

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Howard Theatre Entertainment,
LLC t/a Howard Theatre
620 T Street, NW
Retailer CX - ANC-1B
License No. 88646
Case #15-251-00123

Fact-
Finding
Hearing

(Assault With a Deadly Weapon)

September 16, 2015

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

MARK BRASHEARS, ABRA Investigator

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

2 11:43 a.m.

3 CHAIRPERSON MILLER: All right. We
4 have a Fact-Finding Hearing now for Case No. 15-
5 251-00123, Howard Theatre located at 620 T
6 Street, N.W., License No. 88646, in ANC-1B.

7 Okay. When you are ready, if you
8 would introduce yourselves for the record,
9 please?

10 MR. WHELAN: Good morning. Stephen
11 Whelan on behalf of the licensee, Howard Theatre.
12 With me as well is Shani Pace, Chip Ellis and
13 Michael Harmon.

14 CHAIRPERSON MILLER: Okay. For the
15 record, Mr. Whelan, you are the attorney and
16 would you identify who everybody is?

17 MR. WHELAN: Sure.

18 CHAIRPERSON MILLER: Yes.

19 MR. WHELAN: As I said, Stephen Whelan
20 from Veritas Law Firm.

21 CHAIRPERSON MILLER: Right.

22 MR. WHELAN: Shani Pace is the General

1 Manager. Chip Ellis is an owner. And Michael
2 Harmon is an ABC/Floor Manager.

3 CHAIRPERSON MILLER: Okay. Great.
4 Thank you. And over here?

5 OFFICER KYLE: Good morning, Officer
6 Tate Kyle, MPD 3D.

7 INVESTIGATOR BRASHEARS: ABRA
8 Investigator Mark Brashears.

9 CHAIRPERSON MILLER: Okay. Thank you.
10 And again, I want to apologize for the delay,
11 that sometimes happens with cases, they take
12 longer than we expect. So I appreciate you all
13 coming down.

14 This is a Fact-Finding Hearing. I
15 know that we have seen you all before and so you
16 are familiar with the concept that it is not an
17 evidentiary hearing. It is a Fact-Finding
18 Hearing. We want to find out more about what
19 happened on Monday, May 25, 2015. I know there
20 was a violent incident and maybe what actions you
21 have taken since then, if any, to make your
22 establishment safer, any procedures you may have

1 implemented since then.

2 I don't know if you were here for the
3 earlier Fact-Finding Hearing, but we had one that
4 was very fruitful.

5 But first though, we do begin with
6 what happened that evening. And, Mr. Brashears,
7 do you want to start or does --

8 INVESTIGATOR BRASHEARS: Yes, ma'am,
9 I can.

10 CHAIRPERSON MILLER: Okay.

11 INVESTIGATOR BRASHEARS: Basically,
12 during the course of my investigation, I
13 discovered that it was the Memorial Day weekend
14 party with a hip hop and Top 40-type DJ.

15 Throughout the course of the evening,
16 there were -- there was an altercation of some
17 type between two individuals. One of the
18 individuals was subsequently ejected. I could
19 see him numerous times on video trying to get
20 back into the establishment and was not allowed
21 back in.

22 And then some time after let-out, the

1 individual was stabbed, I believe, four times in
2 the back, approximately, 100 feet from the
3 establishment.

4 Speaking with the head of security, he
5 was unclear if the individual that was stabbed in
6 the street was the actual individual that was put
7 out. But speaking with the ABC manager of the
8 establishment, he believed that the individual
9 was.

10 Security that evening was wandering and
11 patting everyone down. The head of security felt
12 very confident that the individual that did the
13 stabbing did not take any type of weapon into
14 Howard Theatre.

15 The other issues that came to light,
16 based on the situation, once again, I collected
17 the video from ABC Manager Michael Harmon. We
18 looked at it at the establishment and saw all the
19 feeds and everything were on the thumb drive that
20 he gave me. And then once I got back here, it
21 was different video images. So basically, once
22 again, there was a video issue.

1 And basically, all I was able to do
2 was look at the external video that night. And I
3 was able to see the individual repeatedly trying
4 to come back in and my understanding was the
5 event that night was a, I believe they termed it,
6 Baltimore Takes Over D.C., where basically two
7 large tour buses had been brought in. And this
8 individual had, basically, arrived on one of the
9 buses.

10 So even though he was put out early in
11 the evening, he had nowhere to go and stayed in
12 the area. And from what I understand speaking
13 with the police officers involved, they actually
14 knew of a large event occurring at Howard Theatre
15 that evening.

16 So according to the officer I
17 interviewed, he and a partner were basically
18 parked across the street in marked cruisers and
19 the event happened in the street nearby. But
20 when they basically interviewed the victim, he
21 couldn't really say what happened. He said he
22 was in a crowd, something stuck him, he fell down

1 and further attempts to contact him were
2 unsuccessful. He became uncooperative.

3 CHAIRPERSON MILLER: Okay. That's it?

4 INVESTIGATOR BRASHEARS: Yes, ma'am.

5 CHAIRPERSON MILLER: Okay. Thank you
6 very much. Officer, do you want to add anything?

7 OFFICER KYLE: Not at the moment,
8 ma'am.

9 CHAIRPERSON MILLER: Okay. Thank you.
10 Do you all want to respond with respect to what
11 happened that night?

12 MR. WHELAN: Sure. I would just say
13 that of the people seated to my left, Mr. Harmon
14 was the only individual that was at the
15 establishment on that night. Ms. Pace has been
16 hired more recently about a month ago as the new
17 general manager in an ongoing process of updating
18 the staff and making sure that there are people
19 in place to prevent incidents like this from
20 happening in the future.

21 I will say that Investigator
22 Brashears' synopsis of the events was correct.

1 From our understanding, this individual was --
2 the individual that is the victim was inside the
3 establishment, was asked to leave after causing a
4 disturbance inside and attempted to reenter on
5 several occasions and was denied on each of those
6 occasions.

7 It is believed that he was going to be
8 heading back to Baltimore and that's why he did
9 not leave the immediate vicinity, because he was
10 waiting for the other individuals in his party to
11 leave, so that they could all take the bus back,
12 but he was kept outside the establishment. And
13 there is -- it's not clear even whether the --
14 because it's not clear who actually committed the
15 assault, it's not clear whether the people who
16 committed the assault were inside the
17 establishment or not.

