

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

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IN THE MATTER OF: :  
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East Dupont Circle :  
Moratorium : Public  
: Hearing  
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October 24, 2013  
The Alcoholic Beverage Control  
Board met in Alcoholic Beverage Control  
Hearing Room, Reeves Building, 2000 14th  
Street N.W., Washington, D.C., Chairperson  
Ruthanne Miller presiding.

PRESENT:  
RUTHANNE MILLER, Chairperson  
DONALD BROOKS, Member  
MICHAEL SILVERSTEIN, Member

ALSO PRESENT:  
  
Will Stephens, Advisory Neighbor Commission 2B  
Robin Diener, Chair of the Regulatory  
Committee of the DCCA  
Ramon Estrada, President of the DCCA

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

(9:35 a.m.)

CHAIRPERSON MILLER: Okay. Good morning and welcome to the District of Columbia Alcoholic Beverage Control Board. Today is October 24, 2013.

My name is Ruthanne Miller, I am the Chair, and to my right is Mr. Donald Brooks, and to my left is Mike Silverstein, who I'm sure you're familiar with.

The Board has three members in attendance for the conduct of business this morning and three constitutes of quorum. Copies of today's hearing calendar and agenda are available at the receptionist desk.

Please be aware that these proceedings are being recorded by a Court Reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the Hearing Room.

If you have any electronic devices, pagers, cell phones, or such, please

1 make certain they're turned off to avoid any  
2 interruption of the proceedings.

3 There should be a piece of paper  
4 on your table, if you would sign in there  
5 that'll ensure the correct spelling of your  
6 name for the record. And the Open Meetings  
7 Act requires that the Public Hearing on each  
8 case be open to the public.

9 The Board may, consistent with  
10 Section 405(b) of the Open Meetings Act, enter  
11 a closed meeting during or after a Public  
12 Hearing on a case to consult with an attorney,  
13 to obtain legal advice, discuss settlement  
14 agreements, or deliberate upon a decision in  
15 an adjudication proceeding.

16 So this hearing today is East  
17 Dupont Circle Moratorium. We are going to be  
18 taking public comment on two proposals  
19 concerning the East Dupont Circle Moratorium  
20 zone.

21 By way of background, the Board  
22 voted last month on an emergency basis to

1 extend the existing Moratorium for 120 days so  
2 that the Board could hear from the public on  
3 the future of this Moratorium.

4 I'll briefly describe the two  
5 proposals and then we'll turn to the parties  
6 here who may describe the proposals in greater  
7 detail.

8 The first request is from the  
9 Advisory Neighbor Commission 2B who proposes  
10 to renew the Moratorium for three years with  
11 a few modifications to the existing  
12 Moratorium.

13 ANC 2B is recommending that the  
14 Board lift the restrictions on retailers Class  
15 CR, DR, A, and B licenses. The ANC proposal  
16 also continues the current number of licenses  
17 allowed for CT/DT2 and CN/DN0.

18 The DCCA proposed a temporary 120-  
19 day extension to allow time to complete a  
20 previously unfinished report, DCCA seeks to  
21 collect additional data it deems relevant to  
22 the undertaking of this rule-making,

1 specifically the status of inactive licenses.

2 It also desires to provide an  
3 analysis of the potential effects of all  
4 options, to include implementing a  
5 recommendation of ANC 2Bs 2009 findings.

6 The DCCA would also like to form a  
7 working group on retail businesses and to  
8 develop a collaborative agreement with other  
9 interested parties.

10 We're going to begin this hearing  
11 by hearing from Will Stephens, Chair of ANC  
12 2B, followed by Robin Diener of the Shaw  
13 Dupont Citizens Alliance.

14 MEMBER SILVERSTEIN: Dupont Circle  
15 Citizens --

16 CHAIRPERSON MILLER: I'm sorry,  
17 Dupont Circle Citizens Alliance.

18 MEMBER SILVERSTEIN: Association.

19 CHAIRPERSON MILLER: I'm sorry,  
20 what is it?

21 MEMBER SILVERSTEIN: Association.

22 CHAIRPERSON MILLER: Association,

1       sorry. Thank you for the correction. And  
2       then if other people want to testify we'll  
3       then hear from them.

4                   And if you have prepared copies of  
5       your testimony, we'll take those, otherwise,  
6       at this point we'll start with Mr. Stephens.

7                   MR. STEPHENS: Thanks.

8                   CHAIRPERSON MILLER: Thank you.

9                   MR. STEPHENS: Well you already  
10       have our letter and resolution. The report,  
11       \*\*\*9:38:51 shared with that, so I don't have  
12       any additional written materials to share with  
13       you today, but I thought what I would do is  
14       just take a minute to briefly go over how it  
15       was we came to our recommendation.

16                   And then, obviously, if you all  
17       have questions I'm available to answer  
18       anything.

19                   CHAIRPERSON MILLER: And could you  
20       just start with your full name and position  
21       for the record?

22                   MR. STEPHENS: Sure, yes. My name

1 is Will Stephens, S-T-E-P-H-E-N-S, and I'm the  
2 Chair of ANC 2B, and I was designated to be  
3 our spokesperson today for the this hearing.

4 So as you well know we have two  
5 Moratoria, existing Moratoria, in our ANC, the  
6 West and the East Dupont, and I've also dealt  
7 recently with a proposed Moratorium for our  
8 fourteenth \*\*\*9:39:33.

9 As an ANC we're intimately  
10 familiar with all things Moratoria, and in my  
11 time on the ANC we've handled the renewal of  
12 the East Dupont Moratorium twice, this being  
13 the second time, the first time being about  
14 three years ago.

15 And then the P Street, or West  
16 Dupont Moratorium, about a year and a half,  
17 two years ago. So we've also developed a sort  
18 of process and procedures for handling, how to  
19 handle that and how to receive public comment,  
20 how to do in a way that hopefully gives  
21 everyone a voice and allows us to make a solid  
22 recommendation that incorporates everybody's

1 interests and concerns to the greatest extent  
2 feasible.

3 So we were acutely aware at the  
4 beginning of this year that this Moratorium  
5 renewal was going to come up, but I did want  
6 to say again, it's in our letter, that we  
7 appreciate it that Director Moosally also got  
8 in touch with us at the beginning of the year  
9 to remind us, so I think that's very helpful  
10 and it speaks well of how on top of things  
11 Debra is, so I just wanted to point that out  
12 again.

13 So starting in April of this year  
14 we put out public notice of listening sessions  
15 and meetings we were going to have over the  
16 course of the late spring and summer in order  
17 to come to some kind of recommendation for the  
18 Board.

19 And then we followed through on  
20 that by having a series of listening sessions  
21 that were open to the public and noticed that  
22 our meetings and online and of other places

1 through listers and what not, and took in  
2 comments from both the 17th Street and the  
3 broader neighborhood and honed that into a  
4 proposal which was then published and shared  
5 and discussed at a further listening session.

6 And, ultimately, then the proposal  
7 and report were brought to the full ANC at our  
8 August 2013 meeting where we had a full  
9 discussion on it for, longer than pretty any  
10 discussion we've had in the last three or four  
11 years. I think we talked about it for a good  
12 hour.

13 Then the ANC approved the report  
14 and recommendations that was in there and  
15 that's incorporated in the letter that you all  
16 have and I think you paraphrased it pretty  
17 well.

18 Simply put, our request is to  
19 renew the Moratorium but lift limitations on  
20 CR, DR, and liquor stores, also X licenses  
21 which wasn't something you mentioned before,  
22 but is in our resolution.

1                   We have some other X licensees in  
2                   the neighborhood, for example, that do, you  
3                   know, wine and art, and those sort of multi-  
4                   purpose functions. So I just wanted to point  
5                   out that X licenses were also a part of our  
6                   resolution.

7                   And so how we handled this and  
8                   actually the ultimate resolution we came to  
9                   are very consistent with how we treated other  
10                  Moratoria renewals in the recent past.

11                  In particular, the P Street  
12                  Moratorium, we essentially came to virtually  
13                  the same conclusion with the P Street  
14                  Moratorium about a year and a half, two years  
15                  ago, which was to ask for it to be renewed and  
16                  recommend that CR and DR licensees not be  
17                  limited in that, and that's what the Board  
18                  approved as well.

19                  So this is consistent with what  
20                  we've done in handling these renewals. And  
21                  less intuitively maybe, it's consistent also  
22                  with our disposition on the 14th and E Street

1 Moratorium proposal that came up recently.

2 And my own position, and I  
3 mentioned this at the meeting, was that the  
4 way that's consistent is, you know, whether  
5 you're asking to implement a whole new  
6 Moratorium or get rid of an entire Moratorium.  
7 That's a big change with a lot of potential  
8 unintended consequences.

9 So a better way to handle things  
10 is to do things step by step, so that's been  
11 our recommendation as I mentioned on P Street  
12 and that's our recommendation here, just to  
13 allow some more flexibility.

14 It's also consistent with how we  
15 handled three years ago the 17th Street  
16 Moratorium where we requested that it be  
17 renewed, but we added some amount of  
18 flexibility where we recommended some lateral  
19 expansions be allowed which actually ended up  
20 happening and good places ended up laterally  
21 expanding that are a benefit to the  
22 neighborhood, places like Komi, Hanks, et

1       cetera.

2                       So that's our resolution which was  
3       to essentially take it to the next step, allow  
4       some flexibility, but keep a cap on the  
5       nightclubs and taverns which are really the  
6       things that are of concern to folks in terms  
7       of peace, order, and quiet.

8                       And I think it's fair to say that  
9       among the comments we had, a major theme that  
10      came out of the comments was it would be good  
11      to not open this up to everything, but to  
12      allow some sort of flexibility so that vibrant  
13      kind of restaurants and startups, among the  
14      types that you can find on 14th Street and  
15      other surrounding areas, could have some  
16      possibility of opening up on 17th Street to  
17      add some, as mentioned vibrancy and life to  
18      the street without lessening the retail  
19      opportunities or creating some peace, order,  
20      and quiet issues.

21                      So with that I think that gives  
22      you a quick overview of how we came to our

1 conclusion and some of the context behind it.  
2 So I'd be happy to answer your questions now  
3 or later about that as well.

4 CHAIRPERSON MILLER: Okay. I just  
5 have a couple, one is about the lateral  
6 expansion limitation. I heard you just  
7 mention that, but I wasn't clear about whether  
8 you were referring to this Moratorium and --

9 MR. STEPHENS: Oh, okay. Yes. A  
10 couple years when we handled this same  
11 Moratorium renewal, one of our recommendations  
12 was to allow a certain number of lateral  
13 expansions.

14 I don't have that in front of me,  
15 but I recall we recommended two and I think  
16 the Board may have approved two or three, and  
17 two lateral expansions that I know of  
18 happened.

