

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :

Each Peach, LLC :

t/a Each Peach Market :

3068 Mount Pleasant Street, NW:

Retailer B : Fact Finding

License No. 92449 : Hearing

ANC 1D :

New Application :

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JULY 31, 2013

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

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

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

1:43 p.m.

CHAIRPERSON MILLER: Good
afternoon. We're back on the record for our
afternoon cases and the first case that we
have is Each Peach Market, located at 3068
Mount Pleasant Street, N.W., License No.
92449 in ANC 1D.

Are the individuals here for
that? Come on forward. Do you have a piece
of paper to sign in on, by any chance?

MEMBER ALBERTI: There's one at
the next table.

CHAIRPERSON MILLER: Oh, grab
that.

MEMBER ALBERTI: If you would
grab that and just write your name so we
have the correct spelling. Thank you.

CHAIRPERSON MILLER: So, and when
you're ready, if you could give your names
for the record.

MS. FRIEDBERG: Sure. I'm Emily

1 Friedberg.

2 CHAIRPERSON MILLER: What's your
3 last name?

4 MS. FRIEDBERG: Friedberg.

5 CHAIRPERSON MILLER: Friedberg?
6 Okay.

7 MS. CONAWAY: I'm Jeanlouse
8 Conaway.

9 CHAIRPERSON MILLER: Are you co-
10 owners of the --

11 MS. CONAWAY: That's correct.

12 CHAIRPERSON MILLER: Okay. So I
13 know that you've applied for a Class B
14 license under the full service grocery store
15 exemption. And it's a new provision and we
16 actually had -- these are what we call just
17 fact finding hearings, that you're not under
18 oath or anything. What this is about is
19 just trying to have a good communication
20 with you so that we can help you demonstrate
21 how you meet the test.

22 And I know, you know, I have a

1 copy of what you've done so far. And I
2 think what we've been finding; and it looks
3 like it's true here, is that there needs to
4 be a little bit more explaining of how to
5 measure and what a selling area is and
6 things like that. So we get you to
7 accurately present it to us and then we can
8 make the findings. And I'm going to let Mr.
9 Jones, who's on my far left, basically take
10 over at this point because he's been the one
11 that's been most involved in this type of
12 measuring.

13 Okay. Are you ready, Mr. Jones?

14 MEMBER JONES: Always.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER JONES: Thank you, Madam

17 Chair.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER JONES: Hi.

20 MS. FRIEDBERG: Hi.

21 MS. CONAWAY: Hi.

22 MEMBER JONES: Welcome.

1 MS. FRIEDBERG: Thank you.

2 MEMBER JONES: One, thank you for
3 providing what I believe to be the last rev,
4 which is the one I have in my hand. I don't
5 know that I see a rev date or number on
6 here, but does it look similar to this?

7 MS. FRIEDBERG: Yes, that's the
8 last version we submitted.

9 MEMBER JONES: Okay.

10 MS. FRIEDBERG: Yes.

11 MEMBER JONES: And this is the
12 version upon which we had a last opportunity
13 to review and the version upon which I'd
14 like to provide some guidance and feedback
15 on to help provide some additional clarity
16 as the Chairperson indicated. Is that fair?

17 MS. FRIEDBERG: Yes.

18 MS. CONAWAY: Yes.

19 MEMBER JONES: All right. So
20 first and foremost, I want to walk through
21 the process by which we do or perform your
22 calculations so that you have a better

1 understanding of how we get from the unknown
2 to the known, i.e.; verification of the
3 passage of test 1 --

4 CHAIRPERSON MILLER: Wait, wait.

5 MEMBER JONES: -- and the passage
6 of test 2.

7 Yes, ma'am?

8 CHAIRPERSON MILLER: The court
9 reporter's not picking up your mic for some
10 reason. Is it on?

11 MEMBER JONES: Can you hear me?

12 COURT REPORTER: I'm picking you
13 up through --

14 CHAIRPERSON MILLER: Through
15 mine?

16 COURT REPORTER: -- Ms. Miller's.

17 MEMBER SILVERSTEIN: I just
18 turned on your mic.

19 MEMBER JONES: Can you hear me?

20 COURT REPORTER: Just a little
21 bit.

22 MEMBER JONES: Huh?

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COURT REPORTER: Yes.

MEMBER JONES: Can you hear me?

COURT REPORTER: Yes.

MEMBER JONES: Okay. Do you need
my mic on?

CHAIRPERSON MILLER: Yes.

COURT REPORTER: Yes.

MEMBER JONES: Okay. Can you
hear me now?

COURT REPORTER: That's fine.

(Laughter.)

MEMBER JONES: All right. Okay.
As I was indicating, we're trying to provide
an opportunity for you to have a good clear
understanding of how we the Board --

COURT REPORTER: Now I'm not
getting you at all.

MEMBER JONES: You're not getting
me at all?

CHAIRPERSON MILLER: Did you just
turn it off?

1 MEMBER ALBERTI: No, I just
2 turned down the volume a little bit, but it
3 should be okay.

4 COURT REPORTER: No.

5 CHAIRPERSON MILLER: No?

6 COURT REPORTER: Could someone
7 just speak?

8 MEMBER JONES: Hello.

9 MEMBER ALBERTI: Wait, wait,
10 wait. Don't touch that, because that
11 volume's too high. I'm going to turn off
12 this mic. Can you pick -- try it again.
13 Herman?

14 MEMBER JONES: Herman Jones here.

15 MEMBER ALBERTI: You got him?
16 Okay. I'm going to turn this down because
17 the volume's a little too high.

18 MEMBER JONES: Checking.

19 Checking. One, two. Mic check.

20 MEMBER ALBERTI: Got you. All
21 right. Let's go.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER JONES: Good?

2 COURT REPORTER:

3 (No audible response.)

4 MEMBER JONES: Cool. From the
5 unknown to the known, being passage of test
6 1 and passage of test 2.

7 COURT REPORTER: It just cut out
8 again.

9 MEMBER ALBERTI: It just cut off
10 again?

11 COURT REPORTER: Yes, just like
12 he started speaking and then it just goes
13 out.

14 MEMBER JONES: It just doesn't
15 like me.

16 MEMBER ALBERTI: Why don't you
17 try Mike's --

18 MEMBER BROOKS: Mike's.

19 MEMBER ALBERTI: -- mic.

20 MEMBER BROOKS: Yes.

21 MEMBER ALBERTI: Just turn yours
22 off, Herman, and turn the --

1 MEMBER JONES: It's off.

2 MEMBER ALBERTI: Okay.

3 MEMBER JONES: Can you hear me?

4 COURT REPORTER: Yes.

5 MEMBER JONES: You're good? All
6 right. I will try and speak loudly. That's
7 probably not a problem for me.

8 (Laughter.)

9 MEMBER JONES: But we will try
10 and be a little more loud than usual.

11 In general, the approach that we
12 take is we look at the overall square
13 footage of the establishment, the potential
14 licensed area. We take that, we calculate
15 what the square footage is based on the
16 information that is provided. From there we
17 make a determination of what the non-selling
18 area is. Once we have that information, we
19 subtract the non-selling area --

20 COURT REPORTER: I'm really
21 sorry. It's cutting in and out.

22 MEMBER JONES: Okay.

1 COURT REPORTER: So what we're
2 going to do --

3 MEMBER ALBERTI: You want to move
4 that down there?

5 CHAIRPERSON MILLER: Take mine?

6 COURT REPORTER: I don't really
7 know what the problem is, but it's just like
8 it's starting and -- and so like, yes, I
9 don't know what it is. It might be just
10 like a loose connection somewhere or --
11 there. So it's a loose connection. So that
12 thing is coming in and out. So if you touch
13 it, it might not do it.

14 MEMBER JONES: So let me help me.
15 So this mic was off.

16 COURT REPORTER: It's --

17 MEMBER JONES: And you're saying
18 I was talking into that one --

19 COURT REPORTER: So the problem
20 is it's cutting off.

21 MEMBER JONES: -- and it was
22 still cutting off?

1 COURT REPORTER: I don't -- I
2 mean -- something -- yes, the system's been
3 cutting in and out. So like you start
4 speaking and then -- no issue.