18 It seems like that is the assumption
19 that has been made because it happened around the
20 time that everyone was exiting the show, but
21 that's not really known at this time.

22 CHAIRPERSON MILLER: Did you say

1 something about preventing this type of incident
2 in the future?

3 MS. PACE: Ma'am?

4 CHAIRPERSON MILLER: How would you do
5 that?

6 MS. PACE: So we have revised slightly
7 the security plan.

8 CHAIRPERSON MILLER: Okay.

9 MS. PACE: We do have a copy, a hard
10 copy that I brought with me just in case you guys
11 wanted to review it. I have been working closely
12 with both the security team that we have, and I
13 believe it is the same one that has been with us
14 for a little over a year now, DNP. We have been
15 working with them a little bit more closely to
16 fine tune to make sure that we are following all
17 of the rules and the regulations, both for ABRA
18 and MPD.

19 I have been in constant communication
20 with MPD in order to make sure that they were
21 aware of what types of shows we have going on.
22 We are restricting certain items from being

1 entered into the premises in order to minimize
2 any, what's the right word, accidents from taking
3 place.

4 Also we have refined the type of
5 promoters that we have used in the past. One in
6 particular, I believe, is the one that was
7 present that night of the incident. We have not
8 worked with that promoter since. We have very
9 closely reviewed the promoters that we do work
10 with in order to ensure that it is a safer crowd
11 coming in the building.

12 We are trying to veer away from the
13 young rough unpredictable crowd. And we are
14 trying to gear more towards what D.C. is, so more
15 of the older go-go, R&B, soul, gospel, what
16 belongs at the Howard Theatre.

17 MR. ELLIS: I'll just add that this
18 incident probably -- when you said how it could
19 be prevented in the future, I don't see how you
20 could really prevent it from happening in the
21 future. It was an incident that took place
22 outside 100 feet away from the Howard Theatre.

1 CHAIRPERSON MILLER: Yes.

2 MR. ELLIS: We did our job by making
3 certain that somebody who was unruly in our
4 establishment was, you know, taken out in a
5 correct way by our security and was not permitted
6 to come back in. So from my perspective, I
7 think, we tried to carry out these duties the way
8 they should have been done.

9 CHAIRPERSON MILLER: So I mean I asked
10 that because I heard Mr. Whelan say something
11 about preventing it in the future --

12 MR. ELLIS: Okay.

13 CHAIRPERSON MILLER: -- so that's why
14 I asked that.

15 MR. ELLIS: Right.

16 CHAIRPERSON MILLER: But there is
17 still the point of, you know, I don't know if you
18 had a review with the police afterwards to figure
19 out like what happened and what could we do
20 better, you know, to try to avoid something like
21 this. And I don't know to what extent it was
22 your crowd or somebody else's crowd, you know.

1 But what I'm hearing was you are trying to change
2 your crowd a little bit.

3 MR. ELLIS: It's unfortunate that, you
4 know, Howard has been kind of designated or kind
5 of put in the forefront of this, because many of
6 these incidents that have happened over the
7 course of, I guess, the last year, year and a
8 half have happened outside. There have been
9 police present.

10 CHAIRPERSON MILLER: Yes.

11 MR. ELLIS: And we still have unruly
12 people. Now, I know it's a major issue because,
13 you know, I don't know what we can do better
14 other than make sure that the crowd disperses,
15 you know, quicker or maybe work a little bit, you
16 know, closer with the police that are actually
17 out front of the Howard and make sure that they
18 are doing a better -- you know, helping us really
19 get people out and to their homes, you know, in a
20 faster way. That could be one of the things we
21 could do.

22 MR. WHELAN: And just to kind of

1 clarify what I said earlier, I didn't necessarily
2 mean that there were things that happened on this
3 night that needed to be improved. I meant to say
4 that Ms. Pace and some new staff turnover are in
5 an ongoing process making sure the Howard Theatre
6 is, you know, at the forefront of having a secure
7 and safe location.

8 CHAIRPERSON MILLER: Yes. Mr.
9 Silverstein?

10 MEMBER SILVERSTEIN: Madam Chair, I
11 would like to ask Officer Kyle and Investigator
12 Brashears if there is anything that could have
13 been done better that night and anything that you
14 might recommend that could make things better or
15 safer going forward?

16 OFFICER KYLE: It is kind of hard to
17 predict such occurrence, especially when you have
18 an event or a venue going on. For something to
19 have occurred 100 feet plus down the roadway,
20 nobody is really paying attention to that
21 proximity because you have this venue going on to
22 where their attention is needed. That is kind of

1 hard to predict.

2 MEMBER SILVERSTEIN: Precisely.

3 INVESTIGATOR BRASHEARS: Now, from
4 what I could see on the video I received, it was
5 a much more orderly let-out than we had seen in
6 the past. Stanchions were used. It wasn't the
7 mass exodus that we had seen in the past. The
8 security personnel did work with the police. The
9 police basically asked the security personnel to
10 redirect the crowd away from the crime scene and
11 they did so with stanchions. So that was a big
12 improvement.

13 And since the last meeting we had had,
14 I basically visited Howard Theatre and spoke with
15 Mr. Harmon and Mr. Cosenza when he was the
16 manager there and, basically, pointed out the
17 blind spots in the camera angles that we had
18 discussed. And they had purchased the cameras
19 and what I understand now is that they have
20 placed the cameras to cover those areas.

21 The one thing that still kind of
22 concerns me is that we still have ongoing issues

1 with the recording system. Sometimes the time
2 lapses off by an hour and sometimes even though
3 you are viewing and backing it up, it doesn't
4 always come out appropriately. So that would be
5 a concern because I would like to have been able
6 to look at the video in the establishment and see
7 if there was an altercation between the
8 individual that put out and possibly identify
9 what may have happened. And that's the -- kind
10 of the piece that we don't have.

11 We don't know exactly what happened
12 inside. And I can't speak to that and that is a
13 little concerning to me.

14 MEMBER SILVERSTEIN: Is that
15 something, Investigator, that you could work
16 with them on if you are assigned to do so?

