6,11 52:13,18		DCRA 34:20	due 27:20	favor 3:16 4:9,22 5:12 6:4 7:15 8:6 8:21 9:13,22 10:14 11:4,22 12:13 13:5,18 14:8 17:2 18:5 20:2,22 21:15 23:3,17 24:9 25:1 25:15 26:6,20 32:6 33:10 35:7 37:7 39:5 41:6 42:16 43:18 44:8 45:10 49:6,18 50:8
Chairperson 1:20 2:7 50:16 51:20		dealing 34:19		Federal 15:15
change 4:1,16,18 5:5 14:2 22:9,18		decision 10:6 47:6	E	feel 22:11
Chapel 16:7 27:7		deck 38:17 40:13	E 20:8	
Chapter 50:3			earlier 28:2	
Charles 34:12 35:15			Echostage 27:6	
Cheerz 13:12 14:3			effect 28:19 36:22	
			eight 8:12 25:7 42:22 44:14	
			Eighteen 35:12	
			electronic 51:17	

feet 47:4,9,20
filed 33:19 35:14
filing 34:14
find 48:8,11,14,16
finished 37:13
first 3:6 11:13
 18:18,21 27:13
 34:4
five 5:18 14:2 23:8
 41:12,20 46:9,15
Flea 16:9
Florida 4:4 16:9
FOIA 29:22
following 14:20
 34:1
food 38:16,22
form 29:4
formerly 3:8,10
four 5:4 13:11
 21:21 22:21 41:11
 41:17
Freedom 30:1
full 40:5
further 20:20
Fusion 15:4
FYI 28:7 33:21
 47:12

G

Garden 11:17
general 22:16
 27:22 33:8
Georgetown 19:1
 21:7
Georgia 13:13 15:5
 24:17,18
give 52:20
go 8:13
going 3:5 8:13
 18:16
good 31:7
grant 40:4 48:22
granted 35:16
granting 40:5
Gray's 15:18
Grocery 4:3
grounds 42:5 43:6

group 32:18 33:19
 34:3,6 36:12,18
 46:9,14
Gryphon 15:14
guess 38:19 41:22
 46:17
Gypsy 19:1

H

H 11:17 26:15
Hamlin 15:9
happened 27:16
hear 36:7 39:18
hearing 1:10,19
 20:21 28:17 29:10
 33:7 37:1,3 42:15
 44:21 45:1,9
 48:18 49:1,1
 51:16 52:4 53:2
HECTOR 2:10
held 46:22
HERMAN 2:13
Hilltop 23:10,11
hold 50:20 51:14
 52:2,20
holding 32:16
Hospitality 32:18
 33:19 34:3,5,12
 36:11,18
hours 4:16,19 5:5
 14:2 38:17 40:6
 40:14,16
House 15:22

I

identified 35:15
 51:1
Indiana 43:2
individual 33:17
Indulj 15:3
information 6:12
 29:4 30:1,1,4
inside 40:6
intervene 34:14
intervener 35:16
 35:17
investigations 52:5

investigative 27:18
 28:1 52:8
Investigator 2:18
involved 7:11
involves 28:5
Island 15:1
issue 16:14 17:20
 34:17,18,20 38:22
 38:22
issued 36:17
issues 34:18 38:18
issuing 38:9 47:7
item 3:6 18:21
 47:17
items 14:18

J

JAMES 2:12
Jones 2:13,20
Jubilee 25:9
Judy 2:22
July 32:13
jurisdiction 47:2
 47:20

K

K 16:4 19:2
Kalorama 17:12
 24:2 37:17,22
 38:12 39:6
Kim 10:9
Kitchen 15:19
Kline 48:19
know 6:13 27:16
 28:7,13 31:11
 47:18
known 3:8
Kwamina 27:5