19 I guess licensees took up that  
20 opportunity to laterally expand. So it was  
21 just to give some context in that each time  
22 these renewals come up we've recommended some

1 amount of flexibility to open it up.

2 CHAIRPERSON MILLER: Right.

3 MR. STEPHENS: So this is just the  
4 next level of opening up some flexibility.

5 CHAIRPERSON MILLER: So 306.9 in  
6 the law right now it limits it to four. Did  
7 you change that at all or consider changing  
8 that?

9 MR. STEPHENS: No. We didn't make  
10 any new recommendation on that.

11 CHAIRPERSON MILLER: And --

12 MEMBER SILVERSTEIN: Are you then  
13 recommending that we keep it or simply how --

14 MR. STEPHENS: We didn't recommend  
15 any changes on it.

16 MEMBER SILVERSTEIN: No  
17 recommendation or --

18 MR. STEPHENS: No change was  
19 recommended to that.

20 CHAIRPERSON MILLER: Did you all  
21 discuss that or it just wasn't a topic?

22 MR. STEPHENS: That wasn't really

1 a topic in our resolution consideration.

2 CHAIRPERSON MILLER: Right. It's  
3 not in the resolution, right?

4 MR. STEPHENS: It's not, no.

5 CHAIRPERSON MILLER: So it doesn't  
6 necessarily mean one way or the other does it?

7 MR. STEPHENS: Well we aren't  
8 recommending any alteration to that  
9 resolution.

10 CHAIRPERSON MILLER: Okay. I  
11 think I'll just, all right, the only other  
12 question I have is, unless Ms. Diener's going  
13 to address this, but it was a split vote  
14 somewhat.

15 MR. STEPHENS: Yes, it was. And  
16 it was a four to four with, obviously,  
17 Commissioner Silverstein not participating  
18 because of his duties here on the Board so he  
19 wasn't even in the room, but we have a  
20 tiebreaker rule in our Bylaws which is the way  
21 the Chair votes breaks the tie.

22 And the, well go ahead.

1                   CHAIRPERSON MILLER: Well I was  
2 just wondering, and I'm not asking you to, you  
3 know, present the other side necessarily, but  
4 if there was some concerns that you might  
5 highlight and then as to why, you know, the  
6 majority of the ANC came down on that side.

7                   MR. STEPHENS: Sure. Well I can  
8 tell you that the other four votes were to get  
9 rid of the Moratorium completely, and the four  
10 that were in favor of the resolution were to,  
11 you know, said it should recommend that it  
12 continue, but with this flexibility opened up.  
13 That was really as a discussion.

14                   And I should say for some context,  
15 quite a few of the folks who have lived in the  
16 neighborhood a long time and who were at the  
17 meeting, including some who were there when  
18 the Moratorium was first proposed and  
19 instituted in the '90s, spoke up.

20                   And, well there were comments all  
21 over, but one of the ones that stuck out to me  
22 personally, and this is just my own opinion,

1 not the ANCs, was that some of the folks who  
2 have been there since the beginning of the  
3 Moratorium and had supported it and supported  
4 some of the flexibility along the way,  
5 supported this resolution as well as the way  
6 to go forward.

7 We certainly got comments from the  
8 public on, going all different directions,  
9 keeping it as is, opening it up a little bit  
10 in some fashion, or getting rid of it  
11 completely.

12 I don't want to get into, you  
13 know, how many emails or comments we got for  
14 each position because we didn't do any sort of  
15 scientific polling or anything like that.

16 But we, certainly the comments  
17 were across a broad range of proposed options  
18 and, you know, we heard a lot of different  
19 comments at our listening sessions, too, but  
20 felt like this was the way to sort of  
21 incorporate both the concerns and the ideas  
22 for how to enliven the street.

1 CHAIRPERSON MILLER: Did you get a  
2 big turnout at your listening sessions?

3 MR. STEPHENS: Yes. I think  
4 turnout was pretty good. I didn't attend the  
5 three myself because the 17th Street  
6 Moratorium, or the 17th Street Commissioners  
7 were handling it as an ad hoc committee, so I  
8 was deferring to them.

9 But the reports were that they  
10 were both well attended and had very  
11 constructive, good discussions.

12 CHAIRPERSON MILLER: Great. Okay.  
13 Board Members? Mr. Silverstein?

14 MEMBER SILVERSTEIN: Thank you for  
15 service, Chairman Stephens. Thank you for  
16 your testimony.

17 I want to put a little history in  
18 this, this has been probably one of the most  
19 successful Moratoriums in one of the most  
20 successful neighborhoods in America. The real  
21 estate values are so high that you can't  
22 afford to buy there or live there anymore and

1 the neighborhood is great.

2 It started 22 years ago as a  
3 temporary Moratorium at a time when there was  
4 genuine concern about late night bar hopping  
5 and this is not a commercial, mixed-use  
6 neighborhood, this is a commercial strip in a  
7 residential neighborhood that's very dense,  
8 and where you're never more than maybe 40-50  
9 feet from an apartment or a house.

10 So there were real concerns about  
11 peace, order, and quiet then. But since then  
12 you've had U Street and 14th Street have come  
13 back to life.

14 You've had a decline in business  
15 and foot traffic on 17th Street. Businesses  
16 say that their foot traffic is down, a place  
17 like Andy's, by 30 percent, simply because  
18 people have other choices, other alternatives.

19 And the gay white way, as it was  
20 called back then, has moved elsewhere. You  
21 don't have the bar hopping that the  
22 destination that you had, and you also do not

1 have the retail that you had. I mean nobody  
2 shops at Blockbuster anymore, it doesn't  
3 exist.

4 There are a lot of things that  
5 were there 22 years ago that the internet and  
6 other changes have taken care of. So this  
7 has, this Moratorium did succeed in what it  
8 was originally intended to do, the question is  
9 if it's temporary should it stay, should it  
10 go, and if it stays should it stay in the  
11 current manner.

12 Any thoughts on that history and  
13 as to where it should go and where the  
14 neighborhood should go considering that the  
15 challenges that the businesses there and the  
16 community faces with the revitalization of U  
17 and 14th?

18 MR. STEPHENS: Well that was a big  
19 part of the discussion was that debate. Is it  
20 useful now given the state of things and what  
21 are we looking at in the future?

22 And at this point I'm speaking

1 from my own perspective from listening to the  
2 discussions and less on behalf of the entire  
3 ANC, but my impression was the discussion was,  
4 you know, this was meant to be a temporary  
5 measure, eventually it will go away, but  
6 getting rid of it whole cloth right now could  
7 have some unintended consequences that we  
8 might not be able to think of now or be aware  
9 of or worry about or, you know, don't want to  
10 cause.

11 So getting some flexibility in  
12 there to open up CRs and take away essentially  
13 the commoditization of the restaurant-type  
14 licenses would allow it to be lively, increase  
15 foot traffic, maybe allow some of those spaces  
16 that are empty now to have some retail go in  
17 in addition to restaurant uses.

18 And then see what happens and then  
19 the next time around could be the time to, you  
20 know, depending how things go, that gives us  
21 some window of two, three years, we're  
22 recommending three years again, to see how

1 that goes, see what happens.

2 I mean our experience right now  
3 with the P Street Moratorium, to give it some  
4 context, is we recommended that the restaurant  
5 restrictions be lifted, they were, and  
6 actually nobody's gone in to open up a new  
7 restaurant.

8 So it actually, you know, there's  
9 probably some evidence that the restrictions  
10 aren't doing much of anything. But, you know,  
11 we didn't know what was going to happen when  
12 we did that.

13 So here again we don't know  
14 exactly what will happen, but allowing us to  
15 have some flexibility step wise seems to be a  
16 wise way of seeing what will happen and then  
17 maybe deciding the next time around whether  
18 it's time to get rid of it completely or not.

19 MEMBER SILVERSTEIN: Is there any  
20 concern or was concern mentioned about the  
21 quality of life and whether there is an over-  
22 concentration there or any, or do you believe

1 that the neighborhood would welcome additional  
2 restaurants?

3 MR. STEPHENS: We certainly got a  
4 lot of comments about how folks wished that  
5 there were some more and more lively  
6 restaurants in that row, but on the other side  
7 we had people wanting to make sure we still  
8 kept that liveable retail, the hardware store,  
9 the home store, the laundromat, I mean the dry  
10 cleaners, obviously the Safeway's not going  
11 anywhere no matter what we do here, but --

12 MEMBER SILVERSTEIN: You're not  
13 complaining about that are you?

14 MR. STEPHENS: No, no. The hair  
15 salon, to making sure we have those things as  
16 well, the yoga studio, so certainly that's all  
17 part of the mix is how do we keep, I mean and  
18 that was a key part of the discussion, is, you  
19 know, this isn't just to maintain peace,  
20 order, and quiet, the idea of Moratorium is to  
21 provide space for retail diversity as well.

22 So I think that was the idea and

1       trying to open it up somewhat so that we  
2       wouldn't break into some of that liveable  
3       retail that makes that area walkable and  
4       liveable for people of all ages and stripes to  
5       be able to get to the things they need to get  
6       to like a dry cleaner and a hardware store.

7                       MEMBER SILVERSTEIN:   So  
8       essentially all eight ANC Commissioners who  
9       voted on this did vote to, or wanted to remove  
10      the cap on restaurants, on CRs and DRs?

11                      MR. STEPHENS:   Well, you know, we  
12      didn't break that out as a vote, but the  
13      comments that the four who voted against the  
14      resolution said that they would've voted in  
15      favor of getting rid of the Moratorium  
16      completely.

17                      So I think, yes, you could  
18      extrapolate from that that all eight of us  
19      thought that CR and DR restrictions shouldn't  
20      be there.

21                      Another four of us thought there  
22      shouldn't be any other restrictions, but the

1 four of us that voted in favor of the  
2 resolution thought there should still be some  
3 restrictions on essentially just taverns and  
4 nightclubs at this point.

5 MEMBER SILVERSTEIN: Well this  
6 isn't a popularity contest and we're not, you  
7 know, we're not going to judge in terms of who  
8 gets the most, but we are required by the Cobb  
9 Decision in the D.C. Court of Appeals to give  
10 the ANC great weight.

11 So I'm trying to determine exactly  
12 what the opinions there were. So you're  
13 saying that really the issue was more CNs and  
14 CTs that nightclubs and taverns, what's the  
15 concern?

16 MR. STEPHENS: Well I think the  
17 concern is just the, I don't think it's  
18 profound to say that nightclubs and taverns  
19 are more likely to generate more peace, order,  
20 and quiet noise issues for nearby residents  
21 than restaurants and liquor stores.