17 INVESTIGATOR BRASHEARS: Yes, sir.

18 MEMBER SILVERSTEIN: Thank you.

19 OFFICER KYLE: May I?

20 MEMBER SILVERSTEIN: Officer?

21 OFFICER KYLE: Yes. Thank you. Ms.
22 Pace and I, as well as the DNP supervisor/owner,

1 recently had a meeting and that was one of the
2 discussions. So if at all possible, I would like
3 for her to elaborate on that as far as the camera
4 systems and things of that nature.

5 MS. PACE: So we do have additional
6 cameras that were brought in and are in the
7 process of being installed. We should have them
8 up and running fully within, I would say, two
9 weeks max, but I'm hoping that it doesn't take
10 that long.

11 We do have a contact that is coming
12 out. We do have scheduled appointments. As far
13 as the playbacks and the recordings, I completely
14 understand the frustration. However, our -- my
15 owner did come down this past week in order to
16 review them, since we are aware or I was made
17 aware that there were issues with the recording
18 and the feed.

19 I guess there were issues with the
20 wires, something with the box, but it has all
21 been handled. Everything has been repaired and
22 now that the cameras are going to be installed in

1 the foreseeable future, we should be back up with
2 what the quota was originally.

3 I know originally the security plan
4 quoted 45 cameras. With these eight being
5 installed in the next week or so, we will be up
6 to that number again.

7 MEMBER SILVERSTEIN: Thank you for
8 cooperating.

9 MS. PACE: Of course.

10 MEMBER SILVERSTEIN: Mistakes here are
11 just so high.

12 MS. PACE: I understand. If I can
13 just add the camera locations? These additional
14 eight that we are installing, the locations are
15 specifically, from my understanding, what ABRA
16 had expressed a concern as the unvisible spots or
17 the dark spots. I don't know what the right way
18 of --

19 CHAIRPERSON MILLER: Yes.

20 MS. PACE: -- framing that is.

21 CHAIRPERSON MILLER: Blind spots.

22 MEMBER SILVERSTEIN: Blind spots.

1 MS. PACE: Blind spots, yes.

2 CHAIRPERSON MILLER: Yes.

3 MS. PACE: So that's where those eight
4 are going. It's not best pictures, but I did
5 bring pictures for you guys so you can see the
6 locations, just in case.

7 CHAIRPERSON MILLER: Thank you.

8 MS. PACE: Of course.

9 CHAIRPERSON MILLER: Mr. Brooks?

10 MEMBER BROOKS: Thank you, Madam
11 Chair. I'm just interested in what can deter in
12 the future? The cameras are great, you know, to
13 take pictures and see people. But I'm looking at
14 trying to figure out -- Ms. Pace, you indicated
15 that the promoter that was there that night is no
16 longer being used?

17 MS. PACE: Yes, to my knowledge, yes.

18 MEMBER BROOKS: Now, had that person
19 been used before this incident?

20 MS. PACE: That I am unaware of.

21 MEMBER BROOKS: Yes. See we have
22 heard the same thing from your predecessor about

1 changing promoters and getting a better type of a
2 mix of music and entertainment. But has anyone
3 done an analysis of the incidents you have had in
4 the past and kind of did a cross-walk of what
5 kind of entertainment was offered?

6 MS. PACE: So I can say yes, but
7 briefly, not to a very large extent. I actually
8 did with both my owner and our booking department
9 several weeks ago looking at some of the larger
10 events that we had right before I came on and
11 since I have come on to sort of assess which
12 promoters are better to work with, which ones
13 really do bring the safer crowd, because we are
14 not looking for anyone to get hurt. We want
15 everyone to come and have a phenomenal evening
16 and go home safely, that's why we are there.

17 MR. ELLIS: And I will say just from
18 a historic standpoint, we have gotten rid of a
19 number of promoters already. This was an
20 incident I think where we thought, you know, this
21 is a Baltimore crowd coming into D.C. Everything
22 should be fine. They are coming on buses. It's

1 controlled. They were on buses, you know, it
2 should be fine.

3 You know, it is Memorial Day weekend
4 and, you know, unfortunately could we have done,
5 you know, some other show on Memorial Day
6 weekend? Possibly. But you know, as we enter
7 into the summer months, sometimes we are pushed
8 with the issue of what to book, very slow season,
9 very slow time period during the -- May through
10 September.

11 You know, it's either go dark or
12 really take -- you know, look at, you know, these
13 promoters that we think are telling us the right
14 things and showing us they are doing the right
15 things and then, you know, unfortunately you have
16 these, you know, incidents that, you know, nobody
17 predicted would ever happen.

18 I don't think it was really -- like
19 again, I would say that this incident didn't
20 happen in the Howard Theatre. It happened
21 outside of the Howard Theatre. And I don't know
22 if we can control people's behavior, especially

1 when they have been intoxicated. We can do it to
2 a certain extent, but we can't help what happens
3 100 feet away from our premises.

4 MEMBER BROOKS: And finally what I
5 have is the RDO. I know we talked about this on
6 several occasions and I guess we are fortunate to
7 have police who will respond without having the
8 RDO there.

9 MR. ELLIS: Well, we had two police
10 cars out front of the Howard Theatre. We
11 coordinate ahead of time when we are having these
12 types of events, so they are stationed out front
13 of the Howard Theatre.

14 MEMBER BROOKS: Okay. So they are --
15 are they paid RDO?

16 MR. ELLIS: They are not paid RDO.

17 MEMBER BROOKS: Okay. I guess so you
18 guys just --

19 MR. ELLIS: We coordinate.

20 MEMBER BROOKS: -- kind of work with
21 the police department --

22 MR. ELLIS: We have --

1 MEMBER BROOKS: -- to have two cars
2 there on certain occasions?

3 MR. ELLIS: Yes.

4 MEMBER BROOKS: Okay. And what
5 occasions are they?

6 MR. ELLIS: If there is a crowd that--
7 or a hip hop show or something like that, then we
8 will, you know, make certain that it is
9 coordinated with the MPD and make certain that
10 they are -- understand.

11 MEMBER BROOKS: But apparently that
12 did not deter the incident, then?

13 MR. ELLIS: I don't know even if we
14 had someone on-site, that that would have
15 prevented this incident.

16 MEMBER BROOKS: All right. Thank you,
17 Madam Chair.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER ALBERTI: Mr. Short.

