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

(1:40 p.m.)

CHAIRPERSON MILLER: Good

afternoon, everyone. I'm calling the Case No. 13-PRO-00136, Romeo & Juliet located at 301 Massachusetts Avenue, N.W., License No. 92684, in ANC-6E.

And would the parties -- I believe the parties have come forward who are in this case. Would you identify yourselves for the record, please?

MR. KLINE: Yes. Good afternoon, Andrew Kline, Madam Chair. For the record, I think it's Northeast not Northwest, just so our record is clear. Identify yourself, please.

MR. REHMAN: Michael Romeo Rehman.

CHAIRPERSON MILLER: It's Northeast, is that what you said?

MR. KLINE: Northeast.

CHAIRPERSON MILLER: Yes, it's wrong on the calendar. Okay. Thank you. All

1 right.

2 MR. REHMAN: Michael Romeo Rehman.

3 CHAIRPERSON MILLER: And you are?

4 MR. REHMAN: Owner.

5 CHAIRPERSON MILLER: Okay.

6 MR. ORTIZ: Frank Ortiz, Director
7 of Operations.

8 CHAIRPERSON MILLER: And I hope
9 everyone has signed in also on that piece of
10 paper on the table. Okay. And over here?

11 MS. WIRT: I'm Karen Wirt from
12 ANC-6C. I represent 6C02.

13 CHAIRPERSON MILLER: And you are
14 the protestants?

15 MS. WIRT: Yes.

16 CHAIRPERSON MILLER: Okay. And
17 anybody else? Okay. So this is a Protest
18 Hearing. Are there any preliminary matters?

19 MR. KLINE: None that we are aware
20 of, no.

21 CHAIRPERSON MILLER: Okay. Not
22 hearing any then I think -- you can't hear me?

1 Oh, can you hear me now? Okay. Thank you for
2 letting me know. All right. So I believe
3 that all the parties here are familiar with
4 the procedures or you're not?

5 MS. WIRT: We're not.

6 CHAIRPERSON MILLER: Okay. So let
7 me tell you the order of procedure. Applicant
8 makes an opening statement and then the
9 protestant can make an opening statement or
10 you can -- yes, then you make your opening
11 statement. Okay. And then we call our Board
12 witness, who is the Investigator. And she
13 will testify and the parties and the Board
14 will have the opportunity to question her.

15 Okay. And then the applicant will
16 put on its case and then the protestant will
17 put on its case. So by meaning put on a case,
18 they will put witnesses on who will be -- who
19 will give testimony. You can cross-examine.
20 The Board can cross-examine. And then they
21 can also put in exhibits into evidence. And
22 then you will have the same opportunity and

1 then you can each make closing arguments.

2 MS. WIRT: Okay.

3 CHAIRPERSON MILLER: So that's
4 basically the way the case will go. I just
5 want to ask you, preliminarily, how many
6 witnesses each of you might be having, so we
7 get an idea of the length of time.

8 MR. KLINE: One or two.

9 CHAIRPERSON MILLER: One or two
10 from the applicant.

11 MS. WIRT: Six.

12 CHAIRPERSON MILLER: Six. Okay.
13 And also, I will also tell you that Mr. Jones
14 will be keeping track of time. Each side has
15 an hour and a half to present their case,
16 which is way more than what is normally used
17 or needed.

18 And that opening statements,
19 closing statements don't count in that time.
20 Also, when your witness is being cross-
21 examined, that doesn't count against you, but
22 when you are cross-examining the other side,

1 that counts against your time.

2 And parties can inquire of Mr.
3 Jones periodically if they are concerned about
4 how much time they have left.

5 MS. WIRT: I have one witness who
6 has to leave at 2:40, so it should be okay,
7 but if not, I can read his statement. Is that
8 acceptable if he has to leave?

9 CHAIRPERSON MILLER: Okay. So
10 let's see when we get to that. We should be
11 able to get, hopefully, to that before then.

12 MS. WIRT: Okay. Good.

13 CHAIRPERSON MILLER: Maybe. So we
14 will cross that bridge when we come to it,
15 but, yes. Do you have any objection, Mr.
16 Kline, though if -- to either putting the
17 witness out of order, that's what we do
18 sometimes, or submitting written testimony?

19 MR. KLINE: I don't have any
20 objection to taking the witness out of order.
21 I would to the written testimony.

22 CHAIRPERSON MILLER: Right. So he

1 can have the opportunity to cross-examine.

2 All right. So why don't we start and then we
3 will see as we get closer to that point.

4 Okay. Then opening statement?

5 MR. KLINE: Yes. Good afternoon,
6 Madam Chairman and Members of the Board. We
7 think this is a relatively easy case. This is
8 an application for a CR License at a location
9 that, as far as we know, has been a restaurant
10 for over 40 years. There was no request for
11 an entertainment endorsement. This is simply
12 a restaurant.

13 It seems from what we have seen
14 from the protestants the fundamental issue
15 from their standpoint would be the closing
16 hour. We would submit that there is no reason
17 in the world why this establishment be limited
18 from the statutory closing hours of 2:00 a.m.
19 and 3:00 a.m.

20 At the conclusion of the case,
21 which we expect from our standpoint to be very
22 short, we will ask that you approve the

1 license application as submitted and that you
2 will ultimately do that by issuing your order
3 approving the license. Thank you.

4 CHAIRPERSON MILLER: Thank you.
5 Okay. Ms. Wirt, do you have an opening
6 statement?

7 MS. WIRT: Yes. Madam Chair and
8 Members of the Board, my name is Karen Wirt.
9 I am Commissioner of 6C02 and I represent the
10 people surrounding this restaurant.

11 ANC-6C and the community residents
12 are protesting this liquor license on the
13 basis of disturbance to the peace, order and
14 quiet of the community. Let me begin by
15 saying the community is not against the
16 restaurant. It is against the hours and noise
17 of an establishment that stays open until 2:00
18 and 3:00 a.m. in the morning, that is the main
19 concern.

20 We are protesting a restaurant run
21 like a nightclub with nightclub hours.

22 CHAIRPERSON MILLER: Thank you.

1 Okay. I think that we are ready then for our
2 Investigator.

3 Whereupon,

4 INVESTIGATOR ILLEANA CORRALES
5 was called as a witness by the ABRA Board, and
6 having been first duly sworn, assumed the
7 witness stand and was examined and testified
8 as follows:

9 CHAIRPERSON MILLER: Thank you.

10 DIRECT EXAMINATION

11 INVESTIGATOR CORRALES: My name is
12 Illeana Corrales and I conduct inspections and
13 investigations in licensed ABC establishments
14 throughout the District of Columbia. I have
15 been an Investigator with the Alcoholic
16 Beverage Regulation Administration since
17 February 4, 2008.

18 I was assigned to investigate the
19 protest against Romeo & Juliet who has applied
20 for a new ABC License Restaurant Class with a
21 sidewalk cafe endorsement, no entertainment
22 endorsement. The license is being protested

1 by ANC-6C.

2 Regarding the specific protest
3 issues in this case, I was able to speak with
4 representative of ANC-6C, Ms. Karen Wirt.

5 Commissioner Wirt stated that ANC-6C stated --
6 has stated the residents in her area are
7 concerned with the following issues -- with
8 the following:

9 Noisy patrons in the surrounding
10 neighborhood;

11 Noise that could possibly emanate
12 from the establishment given the hours that
13 301 Romeo, LLC has applied for.

14 Sidewalk cafe noise and the
15 negative effects of patrons parking and
16 surrounding neighborhoods disrupting quality
17 of -- the quality of life for residents during
18 late night -- during the late night hours.

19 I will now present a brief summary
20 of my findings resulting from my investigation
21 beginning on November 25, 2013 and concluding
22 on December 4, 2013.

1 I'll begin with a description of
2 the neighborhood and the characteristics.
3 When open for business, the establishment will
4 be located at 301 Massachusetts Avenue, N.E.,
5 in the Capitol Hill neighborhood of
6 Washington, D.C., approximately three blocks
7 east of Union Station.

8 The surrounding area of the
9 prospective establishment is a mixed-use of
10 commercial, residential, food and retail
11 establishments.

12 Currently, the inside of this
13 establishment is undergoing construction. The
14 building is a corner lot row-style building
15 located on the corner of Massachusetts Avenue,
16 N.E., and 3rd Street, N.E. You can refer to
17 Exhibits 8A, B and C for that.