22 So the concern was if we could

1 keep those restrictions on that would be a way  
2 of opening it up without, hopefully without  
3 concerns about the kind of places that would  
4 be likely to generate the noise that would be  
5 concerning to the folks who live very close-  
6 by.

7 MEMBER SILVERSTEIN: Okay. And as  
8 far as lateral expansion you were, I want to  
9 get straight on this because this was an issue  
10 that's come, a real concern to us. I want to  
11 make sure that this was not really taken up?

12 MR. STEPHENS: No.

13 MEMBER SILVERSTEIN: So this was  
14 something where you are not recommending a  
15 change --

16 MR. STEPHENS: Right.

17 MEMBER SILVERSTEIN: -- but you  
18 did not consider it specifically as an issue?

19 MR. STEPHENS: Right.

20 MEMBER SILVERSTEIN: Is there  
21 anything else? How is the business in that  
22 area doing? Did you talk to Paul Katinas, for

1       example, from Annie's, or did you talk to  
2       Mourad from Trio, or any of these people as to  
3       how they're doing and what they think whether  
4       this would help, hurt, are they hurting  
5       because of the increased competition?

6                   MR. STEPHENS: Yes, sure. We made  
7       sure to reach out to the business community as  
8       well as the residents for the listening  
9       sessions and in our emails and just our  
10      general conversations with folks about the  
11      Moratorium.

12                   And I know that the ad hoc working  
13      group, the 17th Street Commissioners, made a  
14      point of reaching out to all the spaces there  
15      as well.

16                   Yes, I guess I would summarize  
17      comments from the business community as  
18      wanting to at least lift some restrictions if  
19      not all, which in some ways is counter-  
20      intuitive if you think about it because the  
21      folks that have licenses there certainly, you  
22      would think because of the commoditization

1 that happens when you put a cap on it, would  
2 want to hold on to that amount of value.

3 But interestingly, even some of  
4 the folks who have those licenses now were  
5 asking us to recommend getting rid of the  
6 Moratorium completely.

7 Not all of them, but that was  
8 certainly a comment we got that I found  
9 surprising because it, you know, it wasn't  
10 obvious to me that that was good for their  
11 bottom line or not.

12 MEMBER SILVERSTEIN: Did they give  
13 reasons?

14 MR. STEPHENS: They just thought  
15 that the space, the entire area there could be  
16 more lively and needed more foot traffic. I  
17 suppose they thought that would be more  
18 beneficial to them than this valuable license  
19 they have in their back pocket.

20 And we also talked to some folks  
21 that just started places there and they talked  
22 about some of the issues they had with, you

1 know, trying to get a hold of one of these  
2 licenses in the area from prior establishments  
3 and, you know, some of the hassles involved  
4 with that.

5 But I think, yes, I think's it  
6 accurate to summarize the comments we've got  
7 from the business community in that strip were  
8 to at least allow some flexibility if not to  
9 get rid of the Moratorium all together and  
10 that that their concern was, you know, keeping  
11 it lively, keeping it fresh, keeping feet on  
12 the streets so that people would come to their  
13 establishments.

14 MEMBER SILVERSTEIN: And that also  
15 increases public safety in the area and it's  
16 become, over the 20 years, it's become much,  
17 much safer. How about the people who live  
18 close-by?

19 You know, again, everything is  
20 within, you know, within 100 feet of 17th  
21 Street and on all sides you have apartments  
22 and you have apartments directly across the

1 street on the West side of 17th Street from  
2 all of these areas.

3 What are you hearing from those  
4 people who live directly?

5 MR. STEPHENS: Interestingly, even  
6 people who live very close, there was a mix of  
7 comments, folks who wanted to get rid of the  
8 Moratorium completely, folks who would just  
9 like to see some lively restaurants, and some  
10 folks who wanted to keep things how they were.

11 And that went for people who live  
12 very, very close, like right across the street  
13 from these places, to people who live within  
14 a block away, to people who live further and  
15 further away.

16 There was a mix. So it wasn't my  
17 impression that there was a difference of  
18 opinion as you got closer and closer to the  
19 spaces that we're talking about and those  
20 things that were closer to their homes.

21 There was really a broad, a wide  
22 range of opinion no matter where folks live,

1       how close, how far away from the strip itself.

2                   MEMBER SILVERSTEIN:   That's  
3       extremely reassuring because, I mean, what  
4       that tells me is that the steps that we've  
5       taken and the steps that the community and  
6       community organizations have taken, especially  
7       when you're dealing with the 11:00, 12:00  
8       sidewalk caf, regulations, are working.

9                   That, you know, you have this  
10       close proximity of people and licensed  
11       establishments, but you don't have this, a  
12       situation where people are being horribly  
13       inconvenienced where their quality of life is  
14       being degraded, but rather where this becomes  
15       a useable amenity and where people seem to be  
16       making accommodations for one another.

17                   So I guess the question is what do  
18       we do now moving forward where we can keep  
19       this going and do no harm, but on the other  
20       hand remember that this is not a permanent  
21       lock, it's a Moratorium and not a ban.

22                   Do you have anything you want to

1 add or anything at this point?

2 MR. STEPHENS: I think that covers  
3 pretty much everything I wanted to bring up,  
4 but I'm happy to answer more questions from  
5 anybody if you have any. And I'll also stick  
6 around if there's some questions that come up  
7 from the subsequent discussion as well.

8 CHAIRPERSON MILLER: Do you have  
9 any questions?

10 MEMBER BROOKS: No.

11 CHAIRPERSON MILLER: I just have a  
12 few follow up questions.

13 MR. STEPHENS: Sure.

14 CHAIRPERSON MILLER: So I'm less  
15 familiar with the area, I mean I'm somewhat  
16 familiar, but not as, so apparently the places  
17 where these restaurants could go, what's there  
18 now?

19 MR. STEPHENS: Oh, well I guess I  
20 could think of two vacant spaces off the top  
21 of my head right now.

22 CHAIRPERSON MILLER: So there are

1 buildings there? Are there --

2 MR. STEPHENS: Yes, there are  
3 buildings there.

4 CHAIRPERSON MILLER: Okay. Vacant  
5 buildings?

6 MR. STEPHENS: Yes. Yes, I don't  
7 think we're talking about in-fill buildings,  
8 but there's, well, Mr. Silverstein mentioned  
9 there's an old Blockbuster space that's vacant  
10 right now.

11 CHAIRPERSON MILLER: Okay.

12 MR. STEPHENS: I think there's  
13 another space on 17th between Church and Q, I  
14 guess that is, that's vacant. Off the top of  
15 my head that's all I can think of without  
16 looking at the space again.

17 CHAIRPERSON MILLER: Okay. And  
18 they've been vacant for awhile?

19 MR. STEPHENS: Yes, those places  
20 have been vacant for awhile. The video store  
21 died several years ago --

22 (Laughter)

1 MR. STEPHENS: -- as you can  
2 imagine.

3 CHAIRPERSON MILLER: Right.  
4 Right.

5 MR. SILVERSTEIN: I have to return  
6 that, what --

7 (Laughter)

8 CHAIRPERSON MILLER: But nothing's  
9 come in to take its place, okay. So you made  
10 another comment about how you wanted to, you  
11 know, retain the other retail --

12 MR. STEPHENS: Yes.

13 CHAIRPERSON MILLER: -- and I was  
14 wondering if there was some kind of connection  
15 that you all figured between the positions on  
16 the Moratorium and retaining the retail,  
17 because we're always hearing about everybody  
18 wants to retain that hardware store or get a  
19 hardware store, bookstore, whatever it is, and  
20 I didn't know if you found some kind of a --

21 MR. STEPHENS: From a link between  
22 the two?

1                   CHAIRPERSON MILLER:  -- magic  
2                   formula, yes.

3                   MR. STEPHENS:  No, we haven't.  In  
4                   fact we've been kind of looking formally and  
5                   informally for tools on how we can, you know,  
6                   preserve, increase, maintain that kind of  
7                   retail on blocks near residences for some time  
8                   and, you know, there are some tools out there.

9                   We've worked with the Office of  
10                  Planning on a vibrant retail spaces project,  
11                  that was not for this block specifically, but  
12                  it's closer to the Circle, but no, there's no  
13                  magic formula for --

14                 CHAIRPERSON MILLER:  Right.

15                 MR. STEPHENS:  -- how to do that,  
16                 but we do recognize the link between the  
17                 Moratorium and the retail and that that was  
18                 one of the bases as we understood it for  
19                 having the Moratorium in the first place was  
20                 to strike a balance, keep peace, order, and  
21                 quiet, but also strike a balance with  
22                 maintaining a certain amount of retail that

1 makes the neighborhood liveable.

2 CHAIRPERSON MILLER: But you don't  
3 have a concern that lifting the Moratorium for  
4 restaurants is going to threaten the retail  
5 there?

6 MR. STEPHENS: I doubt that those  
7 places will get priced out. I'm not an expert  
8 on those kind of micro-economics, but --

9 CHAIRPERSON MILLER: Okay.

10 MR. STEPHENS: Those are some  
11 establishments, like the hardware store that  
12 had been there for decades and decades, so I  
13 don't imagine that that dynamic would happen.

14 CHAIRPERSON MILLER: Right.

15 MR. STEPHENS: You know, that is  
16 in the back of our minds, which is why I think  
17 some of us were not willing to just say whole  
18 cloth it, let's get rid of the whole thing  
19 because who knows what might happen then.

20 CHAIRPERSON MILLER: Okay. No, we  
21 hear that sometimes, but I mean then there are  
22 also plenty of places that have restaurants

1 and retail.

2 MR. STEPHENS: Right. And we  
3 actually heard from both retail and, I mean  
4 retail both from that area and other places  
5 where we had these discussions that there's  
6 probably a tipping point at some point, but a  
7 certain amount of, you know, a foreign  
8 restaurant foot traffic brings people to the  
9 retail obviously, so --

10 CHAIRPERSON MILLER: Right.

11 MR. STEPHENS: -- there's an  
12 equilibrium that you can find that's good for  
13 everybody and keeps retail and increases  
14 retail.

15 CHAIRPERSON MILLER: And then my  
16 last question again is on this lateral  
17 expansion issue.

18 So the ANC did not take a position  
19 so I'm not asking you about the ANCs position,  
20 but if you want to give a personal opinion  
21 like why there is a concern still or there is,  
22 or you don't have a concern about lateral

1 expansion?

2 MR. STEPHENS: Personally, I guess  
3 the couple of lateral expansions that we saw  
4 from like 2009 to now have been great and  
5 successful and nice places and good for the  
6 neighborhood, you know, Komi expanding and  
7 Hank's expanding.

8 So personally I don't see a  
9 concern. I guess one of the spaces that's  
10 vacant, I think there's an establishment on  
11 either side so there's probably a possibility  
12 of a lateral expansion there.