5 MEMBER JONES: There's no issue.

6 COURT REPORTER: So what we'll do
7 is I have this mic right here. I know this
8 one works.

9 MEMBER JONES: Well, I'm going to
10 cut off this mic and that mic's going to cut
11 off, or stay cut off, and I'll just use
12 that.

13 COURT REPORTER: Okay.

14 MEMBER ALBERTI: Well, let's
15 leave the mics on for now.

16 COURT REPORTER: If --

17 MEMBER JONES: Because --

18 COURT REPORTER: -- we can use
19 that, it would be better.

20 MEMBER JONES: Because when I was
21 just talking he said it was cutting off.
22 This mic was off. That mic was on.

1 Therefore, the problem was still in play.

2 So therefore, I would like to cut off that
3 mic and cut of this mic and just use this.

4 COURT REPORTER: I would prefer
5 -- what we can do is we can have this one
6 up. If it doesn't work, I'll just let you
7 go, because with this one we would need to
8 go back and do extra things. If that one
9 works, then there's really no problem. So
10 if we could just try this one off. If it
11 doesn't work --

12 MEMBER JONES: So you want this
13 one off or on?

14 COURT REPORTER: Well, try this
15 one on.

16 MEMBER JONES: And that one off?

17 COURT REPORTER: So, yes. And if
18 it doesn't work, then I won't interrupt you.
19 We'll just -- that's the way it is.

20 MEMBER JONES: No worries.

21 COURT REPORTER: Okay. So sorry
22 about that.

1 MEMBER JONES: No problem.

2 Checking. Good?

3 (No audible response.)

4 MEMBER JONES: All right. To
5 calculate the selling area. So you subtract
6 the non-selling area from the total square
7 footage of the establishment and that gives
8 us the selling area. We take that selling
9 area, set that to the side temporarily. We
10 look at what is now going to be your food
11 selling area and we calculate your food
12 selling area by determining what your non-
13 food selling area is and subtracting that
14 from the total selling area. Once we have
15 that number that becomes the denominator
16 that is used in the process of making the
17 determination for what test 2 is. That all
18 makes sense? Follows?

19 (No audible response.)

20 MEMBER JONES: Okay. So in doing
21 that process we obviously need to have
22 answers to some variables in order to fill

1 in the equation and get those calculations
2 going. So the first thing that we look for
3 obviously is what is the total square
4 footage of the establishment?

5 Now in the document you provided
6 us a number. And that number is
7 approximately 760 square feet based on what
8 you've provided. The baseline concern that
9 we have is our inability based on the
10 information that we have in front of us to
11 verify that calculation. And in looking at
12 that number, given that the drawing -- we're
13 going to assume based on what information
14 we've received outside of this document that
15 this drawing isn't exactly to scale. And if
16 it isn't exactly to the scale, then we can't
17 determine that on our own, and therefore
18 we'd be dependent upon you to give us the
19 explicit measures of the items that go into
20 the calculation. So to help us in the
21 process of helping confirm the viability of
22 this application or this request, we need a

1 little bit more information if you're
2 willing to provide that.

3 So at a going-in position the
4 outside dimensions of your establishment
5 would be helpful if you could provide that.
6 So just as an example, if you're looking at
7 the diagram that I showed earlier that
8 you've turned in there's a -- I'll go from
9 the top, bottom, left and right. There's a
10 top side of this diagram which represents
11 the top wall of your establishment. There's
12 a dimension or a length, I will call that,
13 associated with that that I am not able to
14 determine based on looking at the drawing.
15 Likewise, there's a bottom wall. Likewise,
16 there's a left wall. And likewise, there's
17 a right wall. At a course level I would
18 need that information in order to get a feel
19 for calculating what the overall outside
20 dimensions, or the overall area of your
21 establishment is.

22 Then from there I look inside of

1 your establishment, and you did a very good
2 job of trying to denote the different
3 sections and categories with the hash marks
4 and the colors, but I do not have the
5 ability to actually calculate what that area
6 is. I see what number you've provided and
7 I'm sure that it's close to what it is that
8 we would determine, but in an effort to be
9 fair and equitable across all applicants, we
10 take the time to do the actual course and
11 gross and finite calculations of each and
12 every section to make sure we're all fair in
13 that sense. So we would like to have the
14 ability to do that in this case. And in
15 doing so we would either need a scale
16 drawing or we would need to have you provide
17 those dimensions so that we can make that
18 independent verification and do our own
19 calculations. Does that make sense?

20 MS. FRIEDBERG: Yes.

21 MEMBER JONES: Okay. So in order
22 to do that obviously we would need the

1 dimensions. We could figure out what the
2 overall square footage is. The next step
3 would be to make the determination of what
4 is the non-selling area. Once we get that,
5 we'll take the non-selling area, subtract
6 that from the total square footage and get
7 the selling area. Gravy. We're on the same
8 page.

9 Then from there I would need
10 additional information regarding what your
11 non-food selling area is going to consist
12 of. So you did a good job. You denoted
13 what the -- what I'll call the squares as
14 opposed to the diagonal lines, and those
15 would be the areas that I would understand
16 from you are your non-food selling areas.
17 So we would need to be able to discreetly
18 calculate the area associated with the non-
19 food selling items. So we need the
20 dimensions of that.

21 Usually what we try to ask for
22 are the area dimensions of the display

1 cases, which you provided, I believe, in
2 this table at the top, and the ability to
3 know what either three feet is in terms of
4 the floor space in front of that or half of
5 the distance between two display cases or
6 the aisle distance separating two display
7 areas. So the maximum is three feet, but
8 it's not necessarily always going to be
9 three feet. It's up to three feet or half
10 of the aisle distance. So in order for us
11 to know that we'd kind of have to know what
12 the aisle distance is or what the separation
13 is between display case A and display case B
14 across an aisle. Make sense?

15 MS. FRIEDBERG: Yes.

16 MEMBER JONES: Okay. So then
17 from there if we have the ability to
18 calculate that, you give us the display case
19 dimensions, we know what the aisle distance
20 is, we would be able to then make a
21 determination to go and feed into test 2,
22 which is how much of a percentage each

1 category goes into it.

2 Now you have a very good job.
3 You've identified what the categories are.
4 So we shouldn't have any issues there. But
5 I will say in terms of when looking at your
6 diagram it didn't appear to be to scale, and
7 because it wasn't to scale I had a bit of a
8 concern and wanted to give an opportunity to
9 provide information to you. I'm not sure if
10 it's necessary, but just wanted to make sure
11 it was fair, that the distances in front of
12 some of the display cases seemed to be
13 either greater than three feet or the
14 dimensions didn't appear to measure up
15 exactly to what appeared to be in the table.
16 And I'll point out -- an example is display
17 case 21. I just wasn't sure how you were
18 calculating it exactly.

19 So is 21 -- is that a combination
20 of two display cases? So there's a -- if
21 you look at the diagram, there's a green and
22 there's 21 on the far right. Then you slide

1 a little bit over to the left. There's a
2 little more green and display case 2.
3 There's a little orange and then there's
4 another display case that looks like it says
5 21.

6 MS. CONAWAY: Yes, so against
7 that wall we have display case 21 and then
8 the -- which is a shelving unit. And then
9 there's display case 2, which is one --
10 display case 2 has the orange and the green
11 in it.

12 MEMBER JONES: Yes, ma'am.

13 MS. CONAWAY: So that's one
14 display case that has two different types of
15 products.

16 MEMBER JONES: Understood.

17 MS. CONAWAY: And then the next
18 one is 27.

19 MEMBER JONES: That's 27? Okay.

20 MS. CONAWAY: And that's a
21 separate case.

22 MEMBER JONES: That's a separate

1 case? Okay. So there is only one 21?

2 MS. CONAWAY: That's correct.

3 MEMBER JONES: Okay.

4 MS. CONAWAY: Yes, it's just very
5 difficult to read. Sorry.

6 MEMBER JONES: All right. No
7 worries. And then on display case 21, if
8 you look at the table, it indicates that the
9 length is four.

10 MS. CONAWAY: Yes.

11 MEMBER JONES: And the width is
12 2.5.

13 MS. CONAWAY: Yes.

14 MEMBER JONES: So in this
15 instance I'm going to assume as I look at it
16 the horizontal edge is the 4 feet and my
17 vertical edge is my 2.5 feet. Is that a
18 fair assumption?