L

L 27:9 41:16
Lace 15:1
lack 47:19
language 20:14
 22:15,17 38:21
late 27:11 43:7 45:3
law 52:7

leave 30:2
legal 18:17,18,19
 18:20 37:11,12,15
 50:22 52:7
let's 14:16 34:6
letter 33:15 46:12
 47:12
letters 27:5,10
license 3:8,11 4:4
 4:17 5:7,21 7:5
 8:1,16 9:7 10:9,21
 11:16,18 12:7,9
 12:20,22 13:14
 15:2,4,5,8,11,12
 15:15,16,19,20
 16:1,3,4,6,8,10
 17:11,13,18 19:3
 20:10 21:10 22:3
 23:12 24:4,19
 25:10 26:1,15
 27:7,9 31:22
 32:22 33:19 41:16
 43:2 46:8,16
 48:21
licensee 17:20
licenses 14:21
 32:17
licensing 3:5,6 4:6
 11:10,11,14,15
 14:14
Lieutenant 2:19
light 45:22
Line 24:17
Liv 16:2,2
LLC 4:3 21:22
 32:19 34:3
located 4:3,16 5:6
 5:20 7:5,22 11:17
 12:8,21 13:13
 19:2 20:9 21:9
 22:2 23:11 24:3
 24:18 25:10,22
 26:14 27:6,8
 32:20 38:3 41:15
 43:1 46:7 48:20
locations 31:22
Logan 4:16

look 31:13,14 36:19
looked 29:15
looking 18:20
Loss 33:16
lot 28:5
lounge 3:8 5:20
 15:16 19:15,19
 32:20
Lupe 15:7

M

M 5:5
Madam 7:8 18:10
 29:19 40:18
mailboxes 48:15
main 46:21
majority 10:4
making 27:17
 30:15 49:13,14,15
 50:3,4
Management 12:7
manager's 9:5,7
 10:9,21
manner 51:19 53:5
Mark 2:18
Market 12:20
 17:10,14 25:9,22
Mart 26:14
Martha's 25:22
Martin 32:16 33:17
Massachusetts
 17:17
matter 1:7 30:15,17
 36:18 53:10
matters 51:1
Mazard 32:18
mean 9:6 28:16
 30:3,21 47:17
meeting 1:5 50:21
 51:15 52:2,21
Meetings 50:19
 51:13 52:1,22
Melles 32:18 33:19
 34:3,5,12 36:11
 36:18
Member 2:8,9,10
 2:11,12,13 3:14