13 But, yes, if you're asking my  
14 personal opinion, we've had good experience  
15 with the couple of lateral expansions we've  
16 seen in the last several years.

17 CHAIRPERSON MILLER: Okay. One  
18 other question on that just historically since  
19 you were there for the other Moratoriums. Why  
20 was there a lateral expansion provision put  
21 in?

22 MR. STEPHENS: I think at the

1 time, I'd have to go back and read our report  
2 from three years ago, which I didn't do before  
3 today, but if I remember right, from the time  
4 we had heard that some of the places that were  
5 the quiet, nice places, like Komi wanted to  
6 laterally expand and there was room for that.

7 And that was something that  
8 sounded like the kind of the development that  
9 was more predictable than a brand new place  
10 coming in because you'd know who the, you  
11 know, ultimately --

12 CHAIRPERSON MILLER: No, I get  
13 that. I mean --

14 MR. STEPHENS: -- if you deal with  
15 it, it's like you know who the owner is, so if  
16 you know who the owner is and --

17 CHAIRPERSON MILLER: Right.

18 MR. STEPHENS: -- they want to  
19 laterally expand, you know who you're dealing  
20 --

21 CHAIRPERSON MILLER: No. The  
22 question is why originally was that

1 restriction put in?

2 MR. STEPHENS: Oh, that I don't  
3 remember.

4 CHAIRPERSON MILLER: Do you know,  
5 Mr. Silverstein?

6 MEMBER SILVERSTEIN: I can tell  
7 and that was that there was a huge concern in  
8 the very beginning about two factors. One of  
9 which was the historic nature of some of the  
10 buildings and the other was the concern that  
11 there could be super clubs in that area.

12 You had at that point, this was  
13 the mecca of gay nightlife, and there was a  
14 concern about folks going around from bar to  
15 bar at 1:30 or 2:00 and the neighbors at that  
16 point, and I'm not making judgment as to  
17 whether this was right or wrong, simply did  
18 not want large super clubs in what was  
19 essentially a commercial strip and residential  
20 neighborhood.

21 They also at that point were very  
22 concerned, and I think this was every bit as

1 much concern, that it would push out the dry  
2 cleaners, the tailors, the whatever, because  
3 you can make a lot more money selling  
4 Budweiser at 1:30 in the morning.

5 And it was a combination of those,  
6 you know, again no value judgment, but those  
7 were, that was the calculus involved in that.  
8 They did not want large venues breaking up  
9 what was essentially a retail strip of small  
10 shops.

11 And that was the argument that  
12 carried for many years.

13 CHAIRPERSON MILLER: Okay. Does  
14 anybody have any other questions for Mr.  
15 Stephens?

16 CHAIRPERSON MILLER: Yes, Mr.  
17 Silverstein?

18 MEMBER SILVERSTEIN: There's still  
19 a license or two, a CR that's still available,  
20 correct?

21 MR. STEPHENS: Yes, if I  
22 understand right, yes, I think there's one.

1 MEMBER SILVERSTEIN: Just one?

2 MR. STEPHENS: If I remember.

3 MEMBER SILVERSTEIN: Well why do  
4 you think that there's still a license  
5 available in a Moratorium situation? And  
6 there are also venues available, I mean it's  
7 not that there aren't, you know, aren't any  
8 vacancies.

9 MR. STEPHENS: I don't know other  
10 than my guess would be that folks have looked  
11 into the business modeling of it and figured  
12 it wasn't going to work.

13 MEMBER SILVERSTEIN: Rents are  
14 extremely high, astronomical in that area.  
15 And might it be possible and this is that  
16 someone could not afford to pay the rent on a  
17 place unless they basically kind of morphed a  
18 little bit into a real nightclub later in the  
19 evening?

20 And they might be, you know, there  
21 are some places there that are like that that  
22 aren't bad where they're legit restaurants,

1 but they probably don't make the 45 percent  
2 because late at night the dance floor is  
3 jumping and the liquor is flowing.

4 And if you don't have, you know,  
5 if you a cap on CNS and CTs, you can't have a  
6 place like that.

7 MR. STEPHENS: Yes. Well one of  
8 our concerns, and it's in our report, too, and  
9 it has been for awhile, not just in this area  
10 but other areas, was the morphing of  
11 establishments that appear to be CRs but  
12 actually are doing, you know, nightclub  
13 dancing and what not.

14 And in the report the way we  
15 describe that is that's probably just best  
16 handled on an establishment-by-establishment  
17 basis to our, you know, licensing renewal,  
18 settlement agreement process, probably a more  
19 effective way to deal with that, one-by-one as  
20 they come up.

21 MEMBER SILVERSTEIN: But in order  
22 to have an establishment like that it can't be

1 a CR because it's not going to meet the 45  
2 percent and it may not meet the \$2,000 limit.

3 So it has to be a CT or a CN and  
4 your feeling is that the neighborhood, the  
5 peace, order, and quiet is better off without  
6 that option at this point, that it is best on  
7 a step-by-step basis to eliminate a cap that's  
8 not really at this point even a cap because  
9 you have, anybody wants to go in there and put  
10 up a restaurant now they can do so without  
11 worrying about the cap.

12 MR. STEPHENS: Well it's hard to  
13 know with just one or two spaces what the  
14 particulars are with those one or two spaces.  
15 It's hard for me to draw a general conclusion.  
16 There may be something just terrible about the  
17 Blockbuster space that doesn't work for a  
18 restaurant, you know.

19 And if that's one of the two  
20 places we're talking about then you don't have  
21 a very good sample size for making general  
22 conclusions like that.

1 MEMBER SILVERSTEIN: Yes. Okay.

2 MR. STEPHENS: So I don't know  
3 what the answer is really. There may be a bad  
4 landlord at the Blockbuster space, I don't  
5 know who owns the building, so who knows what  
6 the particular is there.

7 The other space will probably  
8 require some build out and I don't know who  
9 owns that either, so it's hard to make a, I'm  
10 just repeating myself now, but to me it's hard  
11 to draw a conclusion from the two spaces I can  
12 think of that are vacant right now because  
13 it's such a small sample size.

14 MEMBER SILVERSTEIN: Is there  
15 anything I should've asked that I haven't? Is  
16 there anything you want to answer that I  
17 haven't asked?

18 MR. STEPHENS: No, and I  
19 appreciate you giving the historical context  
20 because what Mr. Silverstein was talking about  
21 predates my time on the ANC.

22 MEMBER SILVERSTEIN: That's why I

1 wanted to do that.

2 MR. STEPHENS: Yes.

3 CHAIRPERSON MILLER: Thank you. I  
4 just want to ask you, I'm sorry, you're done,  
5 right?

6 MEMBER SILVERSTEIN: I'm done.

7 CHAIRPERSON MILLER: Okay. How  
8 many restaurants could come in, do you know  
9 how many spaces there are?

10 MR. STEPHENS: Like I said I would  
11 probably have to look again, but off the top  
12 of my head I think there's two spaces right  
13 now.

14 CHAIRPERSON MILLER: Just two?

15 MR. STEPHENS: The Blockbuster  
16 space and the space in between J.R.'s and  
17 whatever's next to J.R.'s, Pizza No. 19 --

18 MEMBER SILVERSTEIN: The old  
19 Angie's New Leaf.

20 MR. STEPHENS: Yes, right.

21 CHAIRPERSON MILLER: There's just  
22 two spaces?

1 MR. STEPHENS: There maybe more  
2 than that.

3 CHAIRPERSON MILLER: Oh, okay.

4 MR. STEPHENS: But without going  
5 and doing a quick survey again, those are the  
6 two that I can think of.

7 CHAIRPERSON MILLER: And that  
8 already one can go in so we're just talking  
9 about one more restaurant?

10 MR. STEPHENS: Well there are  
11 other kinds of spaces there, you know, there's  
12 a deli which may want to turn into something  
13 else --

14 CHAIRPERSON MILLER: Okay. So  
15 we're just talking about vacant spaces?

16 MR. STEPHENS: Yes. The vacant  
17 spaces I know of are those two.

18 CHAIRPERSON MILLER: Okay. Okay.  
19 All right.

20 MEMBER SILVERSTEIN: Thank you.

21 CHAIRPERSON MILLER: Thank you  
22 very much. So you're going to stay around?

1 MR. STEPHENS: Sure, I'd be happy  
2 to.

3 CHAIRPERSON MILLER: Okay. Thank  
4 you.

5 MR. STEPHENS: Thanks.

6 CHAIRPERSON MILLER: Okay, Ms.  
7 Diener? Hi.

8 MS. DIENER: Hi.

9 CHAIRPERSON MILLER: Are you both  
10 going to testify?

11 MS. DIENER: Ramon is my backup  
12 for some dates and places and things. Ramon  
13 is the President of the DCCA and I am the  
14 Chair of the Regulatory Committee.

15 CHAIRPERSON MILLER: Okay.

16 MR. ESTRADA: Good morning.

17 CHAIRPERSON MILLER: Good morning.  
18 Why don't you put both your names on the  
19 record.

20 MR. ESTRADA: I guess I'll go  
21 first, Ramon, R-A-M-O-N, Estrada, E-S-T-R-A-D-  
22 A.

1 MS. DIENER: And my name is Robin,  
2 R-O-B-I-N, Diener, D-I-E-N-E-R. I'm the Chair  
3 of the Regulatory Committee of the Dupont  
4 Circle Citizens Association.

5 CHAIRPERSON MILLER: Okay. So do  
6 you have some testimony for us?

7 MS. DIENER: Well, yes, a little  
8 bit, especially in response to some of the  
9 testimony that Chair Stephens gave. But  
10 basically what DCCA was looking for was a  
11 little bit more of a report from the ANC about  
12 some of the particulars in fact that you have  
13 asked about.

14 Specifically regarding the  
15 preservation of neighborhood retail. We  
16 agree, we concur, that the peace, order, and  
17 quiet issues are pretty well under control  
18 except for the usual things that occur in, you  
19 know, an urban environment.

20 We're doing great in the peace,  
21 order, and quiet regard. But, as I understand  
22 it, and I have not seen a copy of the

1 original, was it 1999 when the original  
2 decision was reached and the Moratorium  
3 imposed in the first place, I haven't seen  
4 that.

5 MEMBER SILVERSTEIN: '91.

6 MS. DIENER: But it has been  
7 handed down over the years that peace, order,  
8 and quiet was one principle that we were going  
9 after by imposing the Moratorium and the other  
10 was the preservation of neighborhood retail.

11 So it's really on the preservation  
12 of neighborhood retail, that's really all  
13 we're concerned about at this time. And the  
14 Dupont Circle Citizens Association concurred  
15 with the 2009 report from the ANC at the time  
16 that it was last renewed, when the Moratorium  
17 was last renewed.