18 According to the District of
19 Columbia GIS, Geographic Information System,
20 there are 12 listed ABC licensed
21 establishments operating within 1200 feet of
22 301 Mass Ave., N.E. Refer to Exhibit No. 2

1 for that.

2 I also want to say that if you
3 turn to page 3 of my report, I put an asterisk
4 next to the establishment that currently have
5 a summer garden or sidewalk cafe that are
6 located within 1200 feet of this prospective
7 establishment.

8 Most of the parking surrounding
9 this prospective establishment is two hour
10 parking meters for two hour residential-zoned
11 parking -- parking zone.

12 I interviewed Mr. Diego Segueira
13 regarding the details of the proposed
14 establishment. Mr. Segueira informed me of
15 the following:

16 He stated the concept of Romeo &
17 Juliet is an Italian tapas restaurant. Tapas
18 are a wide variety of appetizers and snacks,
19 just so you all know, if you didn't know. Mr.
20 Segueira stated that the establishment will
21 consist of three levels with five dining areas
22 and two summer gardens, one enclosed with

1 heavy insulation with the capacity of,
2 approximately, 17 seats, and one unenclosed
3 with, approximately, 142 seats.

4 The enclosed summer garden will
5 face the 3rd Street, N.E., side of the
6 establishment. And the unenclosed summer
7 garden area will face the Massachusetts
8 Avenue, N.E., side of the establishment.

9 In addition, he also stated to me
10 that with parking issues, he will be
11 addressing the parking issues in the area by
12 hiring a valet service for customers to use.
13 And also we talked about there is a
14 possibility that there was a garage or a lot
15 that was nearby that they would look into
16 contracting.

17 He also emphasized on the fact
18 that there is no entertainment endorsement
19 being applied for with this new license.

20 ABRA personnel monitored 301 Mass
21 Ave. a total of five times from November 25,
22 2013 through December 4, 2013 to determine if

1 there were any existing issues regarding
2 parking, peace, order and quiet in the
3 surrounding area where the establishment will
4 be located.

5 During the monitoring period, ABRA
6 Investigators noted the following:

7 There was no trash or litter
8 around the proposed building or this
9 establishment during all visits to the
10 address.

11 Limited parking available during
12 night, during the night that this location was
13 visited or was monitored. More parking
14 available during the afternoon.

15 ABRA Investigators were unable to
16 determine how the proposed establishment will
17 have an effect on residential parking needs,
18 vehicular and pedestrian safety because the
19 establishment is currently not in operation.

20 This concludes my testimony for
21 301 Romeo, LLC.

22 CHAIRPERSON MILLER: Thank you.

1 Are there Board questions?

2 MEMBER ALBERTI: I have questions.

3 CHAIRPERSON MILLER: Go ahead.

4 MEMBER ALBERTI: Good afternoon,
5 Investigator Corrales.

6 INVESTIGATOR CORRALES: Hi.

7 MEMBER ALBERTI: Thank you for
8 your report. You mentioned the capacity for
9 the summer gardens, the enclosed and
10 unenclosed summer gardens. Are you
11 knowledgeable about the capacity for the
12 establishment, the interior of the
13 establishment?

14 INVESTIGATOR CORRALES: The
15 Certificate of Occupancy was not provided to
16 me within the file, so I don't know exactly
17 what is their capacity of the inside.

18 MEMBER ALBERTI: So ABRA --

19 INVESTIGATOR CORRALES: I'm sure
20 if they haven't received one --

21 MEMBER ALBERTI: -- doesn't have--
22 is that because ABRA doesn't have a copy of

1 the C of O?

2 INVESTIGATOR CORRALES: We don't
3 have. It was not in the file when I was doing
4 my --

5 MEMBER ALBERTI: Okay.

6 MS. WIRT: 90 persons on the
7 paperwork.

8 MEMBER ALBERTI: Wait, wait, wait,
9 please, please. So you don't know then?

10 INVESTIGATOR CORRALES: Yes, I do
11 not know.

12 MEMBER ALBERTI: Great. Okay.
13 Okay. Can we turn to Exhibit 14 in your --
14 it's a map in your -- I think it is the last
15 page of your report.

16 INVESTIGATOR CORRALES: I don't
17 have the exhibits. I just have the report in
18 front of me. Is there --

19 MEMBER ALBERTI: Okay. Can we get
20 her a copy of the exhibits? One moment.

21 So my question is, it's going to
22 be when you look at this, about where

1 residents are. I'm somewhat familiar with
2 this intersection, so I think maybe to -- for
3 efficiency, I'll tell you what I know.

4 Along Mass Avenue going, I guess
5 that would be, east of the corner where this
6 establishment is, across the street, I believe
7 those are all commercial establishments. Is
8 that correct?

9 INVESTIGATOR CORRALES: Directly
10 across the street?

11 MEMBER ALBERTI: Yes.

12 INVESTIGATOR CORRALES: Yes.

13 MEMBER ALBERTI: That row and that
14 block directly across the street.

15 INVESTIGATOR CORRALES: Correct.
16 There is liquor stores, restaurants, nail
17 salons.

18 MEMBER ALBERTI: All right. And
19 then on the same side of the street as the
20 establishment going east, those are all, I
21 think, offices and commercial establishments?

22 INVESTIGATOR CORRALES: That's

1 what I -- when I was doing my walk-through, I
2 saw most of them appear to be offices.

3 MEMBER ALBERTI: Okay. Going
4 south -- okay. And then to the -- on the same
5 side of the street going west, those are all
6 restaurants, commercial establishments?

7 INVESTIGATOR CORRALES: On the
8 corner. It starts on the corner. There is
9 Capitol Supermarket and then a place next to
10 that, yes, it's commercial.

11 MEMBER ALBERTI: Mostly
12 commercial. Okay. Now, directly across the
13 street from that, are there residents there?

14 INVESTIGATOR CORRALES: Directly
15 across the street? It's --

16 MEMBER ALBERTI: It's kind of a
17 highrise building there.

18 INVESTIGATOR CORRALES: Right.
19 The highrise building which I think are -- I
20 don't know if it's office. I think it's an
21 office building to the left and the subway
22 commercial.

1 MEMBER ALBERTI: But you don't
2 know whether it's commercial? You think it's
3 all commercial?

4 INVESTIGATOR CORRALES: Commercial
5 on top. No. There is subways and other ABC
6 establishments.

7 MEMBER ALBERTI: And on the upper
8 level, do you know whether there are residents
9 or not?

10 INVESTIGATOR CORRALES: No, I do
11 not know. But I know the building over that
12 is definitely an organization.

13 MEMBER ALBERTI: Okay. Are there
14 any apartment buildings in that block? Do you
15 know?

16 INVESTIGATOR CORRALES: No, I do
17 not know.

18 MEMBER ALBERTI: Okay. Thank you.
19 Okay. Going south on 3rd Street, do you know
20 if those are residents or --

21 INVESTIGATOR CORRALES: Yes, they
22 are residents.

1 MEMBER ALBERTI: Those are all
2 residents on both sides of the street?

3 INVESTIGATOR CORRALES: Yes.

4 MEMBER ALBERTI: Okay. Going
5 north from Mass Avenue that would be D Street,
6 the -- that Block of D Street that is directly
7 north of the -- it goes from the Block of D
8 Street going from 3rd Street to 4th Street.

9 INVESTIGATOR CORRALES:
10 Residential. I saw residential there as well.

11 MEMBER ALBERTI: Residential?

12 INVESTIGATOR CORRALES: Yes.

13 MEMBER ALBERTI: On both sides of
14 the street?

15 INVESTIGATOR CORRALES: Well, are
16 you talking about that little block right
17 there?

18 MEMBER ALBERTI: Yeah, there is a
19 triangle on the south side.

20 INVESTIGATOR CORRALES: The
21 triangle?

22 MEMBER ALBERTI: And then there is

1 a full block on the north side.

2 INVESTIGATOR CORRALES: Behind the
3 -- it's retail establishments that face Mass
4 Ave. on that triangle. I do not know what
5 those are.

6 MEMBER ALBERTI: Um-hum.

7 INVESTIGATOR CORRALES: But behind
8 that street for sure it's residential, mixed-
9 use.

10 MEMBER ALBERTI: On the north side
11 of that street --

12 INVESTIGATOR CORRALES: Yes.

13 MEMBER ALBERTI: -- are
14 residential?

15 INVESTIGATOR CORRALES: Right.

16 MEMBER ALBERTI: Okay. Okay. I
17 don't think I have any other questions. Thank
18 you.

19 CHAIRPERSON MILLER: Okay.

20 Others? Mr. Brooks?

21 MEMBER BROOKS: Yes, thank you,
22 Madam Chair. I just had a question about

1 parking. You mentioned valet parking and a
2 garage nearby?