4:7 5:10 6:2,14,17 6:20 7:8 8:4,19 9:15,18,20 10:3 10:12 11:2,20 12:11 14:6,16 16:20 17:7,22 18:1,10,13 19:17 20:19 21:13 22:5 22:13 23:15 24:7 24:21 26:4,18 28:11,15,22 29:5 29:9,12,17 30:3,7 30:14,17,20 31:17 32:4 33:5 34:8 35:3 36:4 39:1,11 39:18,22 40:7,17 42:2,8 43:9,11,15 44:6 45:6 47:22 48:2,5,10,14 49:4 49:16 50:6 51:5 52:12 met 1:18 Mia 15:7 Michael 2:19 Midtown 48:20,20 Mike 2:11 41:19 Miller 1:21 2:7 3:3 3:15,19,22 4:8,12 4:21 5:2,11,15 6:3 6:7,16,18,22 7:13 7:17 8:5,9,20 9:2 9:12,17,19,21 10:2,5,13,17 11:3 11:7,21 12:3,12 12:16 13:4,8,17 13:21 14:7,11 16:17,22 17:4 18:3,7,11,15 19:20 20:4,20 21:2,14,18 22:6 22:14 23:1,5,16 23:20 24:8,12,22 25:4,14,17 26:5,9 26:19 27:1 28:14 28:21 29:2,8,11 29:13,18 30:8,12 30:16,19 31:3,6,9	31:13,18 32:5,9 33:6,12 34:10 35:4,9 36:6 37:6,9 39:2,10,13,20 40:1,8,21 41:5,8 42:3,9,18 43:10 43:13,17,20 44:7 44:11 45:7,12 48:1,3,7,13,16 49:5,9,17,21 50:7 50:11 51:6,11 52:13,18 Minnesota 26:1 minute 36:20 misconduct 52:6 Mister 39:14 modification 20:12 modifications 19:5 19:22 22:7,8,20 Mom's 12:20 months 3:13 moot 27:20 34:17 35:19 36:3,5,7,15 45:21 46:21 47:10 Morales 2:21 Mother 15:10 motion 3:16,22 4:9 4:13,22 5:3,12,16 6:4,8 7:14,18 8:6 8:10,21 9:3,13 10:14,18 11:4,8 11:22 12:4,13,17 13:5,9,18,22 14:8 14:12 17:1,5 18:4 18:8 19:21 20:5 21:3,15,19 23:2,6 23:17,21 24:9,13 25:1,5,18 26:6,10 26:20 27:2 32:6 32:10 33:10,13 34:6 35:6,10 37:7 37:10 38:4,19 39:3,6 40:9 41:9 41:13,18,21 42:1 42:12,19 43:3,5 43:18,21 44:8,12 45:8,13 46:6,10	46:15 48:17,22 49:6,10,18,22 50:8,12 51:7,8,12 52:14,15,19 motions 46:22 move 3:12 4:5,18 5:7,22 7:6 8:1,17 9:9 10:10,22 11:18 12:9,22 13:14 14:3,17 16:14 17:20 19:4 20:11 21:11 22:4 22:19 23:13 24:5 24:19 25:11 26:2 26:16 32:2 33:2 34:16 35:1 37:2 38:11 40:4 41:22 43:5 44:4 45:4 48:22 49:14 50:3 50:20 