18 And it called for some sort of a  
19 further study of the retail of 17th Street.  
20 That's an idea that's very close to my heart.  
21 I happen to be a former retail business owner.  
22 Now, it was not a restaurant, I owned a

1 bookstore, kind of a rare animal at this  
2 point.

3 But for 13 years I operated a  
4 business in the District of Columbia. It was  
5 probably the most fun time of my life. It was  
6 a wonderful experience, so I'm very interested  
7 in retail and the fate of retail.

8 Our street, and it's been well  
9 described by the Commissioners, is a little  
10 unusual in that it is part residential, and  
11 the peace, order, and quiet issues that would  
12 affect residential have been very much  
13 preserved, have been, you know, fixed I would  
14 say and it's doing well as I said.

15 But we do remain worried about the  
16 neighborhood retail. Now some of the specific  
17 questions that you asked, and we feel that not  
18 much data was presented in the report from the  
19 ANC working group this time about the  
20 Moratorium.

21 The Commissioners are completely  
22 overworked, they have so much to do, they have

1 so many things to deal with. I can attend the  
2 ANC meeting, but I can get up and leave if I  
3 have to go home and take care of something,  
4 Commissioners don't.

5 We feel that for a variety of  
6 reasons it just didn't get done as fully as we  
7 would've liked to see, and we would have  
8 contributed, but we weren't asked. We kept a  
9 little bit at arms lengths. I'm not  
10 criticizing, we understood that it was being  
11 done.

12 So now that it appears that it was  
13 not, not in as much detail as we would like.  
14 We don't know exactly how many places are  
15 there. We don't know the terms of the leases  
16 and we haven't, I am not aware of the  
17 conversations that have been had with the  
18 business owners and what suggestions they  
19 might have had.

20 They did not come out the  
21 listening sessions. So, I at least, and DCCA  
22 did not hear that. And I do not think it's

1 reported upon in the report that came from the  
2 ANC.

3 So we're simply suggesting that we  
4 would provide our time and energy to work with  
5 the ANC, to work with Main Streets, I don't  
6 know if you're familiar with Main Streets, but  
7 it's sort of a cross historic preservation and  
8 business promotion organization that tries to  
9 build main streets that are viable in  
10 communities.

11 And we have several main streets  
12 in Dupont Circle, we're very fortunate, actual  
13 streets, but our group Main Streets was in a  
14 little bit of a hiatus for a couple of years  
15 as it had lost it's executive director.

16 Now we have a strong new Director  
17 and he's willing and able to put some time  
18 into working directly with a business owner to  
19 try and elicit their, you know, real opinions  
20 of what's going on, what they think would  
21 help, and we'd just like to put together a  
22 report on that.

1                   In the long run it may be that  
2                   there's some kind of legislation that could be  
3                   offered, some sort of incentive that could be  
4                   provided to offset the extremely high rents in  
5                   the interest of bringing the kinds of  
6                   businesses that residents and other people at  
7                   the listening session said they wanted.

8                   Because if we just lift the cap on  
9                   restaurants there's no guarantee that we will  
10                  get the restaurants of the type that they  
11                  want. So I don't know how much we can control  
12                  that.

13                  And that's why we're only asking  
14                  for 120 days to conduct the report, share it  
15                  with everyone, see what people think, and then  
16                  come back to you with that information. I can  
17                  answer some of the questions that you asked if  
18                  you're interested.

19                  There are two below grade retail  
20                  spaces available. The Blockbuster is below  
21                  grade. You have to go down a set of stairs,  
22                  there's no elevator, there's no escalator.

1           It doesn't have an entrance for  
2 deliveries, so it's a tough space. We have  
3 ideas about what could work there. One young  
4 woman who attended the listening session says  
5 that there's a kind of business out there that  
6 caters to recreational space, indoor  
7 recreational space for children.

8           I don't know if that would work.  
9 We have a park just down the street from it in  
10 the same block, that might make a lot of  
11 sense. How do we pursue that? Unless we talk  
12 to the landlord, unless we go to find out what  
13 these businesses are like.

14           And so we want the time to see if  
15 those options exist and if they make sense to  
16 learn from the businesses and from the  
17 landlords what they're up against, what would  
18 help, ameliorate perhaps the rents, what would  
19 make the kinds of restaurants that people want  
20 be attractive to the space.

21           17th Street is not going to ever  
22 be 14th Street, and some of the people who

1 testified at these hearings were a little bit  
2 unrealistic. That's what they want, but how  
3 do we make that happen? It's not going to  
4 happen automatically by lifting the cap.

5 On the other hand we fear it might  
6 lose some of our small neighborhood retail  
7 that we highly value in this small strip kind  
8 of between, three blocks on one side from a  
9 major avenue, Connecticut Avenue, and two  
10 blocks on the other side from 14th Street, and  
11 about six or seven blocks from you.

12 So surrounded by other very  
13 vibrant and lively commercial corridors that  
14 do experience a lot of churn. I remember that  
15 a lot of the testifiers at the hearing said,  
16 at the listening session, said they wanted  
17 churn.

18 But churn is actually the sign of  
19 businesses failing and what we have is a  
20 stable situation with a lot of businesses that  
21 are doing well enough to remain there.

22 So I think we just need real facts

1 on the table, as much as we can gather, and a  
2 careful consideration by everyone who's  
3 interested to see if we can't actually shape  
4 the street and preserve the small retail while  
5 maintaining what we have now which is a great  
6 situation with peace, order, and quiet.

7 That was all we were asking for.

8 MR. ESTRADA: And we're happy to  
9 answer any questions you have. I know you had  
10 quite a few of the Commissioner and we have  
11 some ideas on some of the potential answers to  
12 your questions, including the surveys that we  
13 want to do.

14 We do want to interview commercial  
15 property brokers to find out the particulars  
16 on some of these properties. We want to talk  
17 to landlords. We want to talk to the  
18 surrounding businesses to find out what they  
19 would like to see in those vacant spaces.

20 These are things that the ANC was  
21 going to try to do during the last renewal and  
22 was never able to accomplish that. So I think

1 we as a civic association would like to join  
2 with the ANC and historic Main Streets and try  
3 to provide that service so that everybody has  
4 a little bit better information about what can  
5 go in there, what are we likely to lose if we  
6 lift such a cap, maybe it should be a measured  
7 release with one or two more licenses.

8 We haven't really explored all of  
9 the options and I think that's what DCCA, the  
10 Board and its Members are interested in  
11 pursuing or investigating.

12 MS. DIENER: And we are also  
13 concerned about the one license. That is  
14 attached to a space, as I understand it,  
15 another below grade space. So the two  
16 problematic spaces on 17th Street are  
17 basements.

18 And this, too, apparently has a  
19 much wider staircase going down so it's a  
20 little bit easier for deliveries and things.  
21 And it had been a restaurant, a couple of  
22 restaurants, that morphed in the evening into

1 more than that, and so it became problematic  
2 to the neighborhood as Commissioner  
3 Silverstein pointed out.

4 That license has been in  
5 safekeeping, I'm not sure technically what it  
6 is, for many years and I thought there was a  
7 provision that these be examined repeatedly  
8 once a year or twice a year or something to  
9 determine, because if, I mean, we could work  
10 to get a business in there --

11 MR. ESTRADA: Right.

12 MS. DIENER: -- or something in  
13 there that would, and I think, I know if you  
14 own a house and you keep it vacant you're  
15 subject to a fine and these spaces are being  
16 kept vacant I don't know why.

17 MR. ESTRADA: And we'd like to  
18 work with ABRA to determine what's happening  
19 to that license because I think it needs to  
20 specifically be addressed in this Moratorium  
21 renewal process.

22 CHAIRPERSON MILLER: But that's

1 something we would look at.

2 MR. ESTRADA: Because it is an  
3 open question and keep all of us,  
4 Commissioners, residents, civic leaders,  
5 asking that question over and over again and  
6 we never seem to get to the bottom of it.

7 MS. DIENER: Yes.

8 CHAIRPERSON MILLER: Now I'm glad  
9 you brought that to our attention, but that is  
10 an issue that we are looking at, licenses  
11 being in safekeeping for too long, you know,  
12 for years.

13 So that is something we would look  
14 into.

15 MR. ESTRADA: So we would like the  
16 time in this 120 days to look into that a  
17 little more carefully and maybe make some  
18 suggestions to you if that's something you  
19 guys are open to.

20 But I don't know if you're  
21 internally already addressing it and just  
22 haven't issued a rulemaking, or a

1 reclassification, or putting it up for  
2 auction, or whatever your options are, but we  
3 are interested.

4 MS. DIENER: And there's actually  
5 a third space that has just become available.  
6 A salon went out of business just recently,  
7 Spalon. I don't know what happened there. I  
8 used to get my haircut there, haven't had it  
9 cut in a long time. I need them to come back.

10 But it's only been vacant for a  
11 little while and if you lift the cap then  
12 that's some place that a restaurant could go,  
13 but meanwhile we do have the one license in  
14 the neighborhood that's available.

15 And it would be above grade. It  
16 would be more attractive to restaurants and  
17 retail for that matter.

18 MR. ESTRADA: I do have a question  
19 of the Board if you could entertain a  
20 question. The current extension is for 120  
21 days, we're in 120 day extension is that  
22 correct?

1 MEMBER SILVERSTEIN: Yes.

2 CHAIRPERSON MILLER: Correct, yes.

3 MR. ESTRADA: So what are your  
4 options going forward? I mean are you  
5 considering working with us? You are  
6 listening to testimony about that specifically  
7 or, we're not quite sure of the context in  
8 which we're testifying.

9 CHAIRPERSON MILLER: Okay. Well,  
10 okay. So today's hearing was on the substance  
11 of proposals, okay. Now we granted already an  
12 extension, this is my understanding, so that,  
13 well because we needed to anyway, the time was  
14 running and we needed to grant the extension  
15 and it coincided we thought with your taking  
16 some time to do more research.

17 It sounds like you haven't started  
18 which kind of surprises me because then it's  
19 kind of like oh, you want more time, 120 days  
20 starting again.

21 MS. DIENER: Right.

22 CHAIRPERSON MILLER: So that

1 wasn't, I don't think we came into this  
2 hearing thinking we were going to address that  
3 issue because I didn't even know that existed.

4 MS. DIENER: I see. Well actually  
5 we have our house tour that we just concluded  
6 that consumes our membership and our  
7 Organization over the summer and the early  
8 fall so we didn't have a lot of time.

9 We put the feelers out, people are  
10 ready to start work on it and we can get it  
11 done now.

12 CHAIRPERSON MILLER: Okay.

13 MR. ESTRADA: And we have a Board  
14 Meeting tonight at which we will approve the  
15 formation of a retail development task force  
16 and we plan to appoint people to that task  
17 force.