19 MS. CONAWAY: Yes.

20 MEMBER JONES: Okay. And if
21 that's the case, what is this area that is
22 out in front of 21? Is this supposed to be

1 representative of the three feet in front of
2 this display case?

3 MS. CONAWAY: It should be, but
4 it doesn't look like it is.

5 MEMBER JONES: Should be? Do you
6 see --

7 MS. CONAWAY: i see where you're
8 coming from.

9 MEMBER JONES: Okay. Got it. So
10 if you could help with that, that would help
11 me in the process of kind of making sure
12 we're on the same page.

13 MS. CONAWAY: Yes.

14 MEMBER JONES: Additionally, as a
15 point of helping in this process, the way in
16 which we calculate it, we also calculate the
17 three feet distance or the floor space
18 distance, not just the area directly in
19 front of the display case, but also to the
20 left and right of the display case as long
21 as that is not a shared area.

22 So for example, display case 21,

1 on the left side of that display case, it's
2 a white space area. The left side of that
3 display case could be used to calculate or
4 be contribute to the food category of the
5 fresh fruits and vegetables in this
6 instance.

7 MS. CONAWAY: Okay.

8 MEMBER JONES: So you have the
9 area directly in front of the display case.
10 You could also use the area directly to the
11 left, as well as what we call the diagonal
12 space in there. So at the corner of display
13 case 21 you could draw another square or
14 rectangle from that corner and create
15 additional floor space area that gives you
16 access, full access all the way around that
17 display case. So immediately to the front,
18 immediately to the left, and the diagonal
19 formed by that corner would also help to
20 increase the area. The way in which we
21 calculate it it would increase above and
22 beyond what you have based on what I'm

1 looking at in this drawing. Does that help
2 at all?

3 (No audible response.)

4 MEMBER JONES: Okay. And then
5 last but not least -- well, sorry, there are
6 two other things. One, the display case
7 area No. 19, that appears to be a circular
8 display case.

9 MS. CONAWAY: It's a table, yes.

10 MEMBER JONES: It's a table?

11 MS. CONAWAY: Yes.

12 MEMBER JONES: Okay. So that
13 circular table, which is fine, we would
14 calculate this based on the area of a
15 circle.

16 MS. CONAWAY: All right.

17 MEMBER JONES: So the circle
18 would be the display case and then the area
19 around it would be up to a maximum of three
20 feet. So a radius centered at the center of
21 display case 19. πr^2 gives you the
22 area of the surrounding area plus the

1 display case, which would be countered
2 towards the canned foods. That fair?

3 MS. CONAWAY: Yes.

4 MEMBER JONES: Got it? Okay. We
5 will use that as a basis for making that
6 determination there. Does that help at all?

7 MS. CONAWAY: Yes.

8 MEMBER JONES: Okay. And --

9 MS. CONAWAY: Using our high
10 school math.

11 (Laughter.)

12 MEMBER ALBERTI: It challenged
13 us.

14 MEMBER JONES: Yes.

15 (Laughter.)

16 MS. CONAWAY: Yes, how do I do
17 the area of a triangle again?

18 MEMBER ALBERTI: Right.

19 (Laughter.)

20 MEMBER JONES: So that's the nuts
21 and bolts of the calculations and the effort
22 that we wanted to try and convey to you to

1 help facilitate your being able to
2 demonstrate how you meet the requirement.

3 MS. CONAWAY: Okay.

4 MEMBER JONES: There are some
5 other qualitative questions that I had just
6 regarding how you made the determination of
7 what's included in what space just to make
8 sure we're on the same page. But I wanted
9 to finish with the nuts and bolts before we
10 moved into the qualitative section. Is
11 that --

12 MS. CONAWAY: Sure.

13 MEMBER JONES: Okay. Do you have
14 any questions or concerns? Feel free to
15 raise them.

16 MS. FRIEDBERG: Well I just had a
17 question. Is this something that you want
18 us to put together now, or you want us to go
19 away and redo the diagram and then --

20 MEMBER JONES: I would highly
21 recommend, although I'm not requiring by any
22 stretch, that you take a moment, step away,

1 get comfortable with the diagram and then
2 resubmit in the same fashion that you've
3 done before. You're under no obligation to
4 do that right now in front of us.

5 MS. FRIEDBERG: Okay.

6 MEMBER JONES: Or today.

7 MS. FRIEDBERG: Okay.

8 MS. CONAWAY: I guess another
9 question would be --

10 MEMBER JONES: Yes, ma'am?

11 MS. CONAWAY: -- is it possible
12 to submit a paper copy that would actually
13 be to scale, because --

14 MEMBER JONES: Yes.

15 MS. CONAWAY: -- this is not
16 scale because I've scanned it and shrink it
17 and send it to you all, but I worked on a
18 piece of paper that was much larger --

19 MS. FRIEDBERG: A large plan --

20 MS. CONAWAY: -- that would
21 actually be to scale.

22 MS. FRIEDBERG: -- to what is

1 actually there.

2 MEMBER JONES: Yes, it is. It
3 has been done in the past and there should
4 be no issue with submitting a large print or
5 a large format drawing of the establishment
6 either.

7 MS. CONAWAY: Okay. Great.

8 MEMBER JONES: And I'm sure
9 you've been working with our director up to
10 this --

11 MS. CONAWAY: Mr. Moosally?

12 MEMBER JONES: Yes.

13 MS. CONAWAY: Yes.

14 MEMBER JONES: So I'm sure he
15 will communicate with you of what the best
16 form or mechanism to provide that
17 information is, but this is no issue.

18 MS. CONAWAY: Okay. Great.

19 MEMBER JONES: It would probably
20 be recommended.

21 MS. CONAWAY: Okay.

22 MEMBER JONES: It will probably

1 be a lot easier on our old collective eyes.

2 (Laughter.)

3 MS. FRIEDBERG: Yes.

4 CHAIRPERSON MILLER: Essentially
5 large is better.

6 MS. CONAWAY: Yes, it's just when
7 you sent it by email --

8 MEMBER JONES: Right. Yes. No
9 fair enough.

10 MS. CONAWAY: it automatically
11 shrinks it. So, yes.

12 MEMBER JONES: Any other
13 questions regarding calculations or
14 measuring or what have you?

15 (No audible response.)

16 MEMBER JONES: Okay. And more is
17 better. So I would lean towards or err on
18 the side of putting more dimensions or more
19 lengths and widths in there than not.

20 MS. CONAWAY: Okay.

21 MEMBER JONES: We can always
22 ignore, but if it's not there, it's just

1 something we have to go back to you and ask
2 for later. So I mean it will speed up the
3 process.

4 MS. CONAWAY: Okay.

5 MEMBER JONES: Okay? So
6 qualitatively speaking, I just had a
7 curiosity question in terms of the area to
8 the left that is noted as non-public area.

9 MS. CONAWAY: Okay.

10 MEMBER JONES: Is there a wall,
11 door? What keeps the public from this area
12 in the back, which I'm assuming you're using
13 for like storage and bathroom facilities or
14 things along those lines? How do you
15 segregate those areas?

16 MS. CONAWAY: So, it's a number
17 of things. So, we have -- we'll start with
18 the case that is labeled 6. It's at the top
19 of the diagram.

20 MEMBER JONES: Got it.

21 MS. CONAWAY: That's a
22 combination walk-in refrigerated unit with a

1 display case in the front part of it. So
2 that is going to be segregated from the
3 public just by virtue of, you know, there's
4 reach-in shelves in the front of the display
5 cooler, whereas the back of it is purely
6 storage, walk-in refrigeration storage.

7 MEMBER JONES: Okay. So if I'm
8 looking at display case 6 --

9 MS. CONAWAY: Yes.

10 MEMBER JONES: -- at the bottom
11 side of display case 6 there appears to be a
12 door.

13 MS. CONAWAY: That's correct.

14 MEMBER JONES: Will the public
15 have access to that door?

16 MS. CONAWAY: No.

17 MEMBER JONES: No? What keeps
18 the public from having access to that door?

19 MS. CONAWAY: So basically
20 there's a segregation of space that is
21 created by this walk-in cooler. And then
22 below it a deli case and a freezer, which

1 blocks off the space. Behind it the non-
2 food area is actually a food prep area where
3 we're going to be preparing sandwiches.