3 INVESTIGATOR CORRALES: This is
4 what I was told by -- when I asked them about
5 -- Mr. Segueira how he would address the
6 parking issues that the ANC had, he told me
7 that they were going to look into the valet
8 parking and possibly contracting with a nearby
9 garage or lot.

10 MEMBER BROOKS: He didn't give any
11 indication --

12 INVESTIGATOR CORRALES: But he
13 didn't have any more details --

14 MEMBER BROOKS: Okay. So no
15 indication --

16 INVESTIGATOR CORRALES: -- about
17 that.

18 MEMBER BROOKS: -- for which
19 garage he was speaking of.

20 INVESTIGATOR CORRALES: No, or
21 lot, no.

22 MEMBER BROOKS: Okay. Because I'm

1 not familiar with a garage in that general
2 area other than Union Station.

3 INVESTIGATOR CORRALES: Okay.

4 Well --

5 MEMBER BROOKS: So I don't know if
6 they were talking about Union Station. As a
7 matter of fact, I can ask the applicant, but
8 Union Station garage is about three blocks
9 away.

10 INVESTIGATOR CORRALES: Right.

11 MEMBER BROOKS: And I'm not sure
12 if that is what they are speaking of, but I'll
13 check with them. Thank you.

14 CHAIRPERSON MILLER: Okay. Mr.
15 Jones?

16 MEMBER ALBERTI: Is there an
17 apartment building?

18 MEMBER SILVERSTEIN: Mr. Jones?

19 MEMBER JONES: Thank you. Just
20 real quickly, did you get a chance to get in?
21 Did you get a chance to go inside the
22 establishment?

1 INVESTIGATOR CORRALES: I did.

2 MEMBER JONES: You did?

3 INVESTIGATOR CORRALES: Yes.

4 MEMBER JONES: Did you see what
5 the proposed -- did you see any indication of
6 what the proposed layout would be and how
7 closely -- and if you did, how closely did
8 that comport to the diagram that is included
9 in the report?

10 INVESTIGATOR CORRALES: The
11 diagram that I was provided? Well, it was
12 actually relatively -- I could -- you know, by
13 looking at that, that's exactly what I saw.

14 MEMBER JONES: Okay. That's
15 exactly what you saw?

16 INVESTIGATOR CORRALES: Yes,
17 that's exactly what I saw.

18 MEMBER JONES: Okay. And there is
19 some items in here, the Enclosed Outdoor
20 Seating 1 and Seating 2. The enclosed areas,
21 did you get a chance to see inside the
22 enclosed areas?

1 INVESTIGATOR CORRALES: Well, are
2 you referring to Exhibit No. --

3 MEMBER JONES: I'm looking at No.
4 9. And in this, I guess I'll call it,
5 bird'seye view perspective of the layout, they
6 have two designated areas called Enclosed
7 Outdoor 1 and 2. Did you get a chance to go
8 inside those areas?

9 INVESTIGATOR CORRALES: Yes.

10 MEMBER JONES: You did? Okay.

11 INVESTIGATOR CORRALES: You can
12 access them from within it.

13 MEMBER JONES: Can you describe to
14 me how does -- what does enclosed mean from an
15 outdoor perspective? Was it just a screen?
16 Was it a solid wall? Was it a half-wall with
17 a window glass? How did it look from your --
18 what you saw?

19 INVESTIGATOR CORRALES: Well, it's
20 not finished yet. They haven't even really
21 started working on it.

22 MEMBER JONES: Okay.

1 INVESTIGATOR CORRALES: But as of
2 right now, it is an enclosed area with glass
3 surrounding it. And I was told that it was
4 going to have windows.

5 MEMBER JONES: Okay. So an
6 enclosed area with glass round it and it's
7 going to have windows?

8 INVESTIGATOR CORRALES: With
9 windows, right.

10 MEMBER JONES: Okay. And did you
11 see what the proposed ingress and egress to
12 that space would be? Would there be a way to
13 enter it from the outside or would you have to
14 be on the inside to get into that area?

15 INVESTIGATOR CORRALES: Into the
16 enclosed one?

17 MEMBER JONES: Yes.

18 INVESTIGATOR CORRALES: I believe
19 you have to go in through the front to --

20 MEMBER JONES: Go in through the
21 front entrance?

22 INVESTIGATOR CORRALES: Yes.

1 MEMBER JONES: Okay. Thank you.
2 Thank you, Madam Chair.

3 CHAIRPERSON MILLER: Okay. Mr.
4 Silverstein, go ahead.

5 MEMBER SILVERSTEIN: Thank you,
6 Investigator. Based on your experience with
7 more than five years with the Agency, what red
8 flags do you see here, if any? It's my usual
9 question. What things should we be looking at
10 as we take this on, based on what you have
11 seen in your investigation? What potential
12 problems might there be?

13 INVESTIGATOR CORRALES: With all
14 due respect, I was actually told not to answer
15 that question.

16 MEMBER SILVERSTEIN: Is there
17 anything that you saw involving peace, order
18 and quiet that we should look at in terms of
19 the outdoor area? Is there any place that
20 appears to be close to residences where
21 people's sleep might be bothered or is there
22 anything abutting or, you know, directly

1 above? Anything like that?

2 INVESTIGATOR CORRALES: Nothing
3 directly above. The closest sidewalk -- the
4 unenclosed sidewalk cafe is the only one that
5 I saw from my observations that was closest to
6 residential, to a residential dwelling.

7 MEMBER SILVERSTEIN: How close --

8 INVESTIGATOR CORRALES:
9 Unenclosed.

10 MEMBER SILVERSTEIN: -- would that
11 be?

12 INVESTIGATOR CORRALES: Well, it's
13 separated by -- I don't have the exhibits in
14 front of me, so it's kind of hard for me to
15 tell you which exhibits to look at, but it's
16 the one -- if I could get an exhibit?

17 CHAIRPERSON MILLER: Do you want a
18 copy of the exhibits? Okay.

19 MEMBER SILVERSTEIN: Okay. Well,
20 we will ask.

21 CHAIRPERSON MILLER: She should
22 have them.

1 INVESTIGATOR CORRALES: I would
2 like to see some of them.

3 MEMBER SILVERSTEIN: Okay. Thank
4 you.

5 CHAIRPERSON MILLER: Is there a
6 question pending?

7 MEMBER ALBERTI: May I ask --

8 CHAIRPERSON MILLER: I'm sorry. I
9 just want to --

10 MEMBER SILVERSTEIN: No.

11 CHAIRPERSON MILLER: You are not
12 waiting for the exhibits now?

13 MEMBER SILVERSTEIN: No further
14 questions.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER ALBERTI: I have just a
17 real quick question.

18 CHAIRPERSON MILLER: Um-hum.

19 MEMBER ALBERTI: On page 3 you
20 mentioned that you denoted with asterisks the
21 establishments that had sidewalk cafes or
22 summer gardens. Do you know what the hours

1 are for those sidewalk cafes or summer gardens
2 are for those establishments?

3 INVESTIGATOR CORRALES: No, I did
4 not look up all the hours for the ones that
5 have the summer gardens or sidewalk cafes.

6 MEMBER ALBERTI: Okay. Thank you.
7 Thank you.

8 CHAIRPERSON MILLER: Are you done?
9 Yeah. Okay. That was going to be my first
10 question. Did you say you didn't look up the
11 hours?

12 INVESTIGATOR CORRALES: The hours
13 for the other establishments that have the
14 sidewalk cafes?

15 CHAIRPERSON MILLER: The 12 that
16 are listed on page 3, right.

17 INVESTIGATOR CORRALES: Right.
18 No, I did not look up their individual hours
19 for each establishment.

20 CHAIRPERSON MILLER: Okay. Do you
21 know if any of these establishments are as
22 large as the one that we are considering?

1 INVESTIGATOR CORRALES: From
2 observation, no, they are not.

3 CHAIRPERSON MILLER: Is this one
4 much larger than the others or can you
5 characterize it?

6 INVESTIGATOR CORRALES: The
7 outside area is very -- it is large.

8 CHAIRPERSON MILLER: The outside
9 meaning that outside patio?

10 INVESTIGATOR CORRALES: The
11 outside, not the enclosed one, the outside one
12 is large.

13 CHAIRPERSON MILLER: Okay.

14 INVESTIGATOR CORRALES: It's a
15 pretty large space.

16 CHAIRPERSON MILLER: When you did
17 hour monitoring, were you able to determine
18 whether it was noisy in the neighborhoods from
19 people walking from these establishments?