18 So that's something we're already  
19 in motion to do based on the Regulatory  
20 Committee recommendation.

21 CHAIRPERSON MILLER: So, again,  
22 what I'm saying is though now, I can't say

1 today oh, yes we grant you a request, because  
2 personally I didn't even know that wasn't a  
3 request anymore.

4 But my question is, I mean first  
5 of all we wanted to hear the substance, the  
6 views on the substance, but if, you know, if  
7 there is no additional extension are there  
8 some things that you're going to be able to do  
9 in a shorter period of time that you would do?

10 MR. ESTRADA: I think we can put  
11 it on a fast track, but the inline question  
12 would, my follow up question to that would be  
13 are you then planning to have a hearing on  
14 what we produce so that we can present it to  
15 you or is there another way that you're  
16 expecting that perhaps that report could be  
17 conveyed to you as a Board?

18 CHAIRPERSON MILLER: Okay. I  
19 don't have an answer right now. But that's --

20 MR. ESTRADA: That's a process  
21 question --

22 CHAIRPERSON MILLER: -- something

1       you can ask us to consider.

2               MR. ESTRADA:   Yes.

3               CHAIRPERSON MILLER:   Yes.

4               MR. ESTRADA:   So I would like to  
5       ask for you to consider that because then it  
6       would incentivize us to, if I can use that  
7       term, it would prompt us to speed it up, get  
8       something ready, and submit it in some kind of  
9       form to you --

10              CHAIRPERSON MILLER:   Right.

11              MR. ESTRADA:   -- provided that we  
12       know what that looks like, when that needs to  
13       happen --

14              CHAIRPERSON MILLER:   Exactly.

15              MR. ESTRADA:   -- and how you would  
16       consider and how would it factor into your  
17       decision making?

18              CHAIRPERSON MILLER:   Okay.

19              MR. ESTRADA:   So clarification  
20       along those lines would be helpful.

21              CHAIRPERSON MILLER:   Okay.   So do  
22       we have questions on that?

1                   MEMBER BROOKS: Yes, just a  
2 couple. Now I just want to be clear in my  
3 mind, this report, who would be the  
4 responsible person for developing it?

5                   MS. DIENER: Well at DCCA we were  
6 putting together a retail task force of our  
7 own --

8                   MEMBER BROOKS: Okay.

9                   MS. DIENER: -- because we want to  
10 do this. We're happy to work in partnership  
11 with other groups. We have asked Main Streets  
12 and they've agreed to help us and we have  
13 asked one Commissioner, who is not here today,  
14 who was interested in having the ANC do this  
15 work, or so she said, and it didn't  
16 materialize because others on the ANC weren't  
17 able to pitch in to the extent that that  
18 Commissioner wanted and which we concur with.

19                   That's what we wanted to see done,  
20 too, and we thought it was being done. So it  
21 would be at least the DCCA, the Citizens  
22 Association, the business, local business

1 association, Main Streets, and at least one,  
2 if not all of the Commissioners who wanted to  
3 participate.

4 We would welcome their  
5 participation, but in terms of putting a name  
6 of responsibility, who's the ultimate  
7 responsible party?

8 MEMBER BROOKS: Well the problem  
9 it was, yes, what party because you're  
10 mentioning three or four different entities.  
11 And you haven't started developing this report  
12 --

13 MS. DIENER: Right.

14 MEMBER BROOKS: -- and, you know,  
15 you've been talking about it obviously, but  
16 nothing has come forward yet. Is that, that's  
17 where I am.

18 MS. DIENER: Correct. We haven't  
19 begun the actual data collection.

20 MR. ESTRADA: And we wanted to  
21 know to be fair to the process, I think we  
22 wanted to know has the clock started ticking

1 with the 120 days?

2 MEMBER BROOKS: Yes.

3 MR. ESTRADA: Or are you just  
4 listening to now the substance of the two  
5 proposals so that we can go forward --

6 MEMBER BROOKS: Yes.

7 MR. ESTRADA: -- with your  
8 permission so to speak, your blessing --

9 MEMBER BROOKS: Sure.

10 MR. ESTRADA: -- to conduct this  
11 because as Robin is saying we had hoped that  
12 the ANC was doing this and we did not see that  
13 in their report.

14 The draft report that was released  
15 had nothing in it with regard to this survey,  
16 with regard to these numbers, with regard to  
17 a set of options with an evaluation of the  
18 options, and then why the rationale for  
19 choosing the option that they did.

20 MEMBER BROOKS: Okay.

21 MR. ESTRADA: So, which I think is  
22 something you would want to see as well. So

1 with that said, we would like the Board to  
2 give us the time to do it.

3 MEMBER BROOKS: And the second  
4 question I had was the number of licenses in  
5 safekeeping. How many do you think there are?

6 MS. DIENER: There's only one that  
7 we are aware of.

8 MEMBER BROOKS: One? Is that the  
9 one at 17th and Q? Is that downstairs --

10 MS. DIENER: Yes.

11 MEMBER BROOKS: -- in that former  
12 Club Chaos --

13 MR. ESTRADA: Chaos, yes.

14 MEMBER BROOKS: Okay. All right.  
15 Thank you ma'am.

16 MR. ESTRADA: And that property  
17 has some unique qualities, too, that make it  
18 difficult I think to move a restaurant in  
19 there.

20 MEMBER BROOKS: Yes.

21 MR. ESTRADA: So we would want to  
22 talk to the building owner and any commercial

1 property brokers, and several of them have  
2 already contacted us saying, you know, we'd  
3 like to work together with you, In particular  
4 Coldwell Banker on 17th Street.

5 So the feelers have been put out  
6 people are talking. There's an interest level  
7 for sure and I think we'd want to address  
8 those two vacant spaces and the one license in  
9 safekeeping.

10 MEMBER BROOKS: Now that problem  
11 spot originally was a restaurant, wasn't it?  
12 I ate there --

13 MR. ESTRADA: Fifteen years ago?

14 MEMBER BROOKS: -- when it was  
15 Trumpets.

16 MR. ESTRADA: Yes.

17 MEMBER BROOKS: They used to have  
18 a wonderful brunch on Sunday afternoons.

19 MR. ESTRADA: Yes. Okay. Right.  
20 I think \*\*\*10:33:49.

21 MEMBER SILVERSTEIN: Thank you for  
22 remembering that.

1 MEMBER BROOKS: Sure.

2 CHAIRPERSON MILLER: Mr.

3 Silverstein?

4 MEMBER SILVERSTEIN: Okay. I'm  
5 seeing here that the license that is in  
6 safekeeping was last Stonefish Restaurant and  
7 Lounge, \*\*\*10:34:06 International, Inc., at  
8 1050 17th Street, N.W., B, which I assume is  
9 basement, and Caf, Green was at 1513 17th  
10 Street, and you've been replaced by Duke's  
11 Grocery and that's a CR, but we have  
12 apparently one unused license and one in  
13 safekeeping.

14 That is the information I have.  
15 As far as the concern for retail, the last  
16 Moratorium dealt almost exclusively with that  
17 because the last Moratorium was at the time of  
18 the Streetscape and it was a time of great  
19 difficulty for all of the establishments, the  
20 licensed establishments and retailers.

21 Streetscapes are small business  
22 killers. The street's ripped up, the

1 sidewalk's ripped up. When you and I go out  
2 to dinner the last thing we say is let's go  
3 somewhere where there's construction.

4           And you came and asked for that  
5 because of the concern and it worked quite  
6 well. The concern that we had was that people  
7 would be able to, it wouldn't be able to  
8 survive, someone would go in, take a loss for  
9 a year to turn the place into a nightclub or  
10 this or that, sell Budweiser and survive.

11           Didn't happen, wasn't a problem.  
12 Now we had three years, the ANC at that point  
13 did a number of surveys on businesses and I  
14 think we've done one in the past, in that  
15 three years, Commissioner Jacobson, who is no  
16 longer a Commissioner and is now on the School  
17 Board, did a number of studies about what  
18 would happen if the Moratorium was lifted.

19           And one of the things that was  
20 studied was what would happen to the  
21 businesses. And I think that study showed  
22 that we have a limited number of spaces, that

1       there might be some pressure.

2                       But that we can't really say for  
3       sure exactly what would happen anymore than we  
4       can tell you what numbers are going to hit in  
5       the lottery tomorrow or who's going to win in  
6       the third race at Churchill Downs.

7                       You're asking about high rents.  
8       What possible way can you ameliorate high  
9       rents? What ideas? I mean, tell me, and I'll  
10      find a bigger apartment in a better  
11      neighborhood.

12                      MS. DIENER: Well I mean for  
13      businesses, for landlords.

14                      MR. ESTRADA: For commercial rents  
15      we mean.

16                      MS. DIENER: We have triple net  
17      leases in the District of Columbia which  
18      should be outlawed, where the tenant pays the  
19      property taxes pro rata on the building as  
20      well as all build out, as well as rent and  
21      utilities.

22                      MEMBER SILVERSTEIN: So what does

1 that have to do with this? You going to  
2 change that for the Moratorium?

3 MS. DIENER: It could be. It  
4 could be that when we talk to these 18 or 20,  
5 this is just an idea, and we're not asking for  
6 a long time, but these comments have been  
7 circulating, ideas have been circulating, they  
8 haven't been brought together and investigated  
9 we feel.

10 But some kind of incentive to  
11 landlords who put retail in? I don't know,  
12 but we would like to explore that, look at  
13 what other cities do. There are retail, what  
14 do they call them, retail laboratories or  
15 something like that.

16 I don't know for sure. I haven't  
17 given it the thoughts needed and neither has  
18 our membership. As far as I know nor has the  
19 ANC or Main Streets.

20 But we'd like to put our heads  
21 together for a little while and see if there's  
22 anything that we can contribute that might

1 help ensure the survival and the survival of  
2 the small retail, the neighborhood retail that  
3 we're talking about which did persevere and  
4 did make it through the Streetscape.

5 But also bringing the kinds of new  
6 businesses that residents complained were not  
7 here and which they attributed without any  
8 factual basis, but they perceived it as being  
9 brought about by the Moratorium.

10 I feel like we don't have facts  
11 and there may not be that many facts we can  
12 elicit, but let's go ahead and do it, see what  
13 we find, and act then upon it, you know, what  
14 we're able to analyze out of that.

15 MEMBER SILVERSTEIN: Okay, well --

16 MR. ESTRADA: I can offer that one  
17 of the other ideas to that basement  
18 Blockbuster space that was, someone approached  
19 us and said well why don't we create an  
20 incubator space for a retail or as sharing  
21 office space for all of the non-profits, the  
22 web designers, the lawyers, the architects,

1 the accountants that are in the neighborhood  
2 that may want an office space, a conference  
3 room, shared services, what have you, in that  
4 basement space.