20 CHAIRPERSON MILLER: Mr. Short?

21 MEMBER SHORT: Thank you, Madam Chair.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER SHORT: The reason why we are
2 being so adamant about the RDO is two main
3 points. You ejected this person who was there
4 from your establishment. Is that correct?

5 MR. ELLIS: Yes.

6 MEMBER SHORT: Now, when you have an
7 RDO, you can take that person to the RDO. He
8 won't come back to the door knocking on the door
9 and they will see that he gets out of the area,
10 because if you just have a police officer who is
11 sitting in a pool across the street, he could get
12 a call around the corner or some place else in
13 the District. He is not assigned to the Howard
14 Theatre.

15 We have been asking and asking and
16 asking. What is your answer there about RDO?

17 MR. ELLIS: What is the answer?

18 MEMBER SHORT: Yes.

19 MR. ELLIS: Right now, the Howard
20 Theatre financially is not in a position to where
21 it can hire RDO. We are, you know, trying to get
22 by with what we have right now. And we are

1 trying to coordinate as quickly and as often as
2 possible if there are any events. And these
3 types of events are gradually going away. We are
4 not doing a lot of hip hop. We are not doing,
5 you know, a lot of promoter late night stuff.

6 There were some things on the books
7 like I said, but we are not doing a lot of them.
8 We are doing maybe one or two here and there.

9 MEMBER SHORT: Okay.

10 MR. ELLIS: And we think that, you
11 know, with the security that we have currently,
12 that we have revised. We think we have tightened
13 up our security plan. We think we have the right
14 people in place and we have, you know, good
15 relations with all the patrol that are in and
16 around the actual Howard Theatre and we make them
17 very aware of what is going on.

18 MEMBER SHORT: Investigator and
19 Officer Kyle, can you respond to what he just
20 said about the great relationship?

21 OFFICER KYLE: I can't speak about
22 what takes place during the midnight tour.

1 However, when I am presented a schedule which a
2 couple of schedules have come through my email
3 prior -- from Ms. Pace as well as from Mr.
4 Anthony prior to her, whenever I see a certain
5 event that I think is going to need some extra
6 attention, I will go to the midnight sergeant and
7 I will ask if possible can you get some people to
8 just patrol through that neighborhood.

9 MEMBER SHORT: If possible?

10 OFFICER KYLE: If feasible. However,
11 midnight tour within the 3rd District area, we
12 don't have the personnel to just have somebody
13 sit there. So that particular night it just so
14 happened that those officers were sitting there.

15 MEMBER SHORT: Yes.

16 OFFICER KYLE: Probably being nose
17 for better words. But they were in the proximity
18 during the offense which was actually a great
19 thing that took place.

20 Depending on the event that is going
21 to go on, we can do our best to ask for patrol to
22 do a visit through the neighborhood. I did bring

1 up the RDO and I have to wait for them to
2 respond.

3 MEMBER SHORT: Okay.

4 OFFICER KYLE: But they just
5 responded.

6 MEMBER SHORT: Okay. Now, we know
7 that the hard working tax paying people of
8 Washington, D.C. put up \$30 million to open that
9 wonderful theatre back up again. And this is
10 maybe your third time before us, Howard Theatre,
11 with the same we don't need an RDO. We can't
12 afford RDO. I say to you, as a citizen, we can't
13 afford to have any more stabbings and shootings
14 in front of the Howard Theatre.

15 This person was a part of your
16 cliental that night. So the community wouldn't
17 have to even worry about that had not your event
18 taken place. And again, what is your answer
19 about the RDO? But that's like for the record.

20 MR. ELLIS: You know, right now, we
21 can't afford one. We are trying to just get out
22 of the hole from a very, very slow summer.

1 Adding an RDO on a consistent basis, you know,
2 one thing we might be able to look at is, you
3 know, if we can look at the cost on certain
4 nights or certain shows, look at and examine the
5 cost as we go into the fall where we believe that
6 we may have more cash flow to be able to possibly
7 underwrite that. That's something we can
8 investigate.

9 But in the summertime, summer months
10 literally we're losing money hand over foot. And
11 so the tax dollars that you are talking about
12 that were invested into the Howard Theatre are
13 not only the tax dollars of -- but the tax
14 dollars that we are generating, okay, so that the
15 rest of the area can benefit.

16 MEMBER SHORT: If you were a neighbor
17 and you lived the next block over from Howard, do
18 you think your investment is being well made
19 after the incident?

20 MR. ELLIS: No, I don't think so. I
21 don't think that -- unfortunately, you know, we
22 are, again, faced with a situation where we have

1 certain incidents. We can't just have R&B shows
2 every single day, because, you know, we -- there
3 is just so many R&B shows.

4 And we try to do as many as we can and
5 so we do have private functions from time to
6 time. We don't do it often. We are not a major
7 nightclub where it is like a major night, you
8 know, late night situation. And we try to manage
9 those things and we also are -- as Ms. Pace said,
10 we are trying to veer away from, you know, go-
11 gos, you know older go-go shows.

12 We are trying to do more of the young
13 go-go shows. Hip hop shows, we are trying to do
14 that. But we also have to understand that we are
15 right next to Howard University and there are
16 young people that are there and they do like to
17 listen to hip hop.

18 MEMBER SHORT: Right.

19 MR. ELLIS: And if we were 30 years
20 ago listening to Rock N Roll or whatever it was
21 or whatever, these same people from the Howard
22 University would be at the Howard Theatre and

1 somebody might get drunk and somebody might do
2 something. So we are faced with this kind of
3 dynamic where we have to, you know, bring that
4 kind of, you know, promoter or that event in to
5 try to appease some of the local young people,
6 but we are very conscious of not trying to go too
7 far in that direction.

8 We think we are, you know, do all the
9 security measures we can to prevent that. We
10 coordinate with the actual MPD. We don't do it
11 often. This is -- again, I want to repeat, we
12 don't do i t often. If you look at -- and I can
13 provide you all with a calendar.

14 MEMBER SHORT: Okay. Fine, because
15 that has been your testimony a couple other times
16 you have been there. Not to cut you off --

17 MR. ELLIS: Okay.

18 MEMBER SHORT: But let me ask you
19 this, have you ever considered a dress code or if
20 a person is unruly, they are barred out of the
21 establishment.