20 INVESTIGATOR CORRALES: There was
21 no noisy -- we didn't encounter any noisy
22 patrons along -- the nights that we monitored.

1 Not to say that there isn't, but the nights,
2 the specific days that we did, there was none.

3 CHAIRPERSON MILLER: You did what?
4 Did you do one night or more than one night?

5 INVESTIGATOR CORRALES: Correct,
6 because of the short time -- turnaround for
7 this protest --

8 CHAIRPERSON MILLER: Okay.

9 INVESTIGATOR CORRALES: -- there
10 was only one nighttime monitoring done for
11 this establishment.

12 CHAIRPERSON MILLER: Okay. Do you
13 remember the time?

14 INVESTIGATOR CORRALES: Yes, it
15 was on Tuesday, December 3, 2013, from 10:30
16 p.m. to 11:00 p.m.

17 CHAIRPERSON MILLER: Okay. So in
18 that window, you didn't notice noise in the
19 neighborhood?

20 INVESTIGATOR CORRALES: No.

21 CHAIRPERSON MILLER: Okay. And is
22 this establishment near any public

1 transportation?

2 INVESTIGATOR CORRALES: Correct.

3 There is a bus stop directly across from it.

4 CHAIRPERSON MILLER: Directly

5 across?

6 INVESTIGATOR CORRALES: Yes.

7 CHAIRPERSON MILLER: Okay.

8 Sometimes we hear the issue about patrons

9 walking through neighborhoods to get to the

10 Metro or whatever, so that's not the situation

11 here. The public transportation is the bus?

12 INVESTIGATOR CORRALES: I was also

13 told that the establishment is going to put a

14 bike rack outside of the establishment and

15 that was an agreement that both parties had

16 with each other.

17 CHAIRPERSON MILLER: Okay. Good.

18 Okay. Okay.

19 MEMBER ALBERTI: May I ask a

20 question?

21 CHAIRPERSON MILLER: Yes. Go

22 ahead. I'm finished.

1 MEMBER ALBERTI: Investigator, I
2 just want to offer one correction. I want you
3 to see if you can confirm this. On page 3,
4 you have listed nearby establishments, but I
5 believe right across the street from the
6 establishment there is a Class A liquor store,
7 which I don't see listed here.

8 INVESTIGATOR CORRALES: They're
9 not? Are we on 3? I didn't hear you.

10 MEMBER ALBERTI: Directly across
11 the street, I believe, there is a Class A
12 liquor store which I don't see --

13 INVESTIGATOR CORRALES: There is?

14 MEMBER ALBERTI: -- listed on your
15 list. Is that correct?

16 INVESTIGATOR CORRALES: I believe.

17 MEMBER ALBERTI: For the record, I
18 want to make sure this is --

19 INVESTIGATOR CORRALES: Yes.

20 There is a liquor store there.

21 MEMBER ALBERTI: All right. So we
22 should add to that --

1 INVESTIGATOR CORRALES: It's over
2 to the left.

3 MEMBER ALBERTI: -- Class A
4 directly across the street.

5 INVESTIGATOR CORRALES:
6 Schneider's Liquor.

7 MEMBER JONES: Schneider's.

8 MEMBER ALBERTI: Okay. Thank you.

9 CHAIRPERSON MILLER: Okay. Does
10 that complete Board questions? Mr. Kline?

11 MR. KLINE: Yes.

12 CROSS-EXAMINATION

13 MR. KLINE: Good afternoon,
14 Investigator Corrales. The Protest Letter
15 that gave rise to your investigation is
16 Exhibit 1, correct?

17 INVESTIGATOR CORRALES: Yes.

18 MR. KLINE: And that -- and you
19 looked at the Protest Letter to determine what
20 it is that you are going to investigate or a
21 particular protest proceeding? Is that
22 correct?

1 INVESTIGATOR CORRALES: Correct.

2 MR. KLINE: All right. That
3 Protest Letter doesn't reference anything
4 about parking, does it?

5 INVESTIGATOR CORRALES: It did
6 not.

7 MR. KLINE: Okay.

8 INVESTIGATOR CORRALES: However --
9 it did not.

10 MR. KLINE: It only references
11 peace, order and quiet?

12 INVESTIGATOR CORRALES: Correct.

13 MR. KLINE: Right. Now, with
14 respect to transportation, there is a Metro
15 stop at Union Station, correct?

16 INVESTIGATOR CORRALES: Yes.

17 MR. KLINE: And that is three
18 blocks away?

19 INVESTIGATOR CORRALES: Correct.

20 MR. KLINE: And you have already
21 testified you don't -- you didn't look at the
22 hours of the other establishments that are in

1 your report, correct?

2 INVESTIGATOR CORRALES: Correct.

3 MR. KLINE: Have you had occasion
4 during the course of your duties to be in this
5 neighborhood and know some of the
6 establishments that are in proximity of this
7 proposed applicant's establishment?

8 INVESTIGATOR CORRALES: Not
9 recently.

10 MR. KLINE: No?

11 INVESTIGATOR CORRALES: No.

12 MR. KLINE: Okay. So you don't
13 know what any of the hours of the other places
14 are off-hand?

15 INVESTIGATOR CORRALES: Off-hand,
16 no.

17 MR. KLINE: Okay. And the drawing
18 that is in your report is merely a drawing of
19 what is contemplated for the exterior seating,
20 right?

21 INVESTIGATOR CORRALES: Correct.

22 MR. KLINE: So when you are asked

1 whether the inside mirrored what was in your
2 report, there was no drawing of the inside as
3 an exhibit to your report, is there?

4 INVESTIGATOR CORRALES: Correct.

5 MR. KLINE: Okay. And in terms of
6 -- you said that there was limited parking at
7 night, but you did find parking available?

8 INVESTIGATOR CORRALES: Yes.

9 MR. KLINE: Correct?

10 INVESTIGATOR CORRALES: There was
11 actually.

12 MR. KLINE: The building in which
13 this establishment is located, is it -- what
14 kind of building is it in terms of
15 construction?

16 INVESTIGATOR CORRALES: It is a
17 corner lot. Well, construction, it was
18 already constructed, but it's a corner lot
19 row-style building.

20 MR. KLINE: Is it brick?

21 INVESTIGATOR CORRALES: It is
22 brick.

1 MR. KLINE: One of the issues that
2 was raised in the protestant's opening
3 statement was concern about noise from patrons
4 within the establishment audible to
5 residences. Based on your experience as an
6 Investigator and having been in a number of
7 these places, do you see that as an issue?

8 INVESTIGATOR CORRALES: Based on
9 this establishment?

10 MR. KLINE: Yes. In other words,
11 we have a brick building here. You have been
12 out there. You know what the proximity of the
13 residences are. Do you see a potential issue
14 with people in the establishment disturbing
15 neighbors in any way?

16 INVESTIGATOR CORRALES: Well, I
17 would want to make something clear. Voices
18 and -- patron voices are something that we do
19 not address.

20 MR. KLINE: Okay.

21 INVESTIGATOR CORRALES: So I can't
22 testify to that. You hear patron voices

1 within one establishment in your home, we
2 can't address that. They are not considered
3 a noise issue for Investigators, for ABRA
4 Investigators.

5 MR. KLINE: I understand that in
6 terms of a violation. But given your
7 experience, do you think it is likely that
8 noise from -- just voices in the
9 establishment, in this brick building will be
10 audible in residences in that neighborhood?

11 INVESTIGATOR CORRALES: I do not
12 know.

13 MR. KLINE: Okay. Fair enough.
14 That's all I have. Thank you.

15 CHAIRPERSON MILLER: Okay. Ms.
16 Wirt?

17 MS. WIRT: A couple of questions.
18 You said that you were inside the enclosed
19 areas on the outside, the patio area. Those
20 extensions have not yet been built.

21 INVESTIGATOR CORRALES: Correct.
22 But when I went inside the establishment, I

1 asked the -- I asked one of the owners if he
2 could show me where these summer gardens will
3 be at and he pointed out that there is already
4 an enclosed area that has glass. Are you
5 familiar with it?

6 MS. WIRT: Yes.

7 INVESTIGATOR CORRALES: I was told
8 it's going to be expanded outwards and that is
9 going to be the enclosed summer garden area.