4 MEMBER JONES: Okay.

5 MS. CONAWAY: So it's very
6 distinguished. It has a different type of
7 floor. It's very clearly an employees-only
8 area.

9 MEMBER JONES: Got it.

10 MS. FRIEDBERG: So, there's no
11 door, but it's a small gap between those
12 two, a three-foot --

13 MS. CONAWAY: Yes.

14 MEMBER JONES: Okay.

15 MS. FRIEDBERG: -- gap aisle
16 between those two cases that only employees
17 will be able -- will be allowed to go there.

18 MEMBER JONES: Right.

19 Understood.

20 MS. FRIEDBERG: Or will be able
21 to --

22 (Laughter.)

1 MEMBER JONES: Okay.

2 MS. CONAWAY: Yes.

3 MEMBER JONES: Fair enough.

4 MS. FRIEDBERG: And actually
5 there is a door. So, yes. Yes, go ahead.

6 MS. CONAWAY: Then there is a
7 wall. At the back side you'll see some
8 drawings of sinks that are there. And
9 there's a wall.

10 MEMBER JONES: Yes.

11 MS. CONAWAY: And then you go
12 through that door, and the wall, and then
13 you have access to a bathroom, which is in
14 the lower left-hand corner of the drawing.

15 MEMBER JONES: Got it.

16 MS. CONAWAY: And that's an
17 employee-only restroom.

18 MEMBER JONES: Okay. All right.

19 MS. CONAWAY: And then around
20 back is access to our cellar area.

21 MEMBER JONES: Got it. Okay.

22 Thank you. That clarifies that for me. And

1 could you do the same for area 23?

2 MS. CONAWAY: Yes.

3 MEMBER JONES: Or display case
4 23, as well as the area that appears to be
5 to the front of the store.

6 MS. CONAWAY: Okay. So area 23
7 is our point-of-sale area.

8 MEMBER JONES: Okay.

9 MS. CONAWAY: So it's where our
10 cash register will be located and there's no
11 merchandise on the counter that's to the
12 right, and there will be no access by the
13 public to the rest of the area. That's
14 storage of our grocery bags and our
15 computers and all the checkout materials.

16 However, case 16 is also part of
17 the checkout counter. It has shelves and
18 there will be dry goods for sale on those
19 shelves.

20 MEMBER JONES: So case 16, is
21 that the case that I was referring to as at
22 the front of the store?

1 MS. CONAWAY: No, in the front of
2 the store is 26.

3 MEMBER JONES: Twenty-six? Okay.

4 MS. CONAWAY: Yes.

5 MEMBER JONES: So 16 is the
6 orange --

7 MS. CONAWAY: Yes.

8 MEMBER JONES: -- area directly
9 abutting or connected to the square formed
10 by the 23, I'll call it, zone 23?

11 MS. CONAWAY: Yes.

12 MEMBER JONES: Okay.

13 MS. CONAWAY: Yes.

14 MEMBER JONES: We'll come back to
15 zone 23. Let's talk about the area at the
16 front of the store that's marked off as non-
17 public area.

18 MS. CONAWAY: Yes, it's a window.

19 MEMBER JONES: Yes.

20 MS. CONAWAY: So it's a display
21 window. It's a display window, so --

22 MEMBER JONES: It's a display

1 window.

2 MS. CONAWAY: -- no public access
3 into that display window.

4 CHAIRPERSON MILLER: What will be
5 in the display? Items for sale, or no?

6 MS. CONAWAY: So No. 26 is a
7 bookcase, so it's creating a barrier between
8 the rest of the window unit and what faces
9 out to the retail area of the store.

10 MS. FRIEDBERG: And that will
11 have merchandise on it. But behind it will
12 just be purely for, you know, decoration for
13 the --

14 MEMBER ALBERTI: It's a bay
15 window sort of?

16 MS. CONAWAY: Yes, a bay window.

17 MS. FRIEDBERG: A bay window.

18 MEMBER ALBERTI: Okay.

19 MEMBER JONES: Bay window? Okay.

20 MS. CONAWAY: Yes.

21 MEMBER JONES: So it will be --

22 MS. CONAWAY: And it's actually

1 like raised up like six inches, so it's very
2 clear that --

3 MEMBER JONES: Okay.

4 MS. CONAWAY: -- it's a different
5 space.

6 MEMBER JONES: What would keep
7 the public from accessing that area?

8 MS. CONAWAY: The bookcase pretty
9 much blocks it off.

10 MEMBER JONES: The bookshelf
11 blocks it off?

12 MS. CONAWAY: Yes.

13 MEMBER JONES: Okay. All right.
14 So thank you for that. So, going back to
15 area 23.

16 MS. CONAWAY: Yes.

17 MEMBER JONES: Our precedence has
18 been for areas like 23 is that we do include
19 that as part of your selling area.

20 MS. CONAWAY: Okay.

21 MEMBER JONES: And when you
22 revise or resubmit, take that in

1 consideration. And that would be the entire
2 area. Now you are free to manage your store
3 however it is you choose to in terms of what
4 items, if any, you would like to have
5 displayed for sale, i.e.; which of the
6 categories you'd like to use that area for,
7 but our precedence has been that we use that
8 area as part of your selling area, and
9 therefore we would include that as part of
10 the area for your denominator when making
11 the calculations.

12 I do agree with you that the area
13 to the left and the area to the far right we
14 would count as you have indicated they would
15 be, i.e.; non-public areas and therefore not
16 calculated towards the selling area. But
17 the area where your cash -- your point of
18 sale --

19 MS. CONAWAY: Yes.

20 MEMBER JONES: -- it would be.

21 MS. CONAWAY: Okay.

22 MEMBER JONES: Okay?

1 MS. CONAWAY: Yes.

2 MEMBER JONES: Cool. And those
3 are all the questions or items that I had to
4 point out to you. I'm sure the other Board
5 Members have some items as well. But thank
6 you for that. I appreciate your efforts
7 regarding this and it has been very useful.
8 Thank you.

9 MS. CONAWAY: Thank you.

10 MEMBER JONES: Thank you, Madam
11 Chair.

12 CHAIRPERSON MILLER: Yes, Mr.
13 Alberti?

14 MEMBER ALBERTI: I just have one
15 that I wasn't clear on, and it has to do
16 with the walk-in cooler or display area
17 there. So I guess this is display 6?

18 MS. CONAWAY: Yes, that's
19 correct.

20 MEMBER ALBERTI: Yes, as you've
21 drawn it the line between the orange and
22 then the hash marks, that vertical line, is

1 that the front of the cooler?

2 MS. FRIEDBERG: So the front of
3 the cooler is -- you see where the two doors
4 are swinging in opposite directions?

5 MEMBER ALBERTI: Oh, okay. So
6 that's where the front --

7 MS. FRIEDBERG: That's the actual
8 front of the cooler.

9 MEMBER ALBERTI: That's the front
10 of the cooler? So you accounted for the
11 display space in the cooler?

12 MS. FRIEDBERG: So, yes, the part
13 that's colored --

14 MEMBER ALBERTI: Got you. So
15 the --

16 MS. FRIEDBERG: -- pink, red and
17 checkered is the selling area actually
18 inside the cooler.

19 MEMBER ALBERTI: Right. I got
20 you.

21 MS. CONAWAY: And the aisle area
22 as well.

1 MEMBER ALBERTI: Right. Okay.

2 MS. FRIEDBERG: And the aisle
3 area.

4 MEMBER ALBERTI: All right. I
5 just wanted to make sure that you --

6 MS. FRIEDBERG: So where the --

7 MEMBER ALBERTI: -- had given
8 yourself that advantage. Okay.

9 MS. FRIEDBERG: Yes.

10 MEMBER ALBERTI: Very good.

11 MS. FRIEDBERG: Yes.

12 MEMBER ALBERTI: Got you.

13 CHAIRPERSON MILLER: Yes?

14 MEMBER JONES: I had one follow-
15 up. I do apologize for this. It would be
16 helpful if in those instances where you have
17 shared display cases -- typically what we
18 have seen and been found to be very useful
19 in the past is an indication of the
20 percentage of a particular food category you
21 expect to be selling using that display
22 case. So for example, if we go to display

1 case 18, it looks like 50 percent of that
2 would be dedicated to dairy and the other 50
3 percent would be dedicated to fresh fruits
4 and veggies. That would be the assumption,
5 but sometimes when it's very close, it's
6 marginal, it could be 40/60. And sometimes
7 that could be a difference maker. So if you
8 could provide an indication of what you
9 think a shared case -- what percentage a
10 particular category would be using of that
11 display case, it would be helpful.