22 MR. ELLIS: Oh, we have barred a

1 number of people. I'll let them speak, but I
2 mean, we have barred a number of people that have
3 been evicted, right?

4 MS. PACE: Yes.

5 MEMBER SHORT: What about a dress
6 code?

7 MR. ELLIS: In terms of dress code, I,
8 you know, can't say that -- you know, would I
9 love for young people to pull up their pants?
10 Yes.

11 MEMBER SHORT: I didn't say anything
12 about that. I simply said --

13 MR. ELLIS: You know, I don't think
14 that we have instituted a strict plan or a strict
15 dress code. I mean, people don't come in with,
16 you know, crazy stuff, shorts and tank top and,
17 you know, all that kind of stuff. But if they
18 have on jeans and a shirt, then, you know, we let
19 them in. We don't say that they can't wear
20 tennis shoes.

21 Could the promoter and could we work
22 together to maybe enforce, you know, some sort of

1 dress code? Possibly, but, again the younger
2 generation believes that looking good is having a
3 really expensive pair of tennis shoes and a pair
4 of jeans on. And they spend money.

5 MEMBER SHORT: Well, I have got to be
6 very honest with you. I'm not impressed with the
7 testimony I have heard today. And it seems like
8 it is acceptable that we are going to have these
9 cuttings and these stabbings.

10 MR. ELLIS: No.

11 MEMBER SHORT: To me, as a Board
12 Member, this is not acceptable. You think
13 alcohol -- you having an alcohol license is a
14 problem for you at your establishment?

15 MR. ELLIS: I don't think that's the
16 issue. I think, you know, it is the actual
17 isolated incidents that are taking place outside
18 of the Howard. I think that what we have done
19 inside of the Howard is conducted ourselves in a
20 way that I think is respectable. I think that we
21 have done the right thing. Minus the RDO being
22 present, and I still don't know, even with an RDO

1 present in this particular incident, I'm not
2 certain that that RDO is going to follow that
3 person around the neighborhood and making certain
4 they are not going to do anything.

5 You know, I -- that person --

6 MEMBER SHORT: Why don't we give it a
7 try? Why don't we give it a try, because
8 apparently it's -- without the RDO it's not
9 working at all. Let's try the RDO and see if
10 that helps?

11 MR. ELLIS: Well, let's look at our --
12 let's -- you know, I'm amenable to looking at our
13 calendar and seeing if there is anything that
14 raises any kind of red flags --

15 MEMBER ALBERTI: Ms. Miller?

16 CHAIRPERSON MILLER: Yes?

17 MR. ELLIS: -- or hip hop or something
18 over the next six months and we can, you know,
19 look at maybe having them for those particular
20 shows.

21 MS. PACE: And sorry, if I may --

22 CHAIRPERSON MILLER: Yes.

1 MS. PACE: -- really quickly --

2 CHAIRPERSON MILLER: Go ahead.

3 MS. PACE: -- just interject. So we
4 lay out -- I lay out a game plan, so to speak, on
5 a weekly basis with what shows we have coming up,
6 who it is that we are working with, what type of
7 crowd we are expecting, genre, style, number of
8 people. I go through the entire list. I submit
9 that to, obviously, my front of the house staff,
10 to my management team, to our security and I have
11 been supplying that for MPD as well, so that they
12 are aware because I want to have these open lines
13 of communication.

14 As far as police presence and I do
15 understand the concern, however, let me stress
16 this again. I am working very intense -- and I
17 understand that that statement has probably been
18 made before, but it has not been made by me. And
19 as Officer Kyle here will state, I am not like
20 any other manager that has been in the Howard
21 before. I understand the significance of the
22 building and the history and the legacy that it

1 holds and I want more than anything else to bring
2 that back into fruition.

3 I'm not looking for these late night
4 rough hectic dangerous crowds coming in, that is
5 not what we want, which is why I am trying so
6 hard to work with both my owners and booking at
7 the moment, so we can evaluate, so we can look
8 back at the past three, six year, two years and
9 say okay, well, which events did anything happen?

10 It might not have been to this
11 enormity, but on what nights did anything happen?
12 Let's look. And there is a pattern. There has
13 to be a pattern, because there always is. And
14 when we figure out what that pattern is, they
15 will no longer be welcome at the Howard, because
16 there are certain promoters that we have
17 officially stopped working with because I could
18 pull those back and I could say and I showed it
19 to booking, here is your pattern.

20 We don't want them back. So we are
21 done with that relationship and we will continue
22 to do that until we all feel safer.

1 MR. ELLIS: What I will say is this,
2 and this is a very good change, in the last year,
3 basically, the booking of the private events at
4 the Howard Theatre have been done from our New
5 York Office. We are now having the actual person
6 who was doing some of the bookings who was not
7 familiar with the market, is actually moving here
8 to Washington, will be based here, will have a
9 better understanding of the market, will have a
10 better understanding of the history. She will be
11 working very closely with Shani and making
12 certain that that review takes place, so that we
13 know these different -- you know, we can look
14 through and say okay, well, nothing really
15 happened, but there was somebody who was kind of
16 unruly and, you know, we don't want to have these
17 guys in any more.

18 And that's what we are prepared on
19 record to say it not going to happen. We are
20 going to make certain that in those incidents as
21 Ms. Pace said where we think that there is even a
22 chance of something happening, that we don't want

1 it. We don't want it.

2 MEMBER SHORT: Thank you, Madam Chair,
3 that's all I have.

4 CHAIRPERSON MILLER: Okay. Mr.
5 Alberti?

6 MEMBER ALBERTI: Mr. Ellis, at the
7 risk of beating a dead horse, I'm going to talk
8 about some more RDO. First of all, do you know
9 what the cost of RDO is? You keep saying you
10 can't afford it. Do you know what the cost would
11 be?

12 MR. ELLIS: We know that it is -- we
13 know that on a consistent basis that --

14 MEMBER ALBERTI: I -- no. Do you know
15 what the cost of an RDO is for one night? Do you
16 know what the cost of RDO is?