52:2 moved 34:12 multiple 31:22,22 Muse 15:18 <hr/> N <hr/> N.W 1:20 National 15:22 need 28:12 29:7 31:15 36:8 38:15 needs 19:13 Neighborhood 37:19 38:2,13 39:7 new 3:9 12:21 32:21 33:18 NICK 2:9 Nightclub 16:2 nine 9:5 25:20 42:22 45:15,16,17 North 17:10 Northeast 3:9 8:1 11:18 12:21 15:2 15:9,20 16:8 22:3 25:10 27:7 Northwest 4:4,17 5:7,21 7:5 8:16 12:8 13:13 15:3,5	15:8,11,12,15,16 15:19 16:1,3,4,6,9 17:11,13,18 19:3 20:10 21:10 23:12 24:4,18 26:15 27:9 32:21 38:3 41:16 43:2 46:8 48:21 notice 51:15 52:20 53:1 November 49:2 NTH 15:22 number 3:11 4:15 5:4,18 6:10,19 8:11,14 9:5 10:8 10:20 11:14 12:6 12:19 13:11 14:2 19:14 20:7,13,14 21:5,21 23:8 24:1 24:15 25:7,20 26:12 27:4,8,11 31:19 32:12 33:15 35:20 36:9,14,15 36:16 37:14,20 38:4 41:11,12,17 41:20 42:2,3,21 43:11,13 44:1,14 45:15,16,17 46:3 46:5,6,9,12,14,17 46:20 47:12 48:17 49:12 50:2 numbered 19:9 numbers 19:6,8 32:1 46:4,17 <hr/> O <hr/> O 12:8 O'Hipi 41:19 Oaxca 24:3 objecting 20:13 occupancy 38:15 38:22 October 1:15 22:1 31:20 41:18 48:18 50:21 51:2,3 52:3 52:9,10 53:7 offer 32:13 33:3	offsite 31:19 okay 3:3 6:22 7:13 7:20 9:18,21 10:5 10:8 11:10,14 14:16 16:22 18:3 18:12 19:4,20 20:21 22:16,19 25:14 27:4 29:18 30:6 31:15,18 32:22 33:10,15 34:1 35:4,6 36:1,6 36:21 37:7,14,20 39:2,5,13,14 40:2 41:2,5,22 42:12 43:15,17 44:8 45:9,15,16 46:2 48:4,4,17 50:14 50:16 ongoing 52:5 onsite 7:21 Open 50:19 51:13 52:1,22 operate 11:16 opposed 3:19 4:12 5:2,15 6:7 7:17 8:9 9:2 10:2,17 11:7 12:3,16 13:8 13:21 14:11 17:4 18:7 20:4 21:2,18 23:5,20 24:12 25:4,17 26:9 27:1 32:9 33:12 35:9 37:9 39:10,14 41:8 42:18 43:20 44:11 45:12 49:9 49:21 50:11 opposition 41:17 41:20 45:17,20 46:10 order 16:15,18 17:21 36:17,19 37:16,21 38:9,10 40:11 43:4 44:2 47:7,16 48:11 orders 36:22 37:3 Organic 12:20 original 39:19 42:7
---	--	--	---	--