10 MS. WIRT: Where did you say the
11 closest residents were?

12 INVESTIGATOR CORRALES: The
13 closest residents is the one on the same side
14 as the enclosed summer garden area.

15 MS. WIRT: And how far away is
16 that?

17 INVESTIGATOR CORRALES: Oh, it's
18 divided a fence, so --

19 MS. WIRT: Maybe 85 feet?

20 INVESTIGATOR CORRALES: A few feet
21 away. I don't -- I can't tell you exactly.

22 MS. WIRT: Maybe 95 feet. What

1 about across the street on 3rd Street?

2 INVESTIGATOR CORRALES: Across the
3 street?

4 MS. WIRT: There are residents
5 there?

6 INVESTIGATOR CORRALES: There are
7 residences on that street.

8 MS. WIRT: Thank you. That's it.

9 CHAIRPERSON MILLER: Are there any
10 other Board questions? Okay. Thank you very
11 much.

12 INVESTIGATOR CORRALES: Thank you.

13 (Whereupon, witness was excused.)

14 CHAIRPERSON MILLER: So I think,
15 at this point, you should call protestant's
16 witness who needs to leave in half an hour.
17 Is that right, Ms. Wirt, so there is time for
18 testimony and any cross?

19 Okay. I'm going to swear you in.

20 Whereupon,

21 RICHARD FIESTA

22 was called as a witness by Counsel for the

1 Protestant, and having been first duly sworn,
2 assumed the witness stand and was examined and
3 testified as follows:

4 CHAIRPERSON MILLER: Okay. Thank
5 you.

6 MR. FIESTA: Thank you.

7 DIRECT EXAMINATION

8 MR. FIESTA: Good afternoon,
9 Members of the Board. My name is Richard
10 Fiesta. I reside at 213 C Street, N.E. I
11 have resided there since 1994 and have resided
12 in Ward 6 since 1985.

13 I'm here today to oppose the Romeo
14 & Juliet applicant license at 301
15 Massachusetts Avenue, N.E., to serve alcohol
16 until 2:00 a.m. on Friday and Saturday during
17 the weekdays and 3:00 a.m. on Friday and
18 Saturday nights on the basis of disturbance of
19 the peace, order and quiet of the
20 neighborhood.

21 I believe granting these late
22 hours is not in keeping with current practice

1 by other establishments in the neighborhood
2 and would have a serious detrimental effect on
3 the residents in the area. Already in the
4 neighborhood is an establishment at 201 D
5 Street, N.E., a block away that has had late
6 night open hours until 3:00 a.m. on weekends.

7 And we are, as a side note,
8 involved with the reapplication of their
9 license. The result has been residents like
10 me have been subject to late night noise from
11 patrons who have parked on residential
12 streets, such as mine, the 200 Block of C
13 Street, N.E.

14 The noise has been from
15 conversations, occasional louder arguments or
16 fights and multiple motor vehicle noise all at
17 the same time in the 2:00 a.m. to 3:30 a.m.
18 time period on weekends.

19 In addition, the block I live on
20 has had beer bottles and other waste left on
21 the streets, the sidewalk and private property
22 as well on weekend late hours. I believe

1 granting a late hours license to this
2 applicant and the likelihood of similar issues
3 with parking noise and debris would increase.

4 I thank you for your time.

5 CHAIRPERSON MILLER: Thank you.
6 Don't go away too quickly. Mr. Kline, do you
7 have any questions?

8 MEMBER ALBERTI: Well, I think
9 this is the protestant's witness.

10 CHAIRPERSON MILLER: Oh, are you
11 finished? I'm sorry, do you have further
12 questions for your witness?

13 MS. WIRT: No.

14 CHAIRPERSON MILLER: Okay. I
15 didn't think so. Okay. Mr. Kline?

16 MR. KLINE: Yes.

17 CROSS-EXAMINATION

18 MR. KLINE: Good afternoon, Mr.
19 Fiesta. Is that correct?

20 MR. FIESTA: That's correct.

21 MR. KLINE: Okay. The
22 establishment at 201 D Street, what is that

1 establishment?

2 MR. FIESTA: It's called the 201
3 Lounge.

4 MR. KLINE: And do you happen to
5 know what class of license that is?

6 MR. FIESTA: I do not.

7 MR. KLINE: Okay. I have no
8 further questions. Thank you.

9 CHAIRPERSON MILLER: Okay. Are
10 there Board questions? Okay. Yes? Do you
11 have any follow-up questions? Okay. Thank
12 you very much.

13 MR. FIESTA: Appreciate the time.

14 CHAIRPERSON MILLER: Okay.

15 (Whereupon, witness was excused.)

16 CHAIRPERSON MILLER: All right.

17 So now, we are going to go back to the regular
18 order, which is applicant's case.

19 MR. KLINE: Yes. Madam Chair, I'm
20 going to call to the stand Michael Rehman.
21 And if I may, I would like to just outline for
22 the Board we have two witnesses. Sometimes

1 the Board tends to get ahead of where we are
2 in terms of operations.

3 He will speak to the work that is
4 being done to the building. The other witness
5 will speak to operations. So if I defer the
6 Board questioning on certain issues, that's
7 why.

8 Mr. Rehman, will you take the
9 stand, please?

10 MR. REHMAN: Sure. Take the
11 drawings?

12 MR. KLINE: Sure.

13 Whereupon,

14 MICHAEL REHMAN
15 was called as a witness by Counsel for the
16 Applicant, and having been first duly sworn,
17 assumed the witness stand and was examined and
18 testified as follows:

19 CHAIRPERSON MILLER: Okay. Thank
20 you.

21 MR. REHMAN: Thank you.

22 DIRECT EXAMINATION

1 MR. REHMAN: Can I assist you in
2 this whole thing?

3 MR. KLINE: No, no.

4 MR. REHMAN: All right.

5 MR. KLINE: You are going to
6 answer my questions.

7 MR. REHMAN: Okay then, as you
8 wish.

9 MR. KLINE: All right. Mr.
10 Rehman, what is your connection with this
11 applicant?

12 MR. REHMAN: You know, as you know
13 from my past history, I'm a nightclub
14 operator.

15 MR. KLINE: What does that mean?
16 I don't know anything.

17 MR. REHMAN: Okay.

18 MR. KLINE: And presume the Board
19 doesn't either, so why don't you start from
20 scratch and tell the Board.

21 MR. REHMAN: Okay. No, as you
22 guys know --

1 MR. KLINE: If I may stop you,
2 just for the record --

3 CHAIRPERSON MILLER: You can't
4 assume.

5 MR. REHMAN: Oh.

6 MR. KLINE: -- we have a record.

7 MR. REHMAN: Okay.

8 MR. KLINE: And this case will be
9 decided on this record.

10 MR. REHMAN: Okay.

11 MR. KLINE: So we don't presume
12 that anyone knows anything that is not said in
13 this room on the record, that's what I meant
14 to say. And not that the Board doesn't know.

15 With that in mind, tell the Board
16 why it is --

17 MR. REHMAN: I mean, as you guys
18 know, I'm in the nightclub business and there
19 is no fair chance for a nightclub. You lose
20 either way.

21 CHAIRPERSON MILLER: Wait. Okay.
22 Can you --

1 MR. KLINE: Keep your voice up.

2 MR. REHMAN: I'm sorry.

3 CHAIRPERSON MILLER: Okay.

4 MR. REHMAN: I said as you guys
5 know, I'm in the nightclub business. I own
6 nightclubs and I am getting old. A nightclub
7 is a young man's game. And I was -- I want to
8 do a nice restaurant. And the thing that is
9 funny is I wanted to go to a neighborhood
10 where there is neighbors everywhere. You
11 know, I wanted to have neighbors --

12 MEMBER ALBERTI: Mr. Rehman, you--
13 we need to --

14 MR. REHMAN: -- on top of me, next
15 to me.

16 MEMBER ALBERTI: -- hear you, so
17 you need to speak into the mike. Thank you.

18 MR. REHMAN: All right. Can you
19 guys hear me now?

20 CHAIRPERSON MILLER: Yes.

21 MEMBER ALBERTI: Yes.

22 MEMBER BROOKS: Yes.

1 MR. REHMAN: All right. My whole
2 -- this is -- I mean, I can't even believe I'm
3 here and I'm having these arguments, because
4 I want to fix the neighborhood. I want to be
5 there because of the neighborhood. This is a
6 small place. It's 3,400 square feet, barely
7 3,400 square feet, barely. And the whole idea
8 is I wanted to go to a place where there is
9 neighborhoods there. There is people walking,
10 even I'm moving to that area. I like the area
11 a lot. It's a safe area. It's clean. It's
12 nice. There is no good Italian restaurant
13 over there.