5 That could easily be put in there  
6 at not a terribly high cost, but that would be  
7 highly utilized. So these are ideas that I  
8 think are worth exploring.

9 MEMBER SILVERSTEIN: Well that  
10 sounds like a great idea, but, I mean it  
11 really does, I mean one of the things that,  
12 there a number of places, like 1250  
13 Connecticut Avenue is a perfect example at the  
14 corner of Connecticut and N.

15 The second floor, there might be  
16 40 businesses in there and they're lawyers and  
17 CPAs and whatever, and they all share a single  
18 reception desk and they all have this very  
19 fancy, you know, and it looks great.

20 And they're paying little rent for  
21 little cubicles and that type of thing is  
22 especially very good for people just getting

1 started or wanting to start a business.

2 MR. ESTRADA: We also have a lot  
3 of non-profits in the neighborhood that were,  
4 the price of space is so premium, who are  
5 looking for some flexible space.

6 MEMBER SILVERSTEIN: We also have  
7 a lot of small businesses who are non-profits  
8 because of the rent and the taxes and the  
9 pressures put on them by Regulatory.

10 You asked a question and it's a  
11 fair question, Mr. Estrada, as to whether, you  
12 know, is the clock ticking, and the answer is  
13 yes.

14 In fact I feel like the clock has  
15 struck midnight and the band is playing Auld  
16 Lang Syne and the balloons are coming down and  
17 you're telling us that we're not ready for the  
18 New Year.

19 The Moratorium ended last month  
20 and we're going to have to move forward on  
21 this and I think that you've had some good  
22 ideas. I would hope that you can move very

1 quickly on them.

2 I think that there's a way out of  
3 this for both of us and that is that we leave  
4 the record open for a little while, which we  
5 often do in these cases to allow submission,  
6 and that if you can come up with anything,  
7 it's going to take a couple weeks as it always  
8 does for the transcript to come out.

9 And I would ask the Chair what the  
10 rules are on keeping the record open and if we  
11 could extend that for a couple of weeks?

12 CHAIRPERSON MILLER: I just want  
13 to say that the record as of now is open until  
14 November 1, 2013. I'm pretty sure that's what  
15 we advertised in the D.C. Register, et cetera,  
16 so it's not to say that the Board couldn't  
17 take action if it chooses to change it, but  
18 that's what it is right now.

19 MR. ESTRADA: Yes, we would ask  
20 that you do that because I know the original  
21 publication said October 18, I think.

22 CHAIRPERSON MILLER: No.

1 MR. ESTRADA: It was changed from  
2 sometime in October to November 1 as I recall.

3 CHAIRPERSON MILLER: And I will  
4 say that I was under the impression that we  
5 gave you all 120 days and didn't --

6 MR. ESTRADA: Yes. So can we use  
7 the full 120 days?

8 MEMBER SILVERSTEIN: No. I would  
9 not --

10 CHAIRPERSON MILLER: Now who's  
11 that go to?

12 MEMBER SILVERSTEIN: We have to  
13 write a report in that time and we have to  
14 come up with a decision in that time, but,  
15 let's see today is the 24th, let me look and  
16 see what the, why don't we --

17 CHAIRPERSON MILLER: Let's talk  
18 about it afterwards.

19 MEMBER SILVERSTEIN: Yes. We'll  
20 talk about this afterward.

21 CHAIRPERSON MILLER: Because there  
22 are only three of us here right now also. So

1 I think that a Moratorium issue is one that  
2 all five participate in. They're going to  
3 read the transcript from this hearing.

4 So I think we'll take, we hear  
5 your request and we'll take it under  
6 advisement.

7 MS. DIENER: Chair, if you do have  
8 the flexibility to grant a little bit more  
9 time, we've worked really hard in our  
10 neighborhood and Commissioner Stephens knows  
11 and Commissioner Silverstein knows really,  
12 really well, we've come a long way.

13 We've got I think basically a  
14 really harmonious \*\*\*10:42:43 and we just want  
15 to continue to improve it. I think it's not  
16 something the ANC can actually undertake to do  
17 a study like this.

18 They've got too many other things  
19 to do and \*\*\*10:42:54 --

20 CHAIRPERSON MILLER: Okay. Yes,  
21 we heard you say that.

22 MS. DIENER: -- responsible --

1                   CHAIRPERSON MILLER: Let me ask  
2                   you --

3                   MS. DIENER: -- but we do need a  
4                   little bit of time to make it happen. I'm  
5                   sorry we didn't even understand that we'd be  
6                   allowed to do this, so --

7                   CHAIRPERSON MILLER: Okay.

8                   MS. DIENER: -- I apologize for  
9                   not getting started earlier.

10                  CHAIRPERSON MILLER: Let me ask  
11                  you a couple of questions, too. I mean I  
12                  think it's great when residents get engaged in  
13                  the development in their city, I mean like,  
14                  you know the P Street people got Whole Foods.

15                  I know that's happened because  
16                  they got together and they made it happen and  
17                  they knew what their neighborhood needed, and  
18                  so I commend that and I would support that.

19                  You know we have a timing thing  
20                  here, but I also want to ask you, the  
21                  connection here between lifting the Moratorium  
22                  if the Board were to recommend that or go that

1 way, and your being able to, you know, still  
2 engage yourselves in the development in your  
3 neighborhood.

4 I mean if lifting the Moratorium  
5 meant a couple more restaurants could come in  
6 how does that throw off your plan to really  
7 engage, you know, what would be good uses of  
8 certain buildings?

9 MS. DIENER: Yes, that's a great  
10 question. It's because it's such a small  
11 area, it's two and a half blocks. One side of  
12 two of those blocks is also residential so  
13 there's a very limited amount of space.

14 I don't know total how many places  
15 there are. I mean that's a basic figure that  
16 we should probably know, but we haven't got  
17 that data together. And so one restaurant  
18 comes in to a space that was formerly a yoga  
19 studio or whatever, then that may be lost to  
20 that kind of use.

21 CHAIRPERSON MILLER: So we're --

22 MS. DIENER: We have just so

1 little that we want to try to manage it and  
2 there's, you know, a limit to how much  
3 management you can actually provide in the  
4 free market.

5 CHAIRPERSON MILLER: Let me ask  
6 you this --

7 MS. DIENER: -- or we want to, but  
8 we want to try.

9 CHAIRPERSON MILLER: Have you  
10 heard that some people would like another  
11 restaurant to come in or two?

12 MS. DIENER: Oh, yes.

13 CHAIRPERSON MILLER: So why  
14 shouldn't that be one of the options of the  
15 use of space?

16 MS. DIENER: It's not. Well what  
17 people want are different restaurants. We  
18 have a lot of restaurants, but some people  
19 don't like them and they want churn as I  
20 talked about.

21 They want to see new businesses  
22 come in, new chefs, and things like that which

1 I'm not sure would be drawn to 17th Street,  
2 but, well there is apparently a license  
3 available --

4 MEMBER SILVERSTEIN: Good.

5 MS. DIENER: -- but why are they  
6 not taking that. I don't think the answer is  
7 that a restaurant couldn't come in, it can  
8 come in. So there are other things going on.

9 So we want to protect the retail,  
10 but we also want to try to bring in what  
11 people want. I think unless we have a  
12 consorted effort to find out what those  
13 possibilities are and work towards it, it's  
14 just going to continue to be something that  
15 people fight over unnecessarily.

16 And we have, I think, a pretty  
17 harmonious group of people now who want to  
18 work together, who want to explore it to try  
19 to make all sides as happy as can be under the  
20 circumstances.

21 MR. ESTRADA: Let me take a shot  
22 at that answer, too.

1 MS. DIENER: Yes.

2 MR. ESTRADA: Without being a  
3 zoning wonk, 17th Street is a C-1, U Street is  
4 a C-2, 14th is a C-3, so this is the lowest  
5 impact, it's called neighborhood commercial.

6 So as Board Member Silverstein was  
7 saying it's residences next to what I would  
8 call low-scale commercial development. So  
9 you're not going to get the 14th Street mega-  
10 restaurants that we're getting now on 14th  
11 because the spaces don't lend themselves to  
12 it.

13 So we're happy to continue working  
14 to try to get businesses into the empty spaces  
15 with all of our other partners, the ANC  
16 included, Main Streets included, and that  
17 effort should continue on anyway. I think  
18 that's what your saying.

19 But our concern vis-a-vis the  
20 Moratorium is a couple of things that probably  
21 we haven't said and we probably should say.  
22 We've eluded to the license that hasn't been

1 used. Let's get that license used, okay, as  
2 a step one, never mind opening up other retail  
3 spaces for a restaurant, let's get that one  
4 taken care of.

5 Step two, phase two, okay, we  
6 lighten the up the Moratorium to maybe another  
7 one or two licenses, so that would be phase  
8 two. My concern here in watching this whole  
9 process is that both kind of options really  
10 haven't been put on the table and discussed  
11 sufficiently.

12 And my sense of having attended  
13 all three listening sessions was that the  
14 audience in those sessions were saying, the  
15 audience members were saying yes, let's tweak  
16 the Moratorium.

17 But everybody's tweak was  
18 different so now rather than just let the CRs  
19 cap go, let's do it in a measured way. Let's  
20 get that first license taken care of then  
21 let's revisit it and say okay, let's do  
22 another one or two and let's see where the

1 space is for those one or two because this is  
2 a 600-foot Moratorium and if you don't know  
3 17th it's all very tight, very congested, very  
4 close, and so where will it go?

5 Where will that additional one or  
6 two go? So that's the kind of dialogue we  
7 want to have with you as a Board and certainly  
8 with all of our other partners and I think  
9 that's what we want to use the 120 days to do  
10 as well.

11 So it's not just this little  
12 retail service thing, but you say, you know,  
13 there are other options. There is a more  
14 measured approach to doing this and we're  
15 happy to do discuss that.

16 CHAIRPERSON MILLER: Okay. So  
17 separate from your study your approach would  
18 be don't lift it for all of them just allow in  
19 one or two more licenses?

20 MR. ESTRADA: Yes, because if we  
21 care about the retail development of 17th  
22 Street, which is a very small area, we have to

1 look at it one at a time, in my opinion.

2 It's not like Connecticut Avenue,  
3 it's not 14th, it's a small neighborhood  
4 retail area with some commercial development,  
5 not a lot.