12 MS. CONAWAY: Okay.

13 MEMBER JONES: Thank you. Sorry
14 about that. Thank you, Madam Chair.

15 CHAIRPERSON MILLER: Thank you.

16 Others?

17 (No audible response.)

18 CHAIRPERSON MILLER: Okay. You
19 know, this is all about, you know, measuring
20 and percentages and stuff like that, but I
21 just wanted to ask you to get the general
22 picture of you all, you have a market now

1 that you're operating?

2 MS. FRIEDBERG: No, this is it.

3 This is our first --

4 CHAIRPERSON MILLER: You're
5 designing it?

6 MS. FRIEDBERG: Yes.

7 CHAIRPERSON MILLER: Oh, okay.

8 MS. FRIEDBERG: First business.
9 So we're just about to open.

10 CHAIRPERSON MILLER: Oh, okay.

11 MS. FRIEDBERG: Yes.

12 CHAIRPERSON MILLER: Okay.

13 Because I was wondering if you had any
14 pictures of how this looks like laid out.
15 But you're going to -- you're designing --

16 MS. FRIEDBERG: We have all the
17 furniture and cases in there. There's just
18 no food on them yet.

19 CHAIRPERSON MILLER: Oh, okay.

20 (Laughter.)

21 CHAIRPERSON MILLER: So you'll be
22 placing them as designed?

1 MS. FRIEDBERG: Yes, exactly.

2 CHAIRPERSON MILLER: Okay. All
3 right.

4 MS. CONAWAY: This is how we
5 envision it will be, yes.

6 CHAIRPERSON MILLER: Okay. All
7 right. Good. So do you have any other
8 questions for us?

9 MS. FRIEDBERG: I don't believe
10 so.

11 MS. CONAWAY: I don't think so.

12 MS. FRIEDBERG: We appreciate the
13 Board taking the time to explain to us the
14 additional information that is required and
15 we'll happily submit that.

16 (Laughter.)

17 MS. FRIEDBERG: We will get that
18 back to you as soon as we possibly can and
19 then hopefully we can continue the process.

20 CHAIRPERSON MILLER: Okay. You
21 know that we take a recess after August
22 14th --

1 MS. FRIEDBERG: We do not.

2 CHAIRPERSON MILLER: -- until the
3 beginning September?

4 MS. FRIEDBERG: Okay.

5 CHAIRPERSON MILLER: In case that
6 influences how quickly you move.

7 MS. FRIEDBERG: So you do meet on
8 August 14th?

9 CHAIRPERSON MILLER: August 14th
10 we meet, a Wednesday.

11 MS. FRIEDBERG: Okay. So we
12 should try to get it in? If we get it in
13 before then, we might be able to get on the
14 agenda before the recess?

15 CHAIRPERSON MILLER: You might.
16 You might. You might. But otherwise there
17 will be a three-week gap. So I just wanted
18 to let you know. I can't make any promises,
19 but, you know --

20 MS. FRIEDBERG: No, that's good
21 for us.

22 CHAIRPERSON MILLER: Yes.

1 MS. FRIEDBERG: You know, we'll
2 hurry.

3 CHAIRPERSON MILLER: Okay. Well,
4 you know, we'd like to if we can.

5 MS. FRIEDBERG: Okay. Great.

6 CHAIRPERSON MILLER: All right?
7 So and then you can always contact Mr.
8 Moosally if you have any other questions as
9 well.

10 MS. FRIEDBERG: Okay.

11 CHAIRPERSON MILLER: Okay.

12 MS. FRIEDBERG: Great.

13 CHAIRPERSON MILLER: Well, thank
14 you very much.

15 MS. FRIEDBERG: Thank you very
16 much.

17 MS. CONAWAY: Thank you very
18 much.

19 MS. FRIEDBERG: Appreciate it.

20 (Whereupon, the hearing was
21 concluded at 2:13 p.m.)
22

A	45:12 47:19 approach 10:11 approximately 15:7 area 4:5 10:14,18 10:19 14:5,6,8,9 14:11,12,13,14 16:20 17:5 18:4,5 18:7,11,18,22 22:21 23:18,21 24:2,9,10,15,20 25:7,14,18,22,22 26:17 31:7,8,11 33:2,2,8 34:20 35:1,4,6,7,13 36:8 36:15,17 37:9 38:7,15,19 39:2,6 39:8,8,10,12,13 39:16,17 40:16 41:17,21 42:3 areas 18:15,16 19:7 31:15 38:18 39:15 associated 16:13 18:18 assume 15:13 22:15 assuming 31:12 assumption 22:18 43:4 audible 9:3 14:3,19 25:3 30:15 43:17 August 45:21 46:8 46:9 automatically 30:10	baseline 15:8 basically 4:9 32:19 basis 26:5 bathroom 31:13 34:13 bay 37:14,16,17,19 beginning 46:3 believe 5:3 19:1 45:9 best 29:15 better 5:22 12:19 30:5,17 Beverage 1:2,13,13 beyond 24:22 bit 4:4 6:21 8:2 16:1 20:7 21:1 blocks 33:1 38:9,11 Board 1:2,13 7:16 40:4 45:13 bolts 26:21 27:9 bookcase 37:7 38:8 bookshelf 38:10 bottom 16:9,15 32:10 BROOKS 1:20 9:18,20 Building 1:14 business 44:8	19:13,13,18 20:17 21:2,4,7,9,10,14 21:21 22:1,7,21 23:2,19,20,22 24:1,3,9,13,17 25:6,8,18,21 26:1 31:18 32:1,8,11 32:22 35:3,16,20 35:21 42:22 43:1 43:9,11 46:5 cases 2:5 19:1,5 20:12,20 33:16 42:17 44:17 cash 35:10 39:17 categories 17:3 20:3 39:6 category 20:1 24:4 42:20 43:10 cellar 34:20 center 25:20 centered 25:20 Chair 4:17 40:11 43:14 Chairperson 1:15 1:18 2:3,14,19 3:2 3:5,9,12 4:15,18 5:16 6:4,8,14 7:7 7:21 8:5,22 11:5 30:4 37:4 40:12 42:13 43:15,18 44:4,7,10,12,19 44:21 45:2,6,20 46:2,5,9,15,22 47:3,6,11,13 challenged 26:12 chance 2:11 check 8:19 checkered 41:17 Checking 8:18,19 14:2 checkout 35:15,17 choose 39:3 circle 25:15,17 circular 25:7,13 clarifies 34:22 clarity 5:15 Class 3:13	clear 7:15 38:2 40:15 clearly 33:7 close 17:7 43:5 collective 30:1 colored 41:13 colors 17:4 COLUMBIA 1:1 combination 20:19 31:22 come 2:10 36:14 comfortable 28:1 coming 11:12 23:8 communicate 29:15 communication 3:19 computers 35:15 Conaway 3:7,8,11 4:21 5:18 21:6,13 21:17,20 22:2,4 22:10,13,19 23:3 23:7,13 24:7 25:9 25:11,16 26:3,7,9 26:16 27:3,12 28:8,11,15,20 29:7,11,13,18,21 30:6,10,20 31:4,9 31:16,21 32:9,13 32:16,19 33:5,13 34:2,6,11,16,19 35:2,6,9 36:1,4,7 36:11,13,18,20 37:2,6,16,20,22 38:4,8,12,16,20 39:19,21 40:1,9 40:18 41:21 43:12 45:4,11 47:17 concern 15:8 20:8 concerns 27:14 concluded 47:21 confirm 15:21 connected 36:9 connection 11:10 11:11 consideration 39:1 consist 18:11
B	B 1:8 3:13 19:13 back 2:4 13:8 31:1 31:12 32:5 34:7 34:20 36:14 38:14 45:18 bags 35:14 barrier 37:7 based 10:15 15:7,9 15:13 16:14 24:22 25:14	calculate 10:14 14:5,11 17:5 18:18 19:18 23:16 23:16 24:3,21 25:14 calculated 39:16 calculating 16:19 20:18 calculation 15:11 15:20 calculations 5:22 15:1 17:11,19 26:21 30:13 39:11 call 3:16 16:12 18:13 24:11 36:10 canned 26:2 case 2:5 17:14		
A	ability 17:5,14 19:2 19:17 able 16:13 18:17 19:20 27:1 33:17 33:20 46:13 abutting 36:9 access 24:16,16 32:15,18 34:13,20 35:12 37:2 accessing 38:7 accounted 41:10 accurately 4:7 actual 17:10 41:7 additional 5:15 18:10 24:15 45:14 Additionally 23:14 advantage 42:8 afternoon 2:4,5 agenda 46:14 agree 39:12 ahead 34:5 aisle 19:6,10,12,14 19:19 33:15 41:21 42:2 Alberti 1:19 2:12 2:16 8:1,9,15,20 9:9,16,19,21 10:2 11:3 12:14 26:12 26:18 37:14,18 40:13,14,20 41:5 41:9,14,19 42:1,4 42:7,10,12 Alcoholic 1:2,13,13 allowed 33:17 ANC 1:9 2:8 answers 14:22 apologize 42:15 appear 20:6,14 appeared 20:15 appears 25:7 32:11 35:4 applicants 17:9 application 1:10 15:22 applied 3:13 appreciate 40:6			