outdoor 6:21 7:11	25:7,20 26:12,17	36:14	refer 4:5	review 18:21 20:17
owned 22:11	34:4,11,15,17	Protestant 21:7	reference 19:14	23:8 25:7 32:12
owner 45:20	35:1,13 38:5 40:2	Protestants 22:11	referenced 33:20	36:16 49:12
<hr/> P <hr/>	44:14,18 45:5,18	41:19,20 46:10,15	referring 19:11	Rhode 15:1
P 4:17 21:10	45:22	provide 20:15	29:22 34:2 47:17	Richard 38:7
P-R-O-C-E-E-D-...	petitioner 41:13,21	28:17 30:21	refers 20:14 22:9	right 3:11 6:22
3:1	42:4 44:18	provided 27:18	22:10	7:14 8:11 16:22
p.m 3:2 53:10	petitions 36:10	28:2	Register 51:3,18	17:1 19:21 22:13
paragraph 20:13	Pi 38:2,7,9	providing 28:12	52:10 53:4	22:14 28:21 29:2
22:8,10	PIF 27:20	30:21 31:1	regular 18:14	29:17 30:19,22
paragraphs 19:9	Pizza 31:21	provisions 45:2	regulation 52:7	31:18 33:2 36:6
19:22 22:20	placard 5:22 13:14	published 51:3,18	reject 33:3	39:16,22 40:14,21
Parsons 34:12	14:4 24:19 25:11	52:9 53:4	relate 42:22 46:5	41:11 46:3 48:7
35:15	26:2,16 34:6	Pullian 2:19	related 33:18 34:19	Road 16:7 22:3
part 28:4	placarding 34:17	purpose 50:22 52:3	38:2,8 41:12	27:7
participating 39:21	placed 51:16 53:2	pursuant 51:12	relief 44:19 45:4	Roberto 44:16
parties 40:12 48:8	planned 52:5	52:21	remember 36:2	Robin 21:7
48:10	play 42:9	put 7:9	renew 17:9,20	Roderic 41:14
party 34:13 44:5	pleadings 47:10	<hr/> Q <hr/>	renewals 42:7	Rodriguez 2:10
Pascal 31:21	point 27:15,21	Quarter 43:1 44:17	reopening 20:17	3:14,15 11:20,21
passed 51:12 52:19	46:21	Queens 16:7 27:6	report 20:16 30:5	17:22 18:5 26:4,5
passes 3:22 4:13	points 35:12,19	question 31:10	30:12	40:7,8 49:16,17
5:3,16 6:8 7:18	portion 19:18	40:22	reports 27:18 28:1	52:12,13
8:10 9:3 10:18	possible 27:19	<hr/> R <hr/>	52:4	roll 51:7,10 52:14
11:8 12:4,17 13:9	29:21	read 14:18	request 3:7 4:1,15	52:17
13:22 14:12 17:5	posted 51:15 53:1	reading 40:19	5:4,8 8:14,18	Ronald 46:13
18:8 20:5 21:3,19	postpone 12:22	ready 6:11 7:1 9:19	11:15 12:6,19	room 1:19 21:8,9
23:6,21 24:13	practical 28:18	30:13	13:1 27:17 28:4	46:5,7 51:16 53:2
25:5,18 26:10	31:12 51:19 53:5	real 40:22	28:16 29:22 31:19	Rosa 2:20
27:2 32:10 33:13	practicality 28:12	really 29:6,14 30:4	32:3 37:15,20	rule 49:13,14,15
35:11 37:10 41:9	28:19	30:22	38:13,20 44:1,4	50:2,4
42:19 43:21 44:12	Premises 5:5	reasonable 28:3	requesting 28:1	ruled 46:2
45:13 49:10,22	PRESENT 2:5,15	reasons 31:1	required 20:15	ruling 45:22
50:12	presiding 1:21	Recess 16:5	29:6 33:22 46:3	Ruthanne 1:21 2:7
Paul 31:20	prior 20:17 27:19	reconsideration	46:18	<hr/> S <hr/>
payment 16:13	28:17 29:3,7	37:16,21 38:5,14	respect 19:8,11	safekeeping 3:7
payments 14:22	probably 28:4	38:20 40:3,5 43:4	22:15 29:15 38:14	sales 7:21
Peacock 21:8,9	proceed 7:1	43:6 44:2,15,18	38:15,21 40:5	Sally's 19:2
pending 47:1	prohibit 32:16	45:18 46:1	response 3:21	says 36:2 40:20
Penn 43:1 44:17	proof 42:6,11	record 3:4 7:9 31:5	36:10,13 41:4	Scahill 32:16 33:17
Pennsylvania	Properties 21:22	43:7 53:10	Restaurant 15:4	schedule 33:7
17:14	property 22:11	recreation 47:5	23:10,11 32:19	scheduled 49:2
people 47:18	45:20	Reed 37:18 38:1,12	restricted 40:15	school 47:5,9,21
permit 7:21	proposed 38:21	39:7	result 35:19	Science 5:6
persons 29:21	49:13,15 50:2,4	Reeves 1:19	retailer 4:2,2 33:18	Seaton 17:10
petition 24:15,20	protest 29:4 34:4		retailers 17:8 32:21	second 3:14 4:6,7
	34:11 35:13 36:10		retain 40:14	