6 CHAIRPERSON MILLER: So are you  
7 concerned that like four or six restaurants  
8 might come in and take over space that's  
9 already there and use it as, somebody --

10 MR. ESTRADA: Yes, that's a  
11 concern. That's why I want to talk to you --

12 CHAIRPERSON MILLER: That's what  
13 your concern is?

14 MR. ESTRADA: Yes. And another  
15 thing that's unique to 17th Street that Board  
16 Member Silverstein didn't mention, but former  
17 Commissioner Meehan mentioned at the very  
18 first listening session, he stood up and he  
19 said I want to tell everybody here who's new  
20 to the neighborhood that 17th Street not only  
21 is a low-scale neighborhood commercial strip,  
22 and small at that, but that really a lot of

1 the properties are managed or controlled by  
2 three families.

3 So we need to talk to those three  
4 families to find out what they see as their  
5 vision for 17th Street. What allowances are  
6 they going to make in terms of spaces because  
7 those three families control quite a bit of  
8 the property on 17th Street.

9 So it's a unique dynamic that's  
10 17th Street. So we want to talk to those  
11 families who own those properties and say  
12 what's your vision? Can we work on a plan?  
13 Can we be partners?

14 Here's some ideas we have, can you  
15 target some properties where we can work with  
16 you? And that's unique to 17th Street, three  
17 families own a number of the properties, so  
18 that's already going to limit what can happen  
19 on 17th.

20 If they're not into bringing in  
21 vibrant restaurants because one of them  
22 happens to already have a restaurant, because

1 it might be perceived as competition, then  
2 that property owner, that family, will say  
3 okay, no new restaurants.

4 Even though you may lift the cap  
5 that property owner may say, that one family  
6 may say, no, no, no, we can't have another  
7 restaurant on 17th Street.

8 And really the ANC didn't factor  
9 that in even though we told the four  
10 Commissioners to please consider that one fact  
11 and make sure that you consider that in your  
12 proposal. And we didn't see any evidence in  
13 the report.

14 CHAIRPERSON MILLER: And how  
15 should that fact be considered if they own,  
16 one family owns three properties --

17 MR. ESTRADA: Yes.

18 CHAIRPERSON MILLER: -- and one is  
19 already a, like three families own one  
20 property?

21 MR. ESTRADA: Three families own  
22 multiple properties on 17th Street.

1 CHAIRPERSON MILLER: Multiple.  
2 And how should that factor be considered if  
3 one says they don't want a restaurant and the  
4 --

5 MR. ESTRADA: Well I think that  
6 argues more for a measured approach to the  
7 Moratorium release of the cap, so another one,  
8 another two, let's work with the property  
9 owners, let's work with those three families,  
10 let's try to, for the lack of a better term,  
11 guide the development.

12 MEMBER SILVERSTEIN: But, Mr.  
13 Estrada, I don't think we're the Real Estate  
14 Regulation Administration or the --

15 MR. ESTRADA: Oh, no. You're not.

16 MEMBER SILVERSTEIN: -- Restaurant  
17 Regulation Administration, so I'm not sure how  
18 we should even consider those issues in terms  
19 of what we're limited, you know, by law in  
20 considering.

21 MR. ESTRADA: Well I can help you  
22 with that --

1 MEMBER SILVERSTEIN: Of course.

2 MR. ESTRADA: -- because you can  
3 approve a Moratorium renewal with releasing or  
4 relaxing the CRs to one more license instead  
5 of a total lift of the cap, that's within your  
6 jurisdiction.

7 You can say okay, we're going to  
8 meet you halfway. Let's see what happens on  
9 17th Street, let's do one more.

10 MEMBER SILVERSTEIN: Well --

11 MR. ESTRADA: After you get rid of  
12 the one that's sitting in safekeeping that  
13 somebody needs to address. Those are two  
14 things you can do.

15 MEMBER SILVERSTEIN: First of all  
16 we can't get rid of it, per se.

17 MR. ESTRADA: Well I mean --

18 (Crosstalk)

19 MEMBER SILVERSTEIN: Somebody has  
20 to, it's in safekeeping somebody has  
21 possession of it. We would have to either  
22 force them to use or take it away from them.

1 We don't have those powers.

2 I would ask the Chair, we're not  
3 going to have a final decision on this in 30  
4 days. We have a full load of work. It's  
5 going to take time for the transcript to come  
6 out on this.

7 In the case where people wish to,  
8 in a contested case, to submit Finding of Fact  
9 or Conclusions of Law we keep the record open  
10 for 30 days.

11 I would ask the Chair, being that  
12 counsel has said we can do this, if it would  
13 be possible to keep the record open for 30  
14 days to allow DCCA to get to work on this, do  
15 something quickly, and thereby allow us to  
16 remain on our schedule, but that you could  
17 provide us with whatever information you can  
18 to help us.

19 CHAIRPERSON MILLER: I just want  
20 to say that I'm concerned that we're going  
21 down the wrong road because, you know --

22 MEMBER SILVERSTEIN: Okay.

1                   CHAIRPERSON MILLER:  -- you  
2                   started to say, you know, we're not in the  
3                   real estate business and obvious just, you  
4                   know, reviewing the Moratorium criteria and  
5                   what we normally looked at is peace, order,  
6                   and quiet.

7                   I don't know about this  
8                   preservation of neighborhood retail.  Is that  
9                   a factor that we're even to consider?  Do you  
10                  see that in the law because I, you know, we're  
11                  bound by our statutes as to what we consider.

12                  MEMBER SILVERSTEIN:  Strictly from  
13                  a legal standpoint, over-concentration.  That  
14                  if in fact, and this is not whether it does or  
15                  doesn't, but the bar here, the legal bar,  
16                  would be if there is a concern that an over  
17                  concentration of licensed establishments would  
18                  squeeze out retail.

19                  So based on that strictly legal  
20                  whether, you know, that is where that would  
21                  fall.  And that would be the call that we  
22                  would have to make.

1                   CHAIRPERSON MILLER: But I don't  
2 think that's what we're talking about. I  
3 really think what they're talking about is  
4 this idea, which every neighborhood would  
5 like, you know, an ideal balance of the, you  
6 know, I want a hardware store, I want a  
7 restaurant --

8                   MEMBER SILVERSTEIN: Everybody  
9 wants a hardware store.

10                  CHAIRPERSON MILLER: -- and I  
11 don't want a bookstore, I want a whatever, and  
12 we're going to get together and we're going to  
13 talk to businesses and we're going to try to  
14 make this happen and I think that's fantastic  
15 if citizens do that and they take the energy  
16 and the time and the work to do that, that's  
17 great.

18                  I'm just concerned that as far as  
19 our role goes as the ABC Board whether that's  
20 an issue that we should, we're really going to  
21 consider or we should wait for.

22                  MEMBER SILVERSTEIN: Well I think

1 I'm perfectly willing to let them submit  
2 whatever they feel is instrumane and is  
3 helpful so long as it does not delay or unduly  
4 delay the Board in its deliberations or in our  
5 task.

6 We have extended this 120 days and  
7 I'm perfectly comfortable with that and if we  
8 can get additional information that would help  
9 us without delaying us, I see no harm.

10 MR. ESTRADA: I appreciate that  
11 comment.

12 CHAIRPERSON MILLER: Okay. Ms.  
13 Jenkins isn't here.

14 MEMBER SILVERSTEIN: Ms. Burns.

15 CHAIRPERSON MILLER: I know that  
16 we do have, the record's supposed to be closed  
17 November 1.

18 (Off the record comments)

19 CHAIRPERSON MILLER: Okay. So,  
20 anyway, I think we're going to consider  
21 keeping the record open longer, but I think  
22 we're going to get back to you because we have

1 more Board Members coming in this afternoon  
2 and it may involve doing further extending of  
3 the rulemaking and then which, you know, we  
4 may need an extension of time because this is  
5 a statute.

6 So we just want to make sure that  
7 we understand procedurally what has to be done  
8 and whether it should be done to give you the  
9 time to do that.

10 And just before we wrap this up  
11 though, and Mr. Stephens may have more  
12 comment, I don't know, but the time that you  
13 are asking for now, just so that I have the  
14 right facts, we have the right facts when we  
15 talk to our other Board Members and make this  
16 decision is 30 days?

17 That may be unrealistic, too. I  
18 mean you may not be able to do this --

19 MS. DIENER: No, we can't. I mean  
20 we were asking for 120 days and we thought  
21 that it would start from whenever you decide  
22 that, so I apologize that we didn't understand

1 that.

2 The Moratorium's been in place for  
3 two decades and another four months I don't  
4 think --

5 CHAIRPERSON MILLER: Okay.

6 MS. DIENER: -- in my view, but I  
7 don't know what you have to deal with legally  
8 --

9 CHAIRPERSON MILLER: Right.

10 MS. DIENER: -- to make a  
11 reasonable decision and to get as many people  
12 on board with it as possible. DCCA is very  
13 pleased that the ANC wanted to continue the  
14 Moratorium. That's very critical we feel.

15 And tweaking it, but their tweak  
16 is different from our tweak, and we just want  
17 to examine that. We thought that they would  
18 have time to, but they didn't.

19 And so we're prepared now to do  
20 that over 120 days and give you a final  
21 decision of what we recommend and all of the  
22 data that we find in case you can use it in

1 your deliberations.

2 CHAIRPERSON MILLER: Okay.

3 MS. DIENER: Thank you.

4 MR. ESTRADA: Yes, thank you for  
5 your consideration.

6 CHAIRPERSON MILLER: All right.  
7 Thank you.

8 MEMBER SILVERSTEIN: Anyone else  
9 have any comments?

10 CHAIRPERSON MILLER: Mr. Stephens,  
11 did you --

12 MEMBER SILVERSTEIN: Mr. Stephens  
13 or Mr. Lee?

14 MR. STEPHENS: I guess if I have  
15 one comment it would be I think in terms of  
16 the different tweaks that were discussed at  
17 the various sessions and meetings and  
18 internally at the ANC and from public comment,  
19 my own view, and I think this was borne out by  
20 the vote, too, is that this was the halfway  
21 measure.

22 The halfway measure wouldn't be

1 one or two more CRs, but the halfway measure  
2 was keeping the Moratorium at all, but opening  
3 up CRs and DRs because the 100 percent measure  
4 would've been getting rid of the Moratorium  
5 completely.

6 The zero percent would've been  
7 don't change anything. So the halfway, in my  
8 opinion, and I think it was borne out by the  
9 vote, was to open up CRs and DRs completely.

10 CHAIRPERSON MILLER: Okay.

11 MEMBER SILVERSTEIN: Anyone else?

12 CHAIRPERSON MILLER: All right.

13 So anybody else wish to testify on the  
14 Moratorium? No, okay.

15 MS. DIENER: Thank you very much.

16 MR. STEPHENS: Thank you.

17 CHAIRPERSON MILLER: Okay. So  
18 that concludes our hearing on the East Dupont  
19 Circle Moratorium.

20 (Whereupon, the hearing in the  
21 above-entitled matter was concluded at 11:00  
22 a.m.)

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