contact 47:7
continue 45:19
contribute 24:4
Control 1:2,13,13
convey 26:22
Cool 9:4 40:2
cooler 32:5,21
 40:16 41:1,3,8,10
 41:11,18
copy 4:1 28:12
corner 24:12,14,19
 34:14
correct 2:18 3:11
 22:2 32:13 40:19
count 39:14
counter 35:11,17
countered 26:1
course 16:17 17:10
court 6:8,12,16,20
 7:2,4,8,11,17 8:4
 8:6 9:2,7,11 10:4
 10:20 11:1,6,16
 11:19 12:1,6,13
 12:16,18 13:4,14
 13:17,21
create 24:14
created 32:21
creating 37:7
curiosity 31:7
cut 9:7,9 12:10,10
 12:11 13:2,3
cutting 10:21 11:20
 11:22 12:3,21

D

dairy 43:2
date 5:5
decoration 37:12
dedicated 43:2,3
deli 32:22
demonstrate 3:20
 27:2
denominator 14:15
 39:10
denote 17:2
denoted 18:12
dependent 15:18

designed 44:22
designing 44:5,15
determination
 10:17 14:17 18:3
 19:21 26:6 27:6
determine 15:17
 16:14 17:8
determining 14:12
diagonal 18:14
 24:11,18
diagram 16:7,10
 20:6,21 27:19
 28:1 31:19
difference 43:7
different 17:2
 21:14 33:6 38:4
difficult 22:5
dimension 16:12
dimensions 16:4,20
 17:17 18:1,20,22
 19:19 20:14 30:18
directions 41:4
directly 23:18 24:9
 24:10 36:8
director 29:9
discreetly 18:17
display 18:22 19:5
 19:6,13,13,18
 20:12,16,20 21:2
 21:4,7,9,10,14
 22:7 23:2,19,20
 23:22 24:1,3,9,12
 24:17 25:6,8,18
 25:21 26:1 32:1,4
 32:8,11 35:3
 36:20,21,22 37:3
 37:5 40:16,17
 41:11 42:17,21,22
 43:11
displayed 39:5
distance 19:5,6,10
 19:12,19 23:17,18
distances 20:11
distinguished 33:6
DISTRICT 1:1
document 15:5,14
doing 14:20 17:15

DONALD 1:20
door 31:11 32:12
 32:15,18 33:11
 34:5,12
doors 41:3
draw 24:13
drawing 15:12,15
 16:14 17:16 25:1
 29:5 34:14
drawings 34:8
drawn 40:21
dry 35:18
D.C 1:14

E

earlier 16:7
easier 30:1
edge 22:16,17
effort 17:8 26:21
efforts 40:6
either 17:15 19:3
 20:13 29:6
email 30:7
Emily 2:22
employees 33:16
employees-only
 33:7
employee-only
 34:17
entire 39:1
envision 45:5
equation 15:1
equitable 17:9
err 30:17
Essentially 30:4
establishment
 10:13 14:7 15:4
 16:4,11,21 17:1
 29:5
exactly 15:15,16
 20:15,18 45:1
example 16:6 20:16
 23:22 42:22
exemption 3:15
expect 42:21
explain 45:13
explaining 4:4

explicit 15:19
extra 13:8
eyes 30:1

F

faces 37:8
facilitate 27:1
facilities 31:13
fact 1:8 3:17
fair 5:16 17:9,12
 20:11 22:18 26:2
 30:9 34:3
far 4:1,9 20:22
 39:13
fashion 28:2
feed 19:21
feedback 5:14
feel 16:18 27:14
feet 15:7 19:3,7,9,9
 20:13 22:16,17
 23:1,17 25:20
figure 18:1
fill 14:22
finding 1:8 3:17 4:2
findings 4:8
fine 7:11 25:13
finish 27:9
finite 17:11
first 2:5 5:20 15:2
 44:3,8
floor 19:4 23:17
 24:15 33:7
follow 42:14
Follows 14:18
food 14:10,11,13
 18:19 24:4 33:2,2
 42:20 44:18
foods 26:2
footage 10:13,15
 14:7 15:4 18:2,6
foremost 5:20
form 29:16
format 29:5
formed 24:19 36:9
forward 2:10
found 42:18
four 22:9

free 27:14 39:2
freezer 32:22
fresh 24:5 43:3
Friedberg 2:22 3:1
 3:4,4,5 4:20 5:1,7
 5:10,17 17:20
 19:15 27:16 28:5
 28:7,19,22 30:3
 33:10,15,20 34:4
 37:10,17 41:2,7
 41:12,16 42:2,6,9
 42:11 44:2,6,8,11
 44:16 45:1,9,12
 45:17 46:1,4,7,11
 46:20 47:1,5,10
 47:12,15,19
front 15:10 19:4
 20:11 22:22 23:1
 23:19 24:9,17
 28:4 32:1,4 35:5
 35:22 36:1,16
 41:1,2,6,8,9
fruits 24:5 43:3
full 3:14 24:16
furniture 44:17

G

gap 33:11,15 46:17
general 10:11
 43:21
getting 7:18,19
give 2:20 15:18
 19:18 20:8
given 15:12 42:7
gives 14:7 24:15
 25:21
go 8:21 13:7,8
 15:19 16:8 19:21
 27:18 31:1 33:17
 34:5,11 42:22
goes 9:12 20:1
going 4:8 8:11,16
 11:2 12:9,10
 14:10 15:2,13
 18:11 19:8 22:15
 32:2 33:3 38:14
 44:15

going-in 16:3
good 2:3 3:19 7:15
 9:1 10:5 14:2
 17:1 18:12 20:2
 42:10 45:7 46:20
goods 35:18
grab 2:14,17
Gravy 18:7
Great 29:7,18 47:5
 47:12
greater 20:13
green 20:21 21:2
 21:10
grocery 3:14 35:14
gross 17:11
guess 28:8 40:17
guidance 5:14

H

half 19:4,9
hand 5:4
happily 45:15
hash 17:3 40:22
hear 6:11,19 7:3,10
 10:3
hearing 1:9,14
 47:20
hearings 3:17
Hello 8:8
help 3:20 5:15
 11:14 15:20 23:10
 23:10 24:19 25:1
 26:6 27:1
helpful 16:5 42:16
 43:11
helping 15:21
 23:15
Herman 1:21 8:13
 8:14 9:22
Hi 4:19,20,21
high 8:11,17 26:9
highly 27:20
hopefully 45:19
horizontal 22:16
Huh 6:22
hurry 47:2