17 MR. ELLIS: I couldn't tell you
18 exactly. I couldn't tell you exactly, no.

19 MEMBER ALBERTI: But you know on a
20 consistent basis that you can't do it? That -- I
21 find that disappointing. So let me tell you.
22 RDO costs I think about \$80 an hour, but this

1 Agency will pay half of that. We have a program
2 where we reimburse the licensee half of the cost
3 of RDO. Two police officers for four hours would
4 cost you \$320. For an event where you have this
5 crowd drinking this much alcohol, are you telling
6 me you couldn't afford \$320 for RDO?

7 MR. ELLIS: I'm not telling you that
8 on an incident, but I think that -- I guess our
9 fear has been that an RDO would be asked or
10 required for every event that we do and that has
11 been our -- you know, our fear.

12 MEMBER ALBERTI: Well, I'm not -- I'm
13 not kind of buying that as an excuse, because you
14 are a bright guy. All right? And you can figure
15 out solutions to problems, that's why you have
16 been so successful, because you figure out
17 solutions to problems.

18 And as I look at this, the solution
19 isn't all that hard. I mean, you have concerts
20 all the time. You have great musicians there.
21 You know, I look at your schedule and go wow,
22 this is great, but I know that those crowds are

1 not going to be drinking after 12:00. I just
2 look at that and go oh, that crowd is not going
3 to be drinking after 12:00. They are going to be
4 out and that's going to be fine. All right?

5 MR. ELLIS: Yes.

6 MEMBER ALBERTI: I look at this event
7 and it doesn't take Einstein to figure out this
8 is going to be a heavy drinking crowd after
9 12:00.

10 MR. ELLIS: Well, one thing --

11 MEMBER ALBERTI: No, wait, let me
12 finish. So how hard is it to say oh, you know,
13 for that event I'm going to do RDO for that
14 event? This excuse of oh, we are going to be
15 asked to do it all the time just doesn't hold
16 truth. You are not even making the first step
17 and that's what is -- I mean, that's why we
18 are --

19 MR. ELLIS: Well --

20 MEMBER ALBERTI: -- having this
21 discussion. So would you be willing to come up
22 with some criteria for when you would have RDO?

1 MR. ELLIS: Yes.

2 MEMBER ALBERTI: And commit to that?

3 MR. ELLIS: I'm willing to commit to
4 that and willing to do that. And you know, I
5 think that one of the things I want to talk to my
6 partners about and talk to Ms. Pace about is also
7 how we might be able to pass the cost off to the
8 actual -- if there is a promotor of some sort,
9 passing that cost off.

10 MEMBER ALBERTI: It's four hours. You
11 know, we would love to have four, but the minimum
12 is two and they can do it and it's \$320. So
13 could we have a commitment that if you are going
14 to have a very large crowd after 12:00, and I'm
15 talking about at least, you know, and you know --
16 you know, it's a large crowd and they are going
17 to be drinking after 12:00, the bar is going to
18 be open after 12:00.

19 And you know, for most of them, that's
20 pretty clear. I mean, you can tell me well, we
21 are not going to know, but I'm not accepting
22 that. You know, you have been in the nightlife

1 in D.C. I've been around. I know the musician,
2 the type of music, the type of crowd and it's all
3 genres of music.

4 How the event is promoted, whether I'm
5 going to be expecting a large crowd to be
6 drinking after 12:00. And I would like a
7 commitment from you to have RDO, to have at least
8 two RDO on those -- for those events.

9 Ms. Pace, do you think you can
10 understand? Do you think you could single out
11 those types of events?

12 MS. PACE: Yes.

13 MEMBER ALBERTI: In your experience?

14 MS. PACE: I completely understand.
15 I don't think that it is -- as much as I would
16 love police presence on every single show, I
17 honestly don't think it is necessary. I
18 understand where you guys are coming from.

19 MEMBER ALBERTI: That's fine. But you
20 can figure out which events --

21 MS. PACE: Yes.

22 MEMBER ALBERTI: -- I'm talking about?

1 MS. PACE: But those events that you
2 are talking about are the ones that I am trying
3 to make sure we don't carry any more.

4 MEMBER ALBERTI: Okay. Mr. Ellis, can
5 we have a commitment to have RDO at those events?

6 MR. ELLIS: I can definitely give you
7 a commitment that we will look at our calendar.
8 If there is any events after 12:00 that we think
9 is a demographic that is not of concern, but will
10 be, you know, kind of a rowdy crowd or just of
11 concern period --

12 MEMBER ALBERTI: How about not looking
13 at demographics? Let's just say any crowd that
14 is going to be drinking after 12:00? Because I
15 don't want you to figure out whether that
16 demographic -- I don't want you profiling people.
17 I don't want to get into that game. All right?

18 You could have a bunch of rowdy
19 grandmothers out there after 12:00, I still want
20 an RDO because they are going to be drinking
21 after 12:00 and, you know, these things happen in
22 all crowds.

1 MR. ELLIS: I would agree.

2 MEMBER ALBERTI: So that's the sort of
3 commitment that I want.

4 MR. ELLIS: We will commit to that and
5 it would be great if we could also kind of review
6 it with you all just so we can go through each
7 one.

8 MEMBER ALBERTI: I would love for
9 you --

10 MR. ELLIS: I mean, at the same time,
11 we might have a, like you said, senior or some
12 alumni thing from Howard University when these
13 are all older people and it just so happens --

14 CHAIRPERSON MILLER: Right.

15 MR. ELLIS: -- they are doing an after
16 party and, you know --

17 MEMBER ALBERTI: I will promise you --

18 MR. ELLIS: -- these are professional
19 people and we don't expect any knives or guns to
20 come out.

21 MS. PACE: Right.

22 MEMBER ALBERTI: I think I can speak

1 for the rest of the Board on this. I will
2 promise you that you will have the cooperation of
3 our Investigators in reviewing your events if you
4 want advice on which ones should have RDO.

5 MR. ELLIS: Okay.

6 MEMBER ALBERTI: All right?

7 MR. ELLIS: Okay.

8 MEMBER ALBERTI: So we would love to
9 work with you. And I don't think I'm going to
10 get any objection from the Board. I'm seeing
11 nodding heads here. All right. I know these
12 guys pretty well. All right.

13 Now, I want to turn to the video.
14 This is not the first time we have heard oh, the
15 video is not working. Mr. Brashears has alluded
16 to that. All right? Can we get a commitment
17 that you will test your video download viewing
18 capabilities every two weeks and keep a log of
19 that?