14 I brought Frank in. He is a
15 restaurant expert. I'm not a restaurant
16 expert. I'm a concept guy. I like building
17 stuff. I like designing stuff. And most
18 people know all my establishments, the outside
19 is always very, very clean. I keep my places
20 very, very clean, that's one thing I'm known
21 for. You can ask anybody that.

22 Additionally --

1 MR. KLINE: All right. I'm going
2 to stop you because the way this works is I
3 get to ask you questions.

4 MR. REHMAN: Sure. No problem.

5 MR. KLINE: You have to answer
6 them.

7 MR. REHMAN: I will.

8 MR. KLINE: That's the way this
9 works. And then other people will ask you
10 questions.

11 You are doing a fair amount of
12 work on this building?

13 MR. REHMAN: It's the -- the thing
14 is that I got --

15 MR. KLINE: Is that yes?

16 MR. REHMAN: Yes. Yes, yes.

17 MR. KLINE: Okay.

18 MEMBER ALBERTI: Mr. Rehman, into
19 the mike, please. I'm sorry.

20 MR. KLINE: Lean forward.

21 MR. REHMAN: Yes, yes. I could
22 have opened to the place the way it is right

1 now, but it was a disaster inside. It wasn't
2 -- to me, it wasn't my standard to open it up.
3 But if I wanted to save money and be a better
4 businessman, I should have opened it up just
5 the way it was, but it's the place -- I
6 wouldn't eat there. I can't imagine anybody
7 eating there.

8 MR. KLINE: All right. So let's
9 stay focused just on the question.

10 So you are doing some work in the
11 place. Will you tell the Board what it is
12 that --

13 MR. REHMAN: Okay.

14 MR. KLINE: -- the changes that
15 you are making to the building to open this
16 restaurant?

17 MR. REHMAN: It's -- sure.

18 MR. KLINE: You have to let me
19 finish my questions, because -- where did she
20 go? This young woman over here is --

21 MR. REHMAN: I totally --

22 MR. KLINE: -- taking down the

1 testimony and if we talk at the same time, her
2 job gets to be really hard.

3 MR. REHMAN: All right. No
4 problem.

5 MR. KLINE: So the question to you
6 is what are you doing to this building to
7 prepare it and open it and operate it as a
8 restaurant?

9 MR. REHMAN: Okay. Currently the
10 building didn't have any bathrooms on the
11 first floor. I can't imagine a restaurant,
12 especially when you have elderly people coming
13 there, not having a bathroom on the first
14 floor. That's like a big no-no. They didn't
15 have a bathroom on the first floor.

16 They had spiral staircases that
17 came down, which is a disaster, a fire hazard.
18 I mean, if the Investigator went there, I'm
19 sure she saw the staircase over there. We
20 took it out. It wasn't set up that well for
21 a restaurant.

22 And the outside looked really,

1 really bad. The inside is disgusting. So we
2 are redoing the outside. I want to keep that
3 restaurant like it has been there for 100
4 years. I want to keep it that way. That's
5 the concept.

6 MR. KLINE: So what are the
7 changes that you are making to prepare this
8 building --

9 MR. REHMAN: All right.

10 MR. KLINE: -- to operate as a
11 restaurant?

12 MR. REHMAN: We gutted the whole
13 place out. Pretty much gutted it out. We are
14 adding bathrooms to it, upgrading the AC
15 system in there. I mean, it's an old, old,
16 old building, but it has so much character to
17 it that I want to keep that old look to it.

18 I want to make it a very, very
19 cozy neighborhood restaurant. And the thing
20 is, that's the only reason why that place --
21 I found it attractive. It has a corner
22 location. It has a picket fence outside.

1 It's nice. The outside is beautiful. It's a
2 really, really nice neighborhood and I was
3 excited knowing there is neighbors across the
4 street from me, next to me, all around me.

5 MR. KLINE: All right. You are
6 way off of what I asked you.

7 MR. REHMAN: Oh.

8 MR. KLINE: So let's focus on what
9 we have marked as Applicant's Exhibit 1.

10 MR. REHMAN: Sure.

11 MR. KLINE: I have provided a copy
12 to the Board and to the protestant. I'm going
13 to ask you if you can identify that document?

14 MR. REHMAN: Yes.

15 MR. KLINE: What is that?

16 MR. REHMAN: This is Romeo &
17 Juliet.

18 MR. KLINE: Okay. This is --
19 that's the restaurant. We are going to walk
20 in there and eat. What is this a drawing, is
21 it a photograph?

22 MR. REHMAN: This is a drawing of

1 the restaurant, yes.

2 MR. KLINE: Okay. And what is
3 depicted in that drawing?

4 MR. REHMAN: This drawing, Exhibit
5 A, it shows you -- I believe it is the first
6 floor. I don't have my glasses on, sorry.
7 Yes, this is the first. It's showing you the
8 first floor on here, I believe, right? I'm
9 trying to look. Do you want me to describe it
10 to you, walk you through the restaurant?

11 MR. KLINE: Yes. First, I want
12 you to describe what is depicted on the
13 drawing. You have -- do you have two levels
14 shown there?

15 MR. REHMAN: Yes. We have --
16 okay. I'm going to walk you guys through the
17 restaurant. I guess the first floor, when you
18 first walk in the restaurant, on your right
19 hand side you have a bar. On your left hand
20 side you have a dining room. Right in front
21 of you, you have two big bathrooms there.

22 You go up the staircase, there is

1 a small area it has about, I would say, six to
2 eight dining tables upstairs. And that's the
3 second area which you have more bathrooms and
4 there is a huge -- we added a big kitchen,
5 because they didn't have a big kitchen.

6 We took a lot of the space that we
7 had in there and turned it into a kitchen just
8 because it's the type of place. We need more
9 equipment. We want to be able to, you know,
10 bring food out fast. And we will deliver
11 food. So like anything that anybody needs, we
12 want to be able to get it there fast.

13 So they didn't have food equipment
14 there. The kitchen was too small. To do a
15 restaurant, Frank said there is no way he
16 could do a full-blown restaurant there,
17 because the kitchen is too tiny. So we had to
18 renovate the kitchen, redo the kitchen, redo
19 the drawings to make it bigger so it suits the
20 restaurant, because we do have outside seating
21 outside.

22 We added another egress door, so

1 it's easy to -- it's an easy flow for the
2 restaurant.

3 MR. KLINE: Now, how many seats
4 will be in the restaurant?

5 MR. REHMAN: Inside is small. We
6 are hoping -- I'm not sure of the exact
7 number, because we haven't got -- was it --

8 MR. KLINE: Whoa, whoa, whoa,
9 whoa. You will testify in a minute.

10 MR. ORTIZ: All right.

11 MR. KLINE: If you don't know, say
12 you don't know.

13 MR. REHMAN: I'm not sure.

14 MR. KLINE: Mr. Ortiz will answer
15 the question.

16 MR. REHMAN: Yes, we haven't
17 gotten all our -- you know, we haven't gotten
18 an occupancy permit yet. Once that goes
19 through, I will have an exact number.

20 MR. KLINE: All right. Now, you
21 indicated that your background has been in the
22 nightclub business, correct?

1 MR. REHMAN: Marketing, PR, yes.

2 MR. KLINE: All right.

3 MR. REHMAN: Concepts.

4 MR. KLINE: As a result of that,
5 have you engaged someone to work with you on
6 developing and operating this restaurant?

7 MR. REHMAN: Yes, I did.

8 MR. KLINE: And who was that?

9 MR. REHMAN: Frank.

10 MR. KLINE: Frank?

11 MR. REHMAN: Frank Ortiz. Right
12 next to you, the gentleman next to you.

13 MR. KLINE: Say his name for the
14 record, please.

15 MR. REHMAN: Ortiz, Frank Ortiz.

16 MR. KLINE: Okay. Thanks. All
17 right. I have no further questions of the
18 witness, at this time.

19 MR. REHMAN: Frank --

20 MR. KLINE: Shhhh. There is no
21 question pending.

22 CHAIRPERSON MILLER: Ms. Wirt, do

1 you have any cross-exam?

2 MS. WIRT: I have a question about
3 the interior capacity, but if the other
4 gentleman will address it, I'll save my
5 question for that.