I

identified 20:3
ignore 30:22
immediately 24:17
 24:18
inability 15:9
inches 38:1
include 38:18 39:9
included 27:7
increase 24:20,21
independent 17:18
indicated 5:16
 39:14
indicates 22:8
indicating 7:14
indication 42:19
 43:8
individuals 2:9
influences 46:6
information 10:16
 10:18 15:10,13
 16:1,18 18:10
 20:9 29:17 45:14
inside 16:22 41:18
instance 22:15 24:6
instances 42:16
interrupt 13:18
involved 4:11
issue 12:4,5 29:4,17
issues 20:4
items 15:19 18:19
 37:5 39:4 40:3,5
i.e 6:2 39:5,15

J

Jeanlouise 3:7
job 17:2 18:12 20:2
Jones 1:21 4:9,13
 4:14,16,19,22 5:2
 5:9,11,19 6:5,11
 6:19,22 7:3,5,9,13
 7:19 8:8,14,14,18
 9:1,4,14 10:1,3,5
 10:9,22 11:14,17
 11:21 12:5,9,17
 12:20 13:12,16,20
 14:1,4,20 17:21
 19:16 21:12,16,19

21:22 22:3,6,11
 22:14,20 23:5,9
 23:14 24:8 25:4
 25:10,12,17 26:4
 26:8,14,20 27:4
 27:13,20 28:6,10
 28:14 29:2,8,12
 29:14,19,22 30:8
 30:12,16,21 31:5
 31:10,20 32:7,10
 32:14,17 33:4,9
 33:14,18 34:1,3
 34:10,15,18,21
 35:3,8,20 36:3,5,8
 36:12,14,19,22
 37:19,21 38:3,6
 38:10,13,17,21
 39:20,22 40:2,10
 42:14 43:13

JULY 1:12

K

keep 38:6
keeps 31:11 32:17
kind 19:11 23:11
know 3:13,22,22
 5:5 11:7,9 12:7
 19:3,11,11,19
 32:3 37:12 43:19
 43:19 45:21 46:18
 46:19 47:1,4
known 6:2 9:5

L

labeled 31:18
laid 44:14
large 28:19 29:4,5
 30:5
larger 28:18
Laughter 7:12 10:8
 26:11,15,19 30:2
 33:22 44:20 45:16
lean 30:17
leave 12:15
left 4:9 16:9,16
 21:1 23:20 24:1,2
 24:11,18 31:8
 39:13

left-hand 34:14
length 16:12 22:9
lengths 30:19
let's 8:21 12:14
 36:15
level 16:17
license 1:9 2:7 3:14
licensed 10:14
likewise 16:15,15
 16:16
line 40:21,22
lines 18:14 31:14
little 4:4 6:20 8:2
 8:17 10:10 16:1
 21:1,2,3
LLC 1:6
located 2:6 35:10
long 23:20
look 5:6 10:12
 14:10 15:2 16:22
 20:21 22:8,15
 23:4
looking 15:11 16:6
 16:14 20:5 25:1
 32:8
looks 4:2 21:4 43:1
 44:14
loose 11:10,11
lot 30:1
loud 10:10
loudly 10:6
lower 34:14

M

Madam 4:16 40:10
 43:14
maker 43:7
making 14:16
 23:11 26:5 39:10
manage 39:2
marginal 43:6
marked 36:16
market 1:7 2:6
 43:22
marks 17:3 40:22
materials 35:15
math 26:10

MATTER 1:5
maximum 19:7
 25:19
ma'am 6:7 21:12
 28:10
mean 12:2 31:2
measure 4:5 20:14
measures 15:19
measuring 4:12
 30:14 43:19
mechanism 29:16
meet 3:21 27:2 46:7
 46:10
MEETING 1:3
Member 1:19,20
 1:21,22 2:12,16
 4:14,16,19,22 5:2
 5:9,11,19 6:5,11
 6:17,19,22 7:3,5,9
 7:13,19 8:1,8,9,14
 8:15,18,20 9:1,4,9
 9:14,16,18,19,20
 9:21 10:1,2,3,5,9
 10:22 11:3,14,17
 11:21 12:5,9,14
 12:17,20 13:12,16
 13:20 14:1,4,20
 17:21 19:16 21:12
 21:16,19,22 22:3
 22:6,11,14,20
 23:5,9,14 24:8
 25:4,10,12,17
 26:4,8,12,14,18
 26:20 27:4,13,20
 28:6,10,14 29:2,8
 29:12,14,19,22
 30:8,12,16,21
 31:5,10,20 32:7
 32:10,14,17 33:4
 33:9,14,18 34:1,3
 34:10,15,18,21
 35:3,8,20 36:3,5,8
 36:12,14,19,22
 37:14,18,19,21
 38:3,6,10,13,17
 38:21 39:20,22
 40:2,10,14,20

41:5,9,14,19 42:1 42:4,7,10,12,14 43:13 Members 40:5 merchandise 35:11 37:11 met 1:13 mic 6:9,18 7:6 8:12 8:19 9:19 11:15 12:7,10,22,22 13:3,3 mics 12:15 mic's 12:10 MIKE 1:22 Mike's 9:17,18 Miller 1:15,18 2:3 2:14,19 3:2,5,9,12 4:15,18 6:4,8,14 7:7,21 8:5,22 11:5 30:4 37:4 40:12 42:13 43:15,18 44:4,7,10,12,19 44:21 45:2,6,20 46:2,5,9,15,22 47:3,6,11,13 Miller's 6:16 mine 6:15 11:5 moment 27:22 Moosally 29:11 47:8 Mount 1:8 2:7 move 11:3 46:6 moved 27:10	33:1 36:16 non-food 18:11,16 non-public 31:8 39:15 non-selling 10:17 10:19 14:6 18:4,5 noted 31:8 number 5:5 14:15 15:6,6,12 17:6 31:16 nuts 26:20 27:9 NW 1:8 N.W 1:14 2:7	7:15 20:8 opposed 18:14 opposite 41:4 orange 21:3,10 36:6 40:21 order 14:22 16:18 17:21 19:10 outside 15:14 16:4 16:19 overall 10:12 16:19 16:20 18:2 owners 3:10	possibly 45:18 potential 10:13 precedence 38:17 39:7 prefer 13:4 prep 33:2 preparing 33:3 present 1:17 4:7 presiding 1:15 pretty 38:8 print 29:4 probably 10:7 29:19,22 problem 10:7 11:7 11:19 13:1,9 14:1 process 5:21 14:16 14:21 15:21 23:11 23:15 31:3 45:19 products 21:15 promises 46:18 provide 5:14,15 7:14 16:2,5 17:16 20:9 29:16 43:8 provided 10:16 15:5,8 17:6 19:1 providing 5:3 provision 3:15 public 31:11 32:3 32:14,18 35:13 36:17 37:2 38:7 purely 32:5 37:12 put 27:18 putting 30:18 P-R-O-C-E-E-D-... 2:1 p.m 2:2 47:21	r 25:21 radius 25:20 raise 27:15 raised 38:1 reach-in 32:4 read 22:5 ready 2:20 4:13 really 10:20 11:6 13:9 reason 6:10 received 15:14 recess 45:21 46:14 recommend 27:21 recommended 29:20 record 2:4,21 rectangle 24:14 red 41:16 redo 27:19 Reeves 1:14 referring 35:21 refrigerated 31:22 refrigeration 32:6 regarding 18:10 27:6 30:13 40:7 register 35:10 REPORTER 6:12 6:16,20 7:2,4,8,11 7:17 8:4,6 9:2,7 9:11 10:4,20 11:1 11:6,16,19 12:1,6 12:13,16,18 13:4 13:14,17,21 reporter's 6:9 representative 23:1 represents 16:10 request 15:22 required 45:14 requirement 27:2 requiring 27:21 response 9:3 14:3 14:19 25:3 30:15 43:17 rest 35:13 37:8 restroom 34:17 resubmit 28:2 38:22
<hr/> N <hr/> name 2:17 3:3 names 2:20 necessarily 19:8 necessary 20:10 need 7:5 13:7 14:21 15:22 16:18 17:15 17:16,22 18:9,17 18:19 needs 4:3 new 1:10 3:15 NICK 1:19 non 14:12 18:18	<hr/> O <hr/> oath 3:18 obligation 28:3 obviously 14:21 15:3 17:22 Oh 2:14 41:5 44:7 44:10,19 okay 3:6,12 4:13,15 4:18 5:9 7:5,9,13 8:3,16,22 10:2,22 12:13 13:21 14:20 17:21 19:16 21:19 22:1,3,20 23:9 24:7 25:4,12 26:4 26:8 27:3,13 28:5 28:7 29:7,18,21 30:16,20 31:4,5,9 32:7 33:4,14 34:1 34:18,21 35:6,8 36:3,12 37:18,19 38:3,13,20 39:21 39:22 41:5 42:1,8 43:12,18 44:7,10 44:12,19 45:2,6 45:20 46:4,11 47:3,5,10,11 old 30:1 Once 10:18 14:14 18:4 ont 27:8 open 44:9 operating 44:1 opportunity 5:12	<hr/> P <hr/> page 18:8 23:12 27:8 paper 2:11 28:12 28:18 part 32:1 35:16 38:19 39:8,9 41:12 particular 42:20 43:10 passage 6:3,5 9:5,6 Peach 1:6,7 2:6 percent 43:1,3 percentage 19:22 42:20 43:9 percentages 43:20 perform 5:21 Pi 25:21 pick 8:12 picking 6:9,12 picture 43:22 pictures 44:14 piece 2:10 28:18 pink 41:16 placing 44:22 plan 28:19 play 13:1 Pleasant 1:8 2:7 plus 25:22 point 4:10 20:16 23:15 39:17 40:4 point-of-sale 35:7 position 16:3 possible 28:11	<hr/> Q <hr/> qualitative 27:5,10 qualitatively 31:6 question 27:17 28:9 31:7 questions 27:5,14 30:13 40:3 45:8 47:8 quickly 46:6	<hr/> R <hr/>