20 MS. PACE: Yes.

21 MEMBER ALBERTI: So that when next
22 time this happens, you can come in and say, you

1 know, we tested it on this date and it was
2 working.

3 MS. PACE: Yes. You can have my
4 commitment on that.

5 MEMBER ALBERTI: And you will keep a
6 long and we can have --

7 MS. PACE: Absolutely.

8 MEMBER ALBERTI: -- a copy of that
9 log? Because I really would like -- I mean,
10 you're not the only folks who come in and say oh,
11 our video wasn't working and we didn't know that.

12 MS. PACE: Correct.

13 MEMBER ALBERTI: All right? I hear
14 that excuse all the time.

15 MS. PACE: Well, I don't doubt that.
16 Right.

17 MEMBER ALBERTI: It's getting old.

18 MS. PACE: I'm sure.

19 MEMBER ALBERTI: Okay. Thank you.

20 I'm done.

21 MEMBER SHORT: Thank you, Mr. Alberti.

22 Thank you.

1 CHAIRPERSON MILLER: Mr. Silverstein?

2 MEMBER SILVERSTEIN: Yes. I just want
3 to say amen. Absolutely everything that Mr.
4 Alberti said, there has been too much lather,
5 rinse, repeat here. And you know, we are having
6 some new people, but the same, you know --

7 MR. ELLIS: Result.

8 MEMBER SILVERSTEIN: -- problems, the
9 same concerns. And one other thing, I would just
10 want to point out to you that an RDO could
11 provide safety for all of your patrons. It's not
12 just a matter of them being rowdy. Someone was
13 stabbed last night at the corner of 14th and V.
14 There was a woman who was held up at gunpoint on
15 V Street over in Bloomingdale last night at 10:37
16 at night.

17 With those types of things going on,
18 it might be a great service to your patrons who
19 are largely wonderful law abiding folks to simply
20 know that there is somebody out there watching
21 them and, you know, helping to guarantee their
22 safety as they do leave.

1 So this is something that you also
2 might take into consideration the safety of the
3 people who are patronizing the place and giving
4 it life.

5 MR. ELLIS: Okay.

6 CHAIRPERSON MILLER: Okay. I would
7 like to play a little devil's advocate here,
8 because what I saw in this instance and I would
9 really appreciate Officer Kyle if you could
10 address this, was that there were police there
11 just like RDO would have been there, it sounds
12 like, and they were not able to prevent this from
13 happening.

14 OFFICER KYLE: From what I was told,
15 I did speak to the officers. From what I was
16 told, there were tour buses also in the block.

17 CHAIRPERSON MILLER: Right.

18 OFFICER KYLE: The tour buses were
19 blocking view, so that may have been another
20 thing that could have been addressed with a
21 possible RDO. Somebody that was assigned to that
22 location. The RDO could have had the tour buses

1 relocate to a different position.

2 CHAIRPERSON MILLER: Okay. So that's
3 what I was interested in the difference between
4 having an RDO and just your police officers
5 there. So those police officers couldn't
6 redirect the buses?

7 OFFICER KYLE: They could have.

8 CHAIRPERSON MILLER: Yes.

9 OFFICER KYLE: But for whatever
10 reason, they did not.

11 CHAIRPERSON MILLER: Okay. So it's
12 your opinion that an RDO would be more helpful
13 than the police that have been going there?

14 OFFICER KYLE: I don't want to say it
15 that way.

16 MEMBER RODRIGUEZ: Right, right,
17 right.

18 CHAIRPERSON MILLER: Okay.

19 OFFICER KYLE: I'm not going to use
20 those words.

21 CHAIRPERSON MILLER: Okay.

22 OFFICER KYLE: However, an RDO, and I

1 believe I expressed this with Ms. Pace, can
2 handle the outside perimeter. And back to, I
3 believe, what you were referring to, when the
4 gentleman was escorted out, that's when we step
5 in and we make sure that he does not go back
6 whether it be on the sidewalk or even in close
7 proximity of the location, that's what your RDO
8 is for to help get that person away from the
9 location and out of the proximity if need be.

10 CHAIRPERSON MILLER: Yes.

11 OFFICER KYLE: So I believe yes.

12 CHAIRPERSON MILLER: Okay. Well,
13 that's very helpful. Also, is it correct that we
14 don't know if this assailant was a patron of
15 Howard Theatre that night?

16 OFFICER KYLE: Still unknown.

17 MR. ELLIS: Still unknown.

18 CHAIRPERSON MILLER: Okay. So are
19 there other things going on in the environment of
20 Howard Theatre that --

21 OFFICER KYLE: I can honestly report,
22 at this moment, no.

1 CHAIRPERSON MILLER: Okay.

2 MR. ELLIS: Except for a gunshot
3 incident that was during the day. And we are
4 still having issues at 7th and T. It has gotten
5 better. We have a patrol officer that is there
6 now that, you know, really is keeping a lot of
7 the loitering. But for whatever reason, I think
8 people in the neighborhood or even, you know,
9 from around the city still believe 7th and T is
10 the place to do illegal things. And that has
11 historically been happening for 50, 60 years.

12 And hopefully there is something that
13 can be done about getting the tenant changed in
14 7th and T establishment building. We don't own
15 it. I'm the developer and I have that -- and we
16 own that building. Everything else except for
17 the two buildings at 7th and T, but there is a lot
18 of drug dealing and crazy activity there that is
19 taking place right there in those two buildings.

20 I have told the Mayor. I have told
21 everybody. Unfortunately, I guess, it's hard to
22 get a landlord to get -- change the tenants. And

1 you know, we have done everything to try to buy
2 the place and have -- and just let the woman
3 understand that the owner -- the owner understand
4 that she could make a lot more money if she just
5 changed the tenants and would have a better
6 environment.

7 But and Officer Kyle can tell you
8 that, you know, we have been working on this
9 problem for a long time, but it -- you know,
10 that's an issue. And then, you know, the housing
11 establishment that is across from 7th and S and
12 some gang-related issues still plague the
13 neighborhood.

14 CHAIRPERSON MILLER: So I don't know
15 how much, you know, you want us to get into MPD
16 and gangs, but if that stuff is going on and
17 Howard is right there, it's not necessarily
18 Howard's fault.