4:19,20 5:9,10 6:2 7:9 8:3,4,18,19 9:11 10:11,12 11:1,2,19,20 12:10,11 13:2,3 13:15,16 14:5,6 14:21 16:13,16,17 17:22 19:16,17 20:18,19 21:12,13 22:5,22 23:14,15 24:6,7,20,21 25:12,13 26:3,4 26:18 32:3,4 33:4 33:5 35:2,3 36:19 37:4,5,19 39:1 40:2,7 42:8 43:8,9 44:6 45:6 49:3,4 49:16 50:5,6 51:4 51:5 52:11,12	23:9,13 24:2,5,16 25:9,21 26:13 32:13 33:3 40:15 seven 8:14 24:15 42:22 44:1 Short 2:12 4:20,21 6:19 9:11,12 13:3 13:4,16,17 16:16 22:22 23:2 25:13 29:19 30:6,10 31:4,7,12 37:5,6 show 22:15,17 42:6 sidewalk 5:5,19 signatures 48:17 signed 48:9 signing 48:1,2,3 Silverstein 2:11 5:10,11 6:2,3,14 7:8 8:4,5,19,20 14:6,7,16 16:20 17:7 18:1,10 21:13,14 22:5 24:7,8,21,22 26:18,19 32:4,5 33:5,9 39:1,3 40:17 42:2,8 43:9 49:4,5 50:6,7 six 3:13 6:10,18,19 19:6,14 20:1 24:1 42:21,22 43:12,13 skipped 8:13 Skylark 3:8 soon 27:19 30:13 31:1 South 32:20 Southeast 17:15 26:1 space 6:21 7:11 specifically 45:1 Sphere 17:15 Sports 43:1 44:17 Stadium 16:7 Staples 4:2 start 3:5 status 35:17 stipulated 11:16 12:7,20	storage 17:16 31:19 Store 24:17 Stores 31:21 Street 1:20 4:17 5:7 7:5 8:1,16 11:18 12:8 15:3,8,9,10 15:12,16,18,20 16:2,4,6 17:11,12 19:2 20:9 21:10 24:4 25:10 26:15 27:9 32:20 38:3 41:16 46:7 submission 29:3 submitted 31:20 32:17 33:16 35:14 37:17,22 38:7 40:3 41:14,18 44:3 45:19 46:13 47:13 48:19 substantial 22:9,18 33:16 Summer 11:16 Supermarket 8:16 supplement 35:12 supplemental 11:11,13,15 18:19 35:18 37:12,15 sure 6:10 40:11	22:16 27:11,22 28:3,4,6,11,18 29:13 31:15 35:18 38:10,17 40:10,12 40:21 47:15 48:5 50:14 three 4:15 12:19 19:6,9,9 20:1,13 20:14 21:5 22:10 22:21 38:18 41:11 41:12 42:2,3 time 29:6 timeliness 30:10,11 30:14 timely 51:18 53:4 Todd 15:18 Tortilla 11:17 TouchDown 15:11 trading 32:19 treat 47:14 turn 18:17 two 8:15 12:6 19:6 19:8,9,22 20:7 22:9,20 28:17 29:9 38:4,8 type 29:22	52:15,17,19 voting 36:22 <hr/> W <hr/> wait 36:18 waiting 6:12 wanted 31:4 36:19 Washington 1:20 way 30:22 47:14 we'll 37:13 38:9 40:1 47:7 48:8 we're 3:3 6:10,11 7:1 18:16 27:10 27:14,14 30:21 36:22 47:19 48:1 48:2,3 We've 30:9 website 51:17 53:3 week 29:6,7 weeks 28:17 29:9 weigh 29:1 went 53:10 Whale 6:20 7:4 wholesaler 17:17 wholesalers 17:8 William 2:21 Williams 10:21 Williford 27:5 Wilson 41:15 Wine 4:3 wording 22:18 worked 19:13 workload 28:20
4:21 5:12 6:4 7:14 8:6,21 9:13 10:14 11:4,22 12:13 13:5,18 14:8 17:1 18:1,4 21:15 23:2,17 24:9 25:1 26:6,20 32:6 33:9 35:6 37:6 39:3 40:9 42:13 44:8 45:8 49:6,18 50:8 51:7 51:9 52:14,16 Section 50:19 51:22 see 28:8 34:7 48:8 seeing 27:10,14 seeking 34:14 50:22 52:7 sell 38:16 Senso 15:7 sent 48:11 September 23:10 41:14 44:16 Sesto 15:7 set 37:1,2 settlement 18:22 19:5 20:7,12 21:5 21:11,21 22:6	skipped 8:13 Skylark 3:8 soon 27:19 30:13 31:1 South 32:20 Southeast 17:15 26:1 space 6:21 7:11 specifically 45:1 Sphere 17:15 Sports 43:1 44:17 Stadium 16:7 Staples 4:2 start 3:5 status 35:17 stipulated 11:16 12:7,20	<hr/> T <hr/> take 28:7 51:7 52:14 Tap 15:22 Taste 15:8 tasting 8:15 Tattoo 16:3 Tavern 4:16 43:1 technical 49:14 Terminal 22:1,2 terminate 25:8,21 26:13 terminated 24:16 termination 44:22 thank 7:13 8:11 18:11 thing 30:9 think 6:11 7:1	U <hr/> U 8:16 15:3,10,12 ultimate 42:10 un 19:6 unclear 19:18 understanding 7:10 36:21 40:13 unilaterally 24:16 25:8,21 26:13 Union 15:19 <hr/> V <hr/> view 35:22 vinyl 19:14,19 violations 52:6 VIP 46:5,7 vote 9:19 14:18 16:11,14 31:16 35:11 36:1,3,5,8 47:15 51:8,10,12	<hr/> X <hr/> <hr/> Y <hr/> year 8:15 14:22 16:13 York 3:9 12:21 Young 21:7 <hr/> Z <hr/> <hr/> 0 <hr/> 0 4:14 5:17 6:9 7:19 9:4 10:19 11:9 12:5,18 13:10