retail 37:9
Retailer 1:8
rev 5:3,5
review 5:13
revise 38:22
right 5:19 7:13
 8:21 10:6 12:7
 14:4 16:9,17
 20:22 22:6 23:20
 25:16 26:18 28:4
 30:8 33:18 34:18
 35:12 38:13 39:13
 41:19 42:1,4 45:3
 45:7 47:6
Room 1:14
Ruthanne 1:14,18

S

sale 35:18 37:5
 39:5,18
sandwiches 33:3
saying 11:17
says 21:4
scale 15:15,16
 17:15 20:6,7
 28:13,16,21
scanned 28:16
school 26:10
section 17:12 27:10
sections 17:3
see 5:5 17:6 23:6,7
 34:7 41:3
seen 42:18
segregate 31:15
segregated 32:2
segregation 32:20
selling 4:5 14:5,8,8
 14:11,12,13,14
 18:7,11,16,19
 38:19 39:8,16
 41:17 42:21
send 28:17
sense 14:18 17:13
 17:19 19:14
sent 30:7
separate 21:21,22
separating 19:6

separation 19:12
September 46:3
service 3:14
set 14:9
shared 23:21 42:17
 43:9
shelves 32:4 35:17
 35:19
shelving 21:8
showed 16:7
shrink 28:16
shrinks 30:11
side 14:9 16:10
 24:1,2 30:18
 32:11 34:7
sign 2:11

SILVERSTEIN

1:22 6:17
similar 5:6
sinks 34:8
six 38:1
slide 20:22
small 33:11
soon 45:18
sorry 10:21 13:21
 22:5 25:5 43:13
sort 37:15
space 19:4 23:17
 24:2,12,15 27:7
 32:20 33:1 38:5
 41:11
speak 8:7 10:6
speaking 9:12 12:4
 31:6
speed 31:2
spelling 2:18
square 10:12,15
 14:6 15:3,7 18:2,6
 24:13 36:9
squared 25:21
squares 18:13
start 12:3 31:17
started 9:12
starting 11:8
stay 12:11
step 18:2 27:22
storage 31:13 32:6

32:6 35:14
store 3:14 35:5,22
 36:2,16 37:9 39:2
Street 1:8,14 2:7
stretch 27:22
stuff 43:20
submit 28:12 45:15
submitted 5:8
submitting 29:4
subtract 10:19 14:5
 18:5
subtracting 14:13
supposed 22:22
sure 2:22 17:7,12
 20:9,10,17 23:11
 27:8,12 29:8,14
 40:4 42:5
surrounding 25:22
swinging 41:4
system's 12:2

T

table 2:13 19:2
 20:15 22:8 25:9
 25:10,13
take 4:9 10:12,14
 11:5 14:8 17:10
 18:5 27:22 38:22
 45:21
talk 36:15
talking 11:18 12:21
temporarily 14:9
terms 19:3 20:5
 31:7 39:3
test 3:21 6:3,6 9:5,6
 14:17 19:21
thank 2:18 4:16 5:1
 5:2 34:22 38:14
 40:5,8,9,10 43:13
 43:14,15 47:13,15
 47:17
thing 11:12 15:2
things 4:6 13:8
 25:6 31:14,17
think 4:2 43:9
 45:11
three 19:3,7,9,9

20:13 23:1,17
 25:19
three-foot 33:12
three-week 46:17
time 17:10 45:13
today 28:6
top 16:9,10,11 19:2
 31:18
total 14:6,14 15:3
 18:6
touch 8:10 11:12
triangle 26:17
true 4:3
try 8:12 9:17 10:6,9
 13:10,14 18:21
 26:22 46:12
trying 3:19 7:14
 17:2
turn 7:22 8:11,16
 9:21,22
turned 6:18 8:2
 16:8
Twenty-six 36:3
two 8:19 19:5,6
 20:20 21:14 25:6
 33:12,16 41:3
type 4:11 33:6
types 21:14
typically 42:17
t/a 1:7

U

understand 18:15
understanding 6:1
 7:16
Understood 21:16
 33:19
unit 21:8 31:22
 37:8
unknown 6:1 9:5
use 12:11,18 13:3
 24:10 26:5 39:6,7
useful 40:7 42:18
usual 10:10
Usually 18:21

V

variables 14:22

vegetables 24:5
veggies 43:4
verification 6:2
 17:18
verify 15:11
version 5:8,12,13
vertical 22:17
 40:22
viability 15:21
virtue 32:3
volume 8:2
volume's 8:11,17

W

wait 6:4,4 8:9,9,10
walk 5:20
walk-in 31:22 32:6
 32:21 40:16
wall 16:11,15,16,17
 21:7 31:10 34:7,9
 34:12
want 5:20 11:3
 13:12 27:17,18
wanted 20:8,10
 26:22 27:8 42:5
 43:21 46:17
Washington 1:14
wasn't 20:7,17
 40:15
way 13:19 23:15
 24:16,20
Wednesday 46:10
Welcome 4:22
we'll 12:6 13:19
 18:5 31:17 36:14
 45:15 47:1
we're 2:4 7:14 11:1
 15:12 17:12 18:7
 23:12 27:8 33:3
 44:9
we've 4:2 15:14
white 24:2
width 22:11
widths 30:19
willing 16:2
window 36:18,21
 36:21 37:1,3,8,15

37:16,17,19	<hr/> 5 <hr/>			
wondering 44:13	50 43:1,2			
work 13:6,11,18	<hr/> 6 <hr/>			
worked 28:17	6 31:18 32:8,11			
working 29:9	40:17			
works 12:8 13:9	<hr/> 7 <hr/>			
worries 13:20 22:7	760 15:7			
write 2:17	<hr/> 9 <hr/>			
<hr/> Z <hr/>	92449 1:9 2:8			
zone 36:10,15				
<hr/> P <hr/>				
p 1:5,10				
<hr/> 1 <hr/>				
1 6:3 9:6				
1D 1:9 2:8				
1:43 2:2				
14th 1:14 45:22				
46:8,9				
16 35:16,20 36:5				
18 43:1				
19 25:7,21				
<hr/> 2 <hr/>				
2 6:6 9:6 14:17				
19:21 21:2,9,10				
2.5 22:12,17				
2:13 47:21				
2000 1:14				
2013 1:12				
21 20:17,19,22 21:5				
21:7 22:1,7,22				
23:22 24:13				
23 35:1,4,6 36:10				
36:10,15 38:15,18				
26 36:2 37:6				
27 21:18,19				
<hr/> 3 <hr/>				
3068 1:8 2:6				
31 1:12				
<hr/> 4 <hr/>				
4 22:16				
40/60 43:6				