19 OFFICER KYLE: Correct.

20 CHAIRPERSON MILLER: But Howard's
21 security or MPD or RDO all have to play some role
22 in trying to make the area as safe as possible.

1 All right. And you all talk to each other,
2 right?

3 OFFICER KYLE: I have had great
4 communication with Ms. Pace since she started,
5 so, yes.

6 CHAIRPERSON MILLER: Ms. Pace, when
7 did you start?

8 MS. PACE: A little over a month ago
9 now.

10 CHAIRPERSON MILLER: Oh, all right.
11 Okay. You just got started. Okay. Thank you.
12 All right. Okay. So I think maybe to wrap this
13 up, it does sound like what we talked about was
14 you are looking into or making commitment for RDO
15 for some of these more major late --

16 MR. ELLIS: We will actually review
17 along with ABRA. It will be things where we
18 think may raise red flags, promoters that we, you
19 know, are questioning those things or have a
20 history and maybe a little incident happened
21 before and make certain that, you know, nothing
22 will happen in the future with that particular

1 promoter.

2 CHAIRPERSON MILLER: Okay. Right.

3 And you are weeding out the "bad" promoters.

4 MS. PACE: You've got to let me
5 reiterate.

6 CHAIRPERSON MILLER: Right.

7 MS. PACE: We are trying -- we are
8 doing -- and I can tell you that since I started
9 and my staff will absolutely concur and I wish my
10 security guys were here tonight, because they
11 would tell you the same thing, everything has
12 changed --

13 CHAIRPERSON MILLER: Okay.

14 MS. PACE: -- since I walked in the
15 building. And we are making sure that nothing
16 that shouldn't be in the building is getting in
17 in any way, shape or form. I know we have had
18 several fun surprise visits from ABRA in the past
19 couple of weeks and they will tell you the same
20 thing.

21 CHAIRPERSON MILLER: Yes. Okay.

22 Good.

1 MS. PACE: That they see we are
2 extremely proactive. They are proactive outside
3 in assuring that nothing gets in. They are
4 proactive on the floor checking, making sure that
5 everybody is safe, should anything occur before
6 we let it escalate and then the person is removed
7 from the building. We are handling it.
8 Everything that can be done is being done inside
9 the building.

10 As far as outside, again, I understand
11 the security to having a cop car right outside.
12 But truthfully, I don't know that it would change
13 anything just because we have had the patrol cars
14 roaming by. I know that they roam by all the
15 time, whether they are physically sitting out
16 there or not.

17 But generally when people leave, they
18 leave. Very rarely are they loitering outside.
19 This is a specific incident, but this isn't
20 normal. Normally when they are escorted out of
21 the building, they leave and that's the end of
22 it. They might come back once trying to get back

1 in and they understand that no means no and they
2 leave and that's generally the end of it.

3 Which is why nothing even remotely
4 close to an incident has taken place since I
5 started.

6 MR. WHELAN: And I want to just
7 reiterate one point as well.

8 CHAIRPERSON MILLER: Yes.

9 MR. WHELAN: This incident is -- you
10 know, we are talking about this incident sort of
11 in a broader scope with things that have happened
12 in the past years ago, months ago. As far as
13 this incident, it did occur as we know 100 feet
14 or more outside of the establishment's premises.
15 In addition to that, we don't know if the
16 assailant was someone who was in the
17 establishment at the time or that night at all.

18 So while, you know, Howard Theatre is
19 committed to doing everything they can to prevent
20 events like this from happening, sometimes
21 accidents happen. You know, we have heard that
22 there was adequate security at the facility that

1 night. We have heard that there were police
2 officers right nearby and this still happened.

3 You know, that's not to make any
4 excuses, but it's just to say that it's sort of
5 realizing and remembering what we are talking
6 about with this specific incident. And it's not
7 necessarily just more of the same with any number
8 of the ABRA establishments in D.C. that have had
9 issues with violence in the past.

10 MR. ELLIS: I just want to say I
11 promise you, I want to make, you know, you all
12 proud and make the Howard Theatre proud. It's
13 not that I'm trying to resist. It's just that,
14 you know, we are in a position where, you know,
15 we are just trying to pay the rent and really get
16 by.

17 But I am committed and I will force
18 the issue with my partners and others to say, you
19 know, we can probably pass this cost on to a
20 promoter if we even have an event like this in
21 the future, just so that you all know that we are
22 doing everything, you know, above and beyond to

1 try to make certain that we have a better and fun
2 environment for the community.

3 MEMBER SHORT: Thank you.

4 CHAIRPERSON MILLER: Oh, Mr.
5 Rodriguez?

6 MEMBER RODRIGUEZ: Yes, sir. Just
7 picking up on what you are saying, I think if
8 people feel more secure, they hear less about
9 incidents going on, it will help you pay your
10 rent, because I think more people will go there.
11 They are not going to be as threatened.

12 You know, and the fact is that, you
13 know, the way your area is configured outside, it
14 has a little bit of a plaza kind of situation
15 where people like to hang out and maybe they can
16 come from other areas and kind of hang out there.

17 So, you know, the RDO would be
18 certainly useful to have one out there to kind of
19 keep that going, so that you don't have to lean
20 on the police department all the time for your
21 security.

22 MR. ELLIS: Right. Thank you.

1 CHAIRPERSON MILLER: Okay. Anything
2 else? All right. Thank you very much for coming
3 down. I do think it was a fruitful dialogue and
4 that, you know, you have some more ideas to go
5 forward with to make it a little safer and then
6 we have more of an understanding of what you are
7 doing.

8 And it was nice to meet you, Ms. Pace.

9 MS. PACE: Likewise. Thank you.

10 CHAIRPERSON MILLER: You're welcome.
11 And thank you. Good to see you, Officer Kyle.

12 OFFICER KYLE: Thank you.

13 CHAIRPERSON MILLER: Everybody, good
14 to see you. Thank you.

15 MR. WHELAN: Thank you.

16 CHAIRPERSON MILLER: Okay. So the
17 Board is now recessing. We finished our morning
18 hearings and we will be back at 2:00 for a
19 hearing.

20 (Whereupon, the Fact-Finding Hearing
21 in the above-entitled matter was concluded at
22 12:34 p.m.)

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