6 CROSS-EXAMINATION

7 MS. WIRT: but I do have a
8 question for you.

9 MR. REHMAN: Sure.

10 MS. WIRT: The room is full of a
11 number of neighbors that live close by.

12 MR. REHMAN: Right.

13 MS. WIRT: And there are other
14 neighbors even blocks beyond that that are
15 very much against the hours of 3:00 and 4:00.
16 I'm sorry, 2:00 and 3:00 in the interior.

17 MR. REHMAN: Um-hum, okay.

18 MS. WIRT: And want to keep the
19 exterior to 11:00 and 12:00, the outside
20 sidewalk. I don't think you are going to have
21 a whole lot of clientele from the neighbors if
22 you are open until 2:00 and 3:00 in the

1 morning. I just want you to know that.

2 CHAIRPERSON MILLER: Wait. Are
3 you -- is this leading to a question?

4 MS. WIRT: Yes.

5 CHAIRPERSON MILLER: Okay.

6 MR. REHMAN: What is the question,
7 ma'am? I'm sorry.

8 MS. WIRT: The question is do you
9 think that neighbors will come to your
10 restaurant when you have hours to 2:00 and
11 3:00 in the morning? They are very much
12 opposed to this.

13 MR. REHMAN: You know, I haven't
14 opened the restaurant yet. I hope they do.
15 I'm taking a big chance, so I'm sure they
16 will. It's a neighborhood restaurant. I want
17 them there. I am coming there because of
18 them. I need them more than they need me.

19 MS. WIRT: Well, the hours might
20 need to change.

21 MR. REHMAN: Okay. Is that a
22 question?

1 MS. WIRT: That's a question.

2 MR. REHMAN: Okay. Thank you,

3 ma'am.

4 CHAIRPERSON MILLER: Okay. Are

5 there Board questions?

6 MEMBER ALBERTI: I have a quick

7 question, I think.

8 CHAIRPERSON MILLER: Okay. Mr.

9 Alberti?

10 MEMBER ALBERTI: Mr. Rehman,

11 actually, I have several questions. Thank you

12 for coming.

13 You mentioned the first and second

14 floor, but it was mentioned by the

15 investigator and it appears from the pictures

16 that there is a third floor.

17 MR. REHMAN: Yes, there is a third

18 floor, yes.

19 MEMBER ALBERTI: What's on the

20 third floor?

21 MR. REHMAN: The third floor?

22 It's a little bit smaller. It's offices,

1 storage and a small area that holds maybe like
2 6 to 8 tables.

3 MEMBER ALBERTI: Okay. So there
4 will be -- there is a patron/customer area on
5 the third floor also?

6 MR. REHMAN: Yes, yes.

7 MEMBER ALBERTI: Okay. Are there
8 bathrooms up there?

9 MR. REHMAN: Yes, there is
10 bathrooms up there.

11 MEMBER ALBERTI: Okay.

12 MR. REHMAN: Each floor has
13 bathrooms, yes.

14 MEMBER ALBERTI: Okay. Now --

15 MR. REHMAN: They didn't have
16 bathrooms before, but now they do, yes.

17 MEMBER ALBERTI: Right, right.
18 I'm familiar with the old place. Okay. So
19 let's go back to my drawing here. You have
20 two outdoor enclosed spaces. Is that correct?

21 MR. REHMAN: Yes, sir.

22 MEMBER ALBERTI: One towards the

1 front and one towards the rear. It is sort of
2 on either side of that 3rd Street entrance,
3 right?

4 MR. REHMAN: Yes.

5 MEMBER ALBERTI: Describe to me
6 what that construction is going to be. What
7 the construction material is.

8 MR. REHMAN: I mean, I wish I had
9 the architect here, but I can tell you from
10 what I know. It's -- like I said, our inside
11 is very, very small. The first floor is very,
12 very small. By the time you put the kitchen
13 on the second floor, you lose a lot of space
14 inside.

15 So we want to extend on that side
16 where -- right across the street from the
17 neighborhood, we want to extend that. We want
18 to close it up a little bit, so it controls
19 the noise as well also.

20 MEMBER ALBERTI: Okay. So the
21 outdoor area, I have my drawing here, 11
22 seats. It's on the -- towards the

1 Massachusetts side of -- end of the building
2 on 3rd Street. How do I get into that space?

3 MR. REHMAN: On the patio in the
4 front?

5 MEMBER ALBERTI: The enclosed
6 outdoor seating. How would I get into it?

7 MR. REHMAN: You would come
8 inside. You come right through the inside.
9 You can come from the inside or from the
10 outside.

11 MEMBER ALBERTI: Okay. Are you
12 knocking down that wall to get in? Is there
13 a doorway?

14 MR. REHMAN: No, there is not.

15 MEMBER ALBERTI: Because there is
16 currently a wall there, isn't there?

17 MR. REHMAN: No, it's a window.
18 It's a wall and a window.

19 MEMBER ALBERTI: Okay. Currently
20 a wall and a window.

21 MR. REHMAN: Yes.

22 MEMBER ALBERTI: Okay.

1 MR. REHMAN: The window opens up.

2 MEMBER ALBERTI: All right.

3 MR. REHMAN: The window opens up.

4 It slides, so you have a small opening there.

5 MEMBER ALBERTI: The window is
6 floor to ceiling window?

7 MR. REHMAN: No, no, it's not
8 floor to ceiling, no.

9 MEMBER ALBERTI: Okay. What are
10 your plans for that wall? Okay. That
11 interior wall, what are your plans? What will
12 it be made of? Will it be glass? Will it be
13 brick?

14 MR. REHMAN: It's not --

15 MEMBER ALBERTI: Will it be wood?
16 How many doors will it have?

17 MR. REHMAN: It's going to be
18 glass.

19 MEMBER ALBERTI: It's going to be
20 glass?

21 MR. REHMAN: Yes.

22 MEMBER ALBERTI: The interior wall

1 of that outdoor seating space will be glass?

2 MR. REHMAN: Depending on --
3 because we can't put anything permanently
4 there that we can't take off.

5 MEMBER ALBERTI: No, okay. Let's
6 back up.

7 MR. REHMAN: Okay.

8 MEMBER ALBERTI: The wall that
9 faces the building, the wall that is on the
10 side of the building, what will that wall be
11 made of?

12 MR. REHMAN: We are not really
13 putting a wall there. We are closing like --
14 almost like kind of a canopy with the
15 plexiglass.

16 MEMBER ALBERTI: I understand
17 that. But --

18 MR. REHMAN: I want to --

19 MEMBER ALBERTI: Can someone
20 please --

21 MR. REHMAN: Do you have the
22 drawing?

1 MEMBER ALBERTI: Mr. Kline, could
2 you give your client Exhibit 19? I think it's
3 19.

4 MR. KLINE: 9?

5 CHAIRPERSON MILLER: Or 9.

6 MEMBER ALBERTI: It's Exhibit 9.

7 MR. KLINE: Of the Investigator's
8 report?

9 MEMBER ALBERTI: Yes.

10 MR. KLINE: Certainly.

11 MEMBER ALBERTI: Please. All
12 right. Because I'm getting nowhere here.

13 MR. KLINE: At least you're
14 getting there fast.

15 MEMBER ALBERTI: All right. All
16 right. So I'm looking at this picture. All
17 right?

18 MR. REHMAN: Okay.

19 MEMBER ALBERTI: On the upper
20 side, the wall that is part of the building
21 right there and then the closed space that I
22 was referring to, all right?

1 MR. REHMAN: Okay.

2 MEMBER ALBERTI: What will that
3 wall be made of?

4 MR. REHMAN: So you're talking
5 about the wall in between?

6 MEMBER ALBERTI: Well, will there
7 be a wall there?

8 MR. REHMAN: There will be a wall
9 there, yes.

10 MEMBER ALBERTI: Okay. What will
11 that wall be made of?

12 MR. REHMAN: It's going to be a
13 removable window in the restaurant that opens
14 up.

15 MEMBER ALBERTI: Okay. How will
16 it -- so it will be a floor to ceiling window?

17 MR. REHMAN: No, it's -- you have
18 like a counter top inside, it's a bar inside.

19 MEMBER ALBERTI: Okay.

20 MR. REHMAN: Okay. So imagine the
21 back of the bar it's an open space.

22 MEMBER ALBERTI: Okay.

1 MR. REHMAN: If anybody is
2 outside, he can serve them better.

3 MEMBER ALBERTI: Okay. So you
4 will have -- so it will be a solid base on the
5 bottom?

6 MR. REHMAN: Yes.

7 MEMBER ALBERTI: And then it's
8 like a bar.

9 MR. REHMAN: Yes.

10 MEMBER ALBERTI: That's to the bar
11 level and then above that will be a window --

12 MR. REHMAN: Yes.

13 MEMBER ALBERTI: -- which can
14 open?

15 MR. REHMAN: It's already there,
16 yes, the window is --

17 MEMBER ALBERTI: Okay. Okay.

18 MR. REHMAN: -- already there.
19 Yes.

20 MEMBER ALBERTI: How do I get into
21 that space?

22 MR. REHMAN: You can come in from

1 the inside when you walk in the front door.