14:1,13 17:6 18:9 20:6 21:4,20 23:7 23:22 24:14 25:6 25:19 26:11 27:3 32:11 33:14 37:11 41:10 42:20 43:22 44:13 45:14 49:11 50:1,13 014355 17:11 060236 23:12 060539 17:13 060706 4:17 072087 48:22 074162 25:11 074353 5:7 074894 16:3 075139 8:17 075156 16:4 076039 43:2 076070 24:5 076369 15:2 079843 15:4 080957 15:6 081092 15:8 081479 5:21 081805 16:6 082039 27:9 0823039 41:16 0828005 16:8 085708 8:1 086011 15:9 086231 15:11 086233 15:13 086305 26:15 088102 11:18 090250 27:7 090297 20:10 090582 19:3 090611 3:12 090658 17:18 090830 15:15 090863 7:6 091196 24:19 091249 15:17 091907 15:19 091912 15:21 092156 16:2	09386 22:3 094283 16:10 094561 46:8 094996 12:22 095178 13:14 095964 21:10 096001 12:9 096262 10:22 096422 9:8 096862 10:10 <hr/> 1 <hr/> 10 10:8 26:12 46:4 46:5,17,20 48:18 10:00 49:2 11 10:20 27:4,5,11 38:6 46:4,9,20 1100 15:20 1101 26:14,15 1124 7:5 1136 5:6 11th 16:2 37:17,22 12 27:4,8 46:4,12 47:12 49:12 1208 15:3 1214 15:7 1219 48:20 12th 49:2 13 46:4,14,20 1324 11:17 1331 15:22 1334 15:10,12 1337 15:14 1364 4:3 13th 46:7 14 31:19 48:17 1401 12:21 1413 16:3 1423 4:17 14th 1:19 15 1:15 32:12 1507 8:16 15th 16:5 53:7 16 33:15 50:2,3 17 23:10 34:1,10 35:20 36:14 51:3 52:10	1701 27:9 41:15 1727 5:20 17th 15:18 17:12 18 34:2 46:13 1812 15:9 1822 17:10 18th 15:7,16 24:4 38:3 19 34:2 36:9,15 44:16 1943 3:9 19th 5:6 1B 23:9 <hr/> 2 <hr/> 2 41:18 20 34:2 36:16 2000 1:19 2001 16:2 20020 26:2 2010 50:20 51:13 52:1,22 2014 1:15 22:1 23:10 31:20 32:13 35:14 37:22 38:6 41:14,18 44:16 46:13 48:18 50:21 51:2,4 52:3,9,10 53:7 2014-119 36:17 2014-129 36:17 2014-258 43:4 44:3 2014-274 37:16,21 2014-37 47:7,18 2106 24:4 2127 16:7 2135 27:6 22 50:21 51:2 52:3 52:9 2214 15:1 23 32:13 2309 38:3 2316 25:10 2323 17:14 2343 17:12 23491 32:22 237 32:20	2400 25:22 2477 15:16 25 35:14 26 41:14 2622 21:10 2737 23:11 2801 7:22 28th 27:11 2C 44:3 2E 18:22 21:6 <hr/> 3 <hr/> 3 20:8 31:20 3401 19:2 3700 12:8 3701 22:2 3rd 15:20 <hr/> 4 <hr/> 4 22:12 400 47:4,9,20 405 50:19 51:22 41st 20:9 455 17:17 4615 20:9 4815 15:5 4B06 46:14 4th 25:10 <hr/> 5 <hr/> 5-0 11:8 12:4 5-1-0 10:6 5:53 3:2 500 15:18 5125 24:18 <hr/> 6 <hr/> 6 22:1 6-0 4:13 5:16 6:8 7:18 9:3 10:18 12:17 13:9,22 14:12 17:5 18:8 20:5 21:3,19 23:6 23:21 24:13 25:5 25:18 26:10 27:2 32:10 33:13 37:10 41:9 42:19 43:21 44:12 45:13 49:10	49:22 50:12 6-0-0 4:1 5:3 8:11 35:11 51:12 52:19 6:45 53:10 620 46:7 639 43:1 696494 4:4 <hr/> 7 <hr/> 727 16:5 7303 13:13 <hr/> 8 <hr/> 8th 7:22 <hr/> 9 <hr/> 93491 32:22 945 16:9 9th 7:5
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