2 MEMBER ALBERTI: So is there a
3 doorway there?

4 MR. REHMAN: No, you have a
5 hostess there. You know you have a table and
6 she walks you in to the area.

7 MEMBER ALBERTI: How does she walk
8 -- is there a doorway from that -- from the
9 building into that space?

10 MR. REHMAN: It's open space
11 outside. Yes, there is a door on the inside,
12 yes.

13 MEMBER ALBERTI: Okay. There is a
14 doorway from the inside?

15 MR. REHMAN: Yes.

16 MEMBER ALBERTI: Okay. Where is
17 it? Towards the front of the building or
18 towards the --

19 MR. REHMAN: You have two doors.
20 You have one --

21 MEMBER ALBERTI: -- side? Towards
22 that --

1 MR. REHMAN: -- door in the
2 front --

3 MEMBER ALBERTI: -- entrance?

4 MR. REHMAN: -- of the building.
5 And you also have a door on the side. You
6 have three doors.

7 MEMBER ALBERTI: Wait, no, no.
8 I'm just talking about this space. I want to
9 get into that space. I want to walk into that
10 space. I go through a door. Where is the
11 door?

12 MR. REHMAN: The front door. You
13 come through the front door, yes.

14 MEMBER ALBERTI: Come to the front
15 door.

16 MR. REHMAN: Yes.

17 MEMBER ALBERTI: And it leads
18 directly into that space?

19 MR. REHMAN: You can go in that
20 space or you can go to the restaurant, yes.

21 MEMBER ALBERTI: Okay. So where
22 is the counter at?

1 MR. REHMAN: The counter is by the
2 wall that is already existing inside.

3 MEMBER ALBERTI: Right, right,
4 right. So is there a space?

5 MR. REHMAN: It's already there.

6 MEMBER ALBERTI: So this front
7 door, is there a space between the counter and
8 that front door? I mean, Mr. Rehman, excuse
9 me, but you are --

10 MR. REHMAN: The --

11 MEMBER ALBERTI: Wait, wait,
12 excuse me. Your representative just told us
13 that you -- this other gentleman would talk
14 about operations and you would talk about what
15 was being built.

16 MR. REHMAN: Yeah.

17 MEMBER ALBERTI: So I'm relying on
18 you to --

19 MR. REHMAN: Okay.

20 MEMBER ALBERTI: -- tell me.

21 MR. REHMAN: All right. And if I
22 don't understand, do you mind if I keep asking

1 questions?

2 MEMBER ALBERTI: Okay. Okay. So
3 you have told me that there is a counter with
4 an open window above it that divides the
5 outdoor space from the interior, right?

6 MR. REHMAN: Yes.

7 MEMBER ALBERTI: But there has got
8 to be a doorway in there some place.

9 MR. REHMAN: There -- if you see,
10 there is the doorway.

11 MEMBER ALBERTI: Or an opening
12 that allows me to walk --

13 MR. REHMAN: Yes, there is an
14 opening.

15 MEMBER ALBERTI: -- through.
16 Where is that?

17 MR. REHMAN: It's right over
18 there, if you see it. It's the front on the
19 side. You have two openings.

20 MEMBER ALBERTI: Okay. Just one
21 moment.

22 CHAIRPERSON MILLER: Is that the

1 entrance?

2 MEMBER ALBERTI: No. I see by the
3 -- no, no, no, no. That's the entrance,
4 right. I see right by the front -- the door
5 that faces the corner of Massachusetts and
6 3rd, right?

7 MR. REHMAN: That's the main door,
8 yes.

9 MEMBER ALBERTI: Yeah. You come
10 in that door and then how do I get into that
11 patio area?

12 MR. REHMAN: You walk in and you
13 walk to your right, that's where you walk in.

14 MEMBER ALBERTI: You walk in.
15 Okay. Because that looks like I've got
16 planters there or something. I don't see an
17 open space in this diagram.

18 MR. REHMAN: No, this opening is
19 right there.

20 MEMBER ALBERTI: I don't see an
21 open space in this diagram. I see solid walls
22 in this diagram.

1 MR. REHMAN: Oh, I'm sorry.

2 MEMBER ALBERTI: Oh, I see an open
3 space towards the front, but that's not
4 through the interior. That's through the
5 exterior.

6 MR. REHMAN: No, you can come in
7 from the inside, too, right? The hostess is
8 right over there.

9 MEMBER ALBERTI: And I don't see
10 it in this drawing. Forgive me, but I just
11 don't see it in this drawing.

12 MR. REHMAN: Okay.

13 MEMBER ALBERTI: So I'm confused.
14 And I'll just let that rest, but this drawing
15 is not accurate, because it does not depict a
16 door from the interior into that space.

17 MEMBER JONES: Excuse me, sir?

18 MEMBER ALBERTI: Sir?

19 MEMBER JONES: Sir?

20 MEMBER ALBERTI: Sir, please, sit
21 down.

22 MR. REHMAN: Oh, sorry, he was

1 trying to show me something and I couldn't see
2 it from here. All right.

3 MEMBER ALBERTI: If your counsel
4 needs help, he will direct someone.

5 MR. REHMAN: Oh, okay.

6 MEMBER ALBERTI: Please rely on
7 Mr. Kline. So I do see an entrance from the
8 exterior, right?

9 MR. REHMAN: Yes.

10 MEMBER ALBERTI: Okay. What about
11 the other space? Is there --

12 MR. REHMAN: The patio?

13 MEMBER ALBERTI: The space that
14 has 17 seats in it, the one that is to the
15 right of the third street entrance. Is that--
16 I see it looks like a doorway that comes in
17 from the interior, correct?

18 MR. REHMAN: Um-hum.

19 MEMBER ALBERTI: The rest of that
20 wall -- is there a wall there between that
21 space and the interior?

22 MR. REHMAN: You mean outside?

1 No, there is no wall there.

2 MEMBER ALBERTI: There is no wall?

3 MR. REHMAN: No.

4 MEMBER ALBERTI: So there is no
5 wall between that outdoor patio and the
6 restaurant inside?

7 MR. REHMAN: The restaurant
8 inside, there is a wall over there, yes. The
9 wall that is already there.

10 MEMBER ALBERTI: Okay. There is a
11 wall.

12 MR. REHMAN: Yes. It's there
13 already, yes.

14 MEMBER ALBERTI: I don't see a
15 wall here.

16 MR. REHMAN: That's the --

17 MEMBER ALBERTI: I don't see a
18 wall in these drawings.

19 MR. REHMAN: It's an existing
20 wall, sir.

21 MEMBER ALBERTI: Well, it's not in
22 these drawings. I can tell you that. Boy,

1 I'm having a tough time with these drawings
2 because they are just not telling -- they are
3 not consistent with what you are telling me.

4 MR. REHMAN: Well, I'm not an
5 architect.

6 MEMBER ALBERTI: Is the problem
7 I'm having.

8 MR. REHMAN: I wish I was, but I'm
9 not.

10 MEMBER ALBERTI: All right.

11 MR. REHMAN: I'm doing the best I
12 can with the drawings.

13 MEMBER ALBERTI: Now, okay. All
14 right. So now, where is the main entrance to
15 this establishment going to be? Is it 3rd
16 Street or is it --

17 MR. REHMAN: It's the same.

18 MEMBER ALBERTI: -- that
19 Massachusetts Avenue corner?

20 MR. REHMAN: 3rd Street. The same
21 entrance the restaurant had before.

22 MEMBER ALBERTI: Okay. And will

1 you be using that entrance at the corner of
2 Mass and 3rd?

3 MR. REHMAN: We are going to use
4 our main entrance.

5 MEMBER ALBERTI: Because there is,
6 I mean, a sort of an existing entrance. I'm
7 not sure if it was used by the former owner.

8 MR. REHMAN: We are using the same
9 entrance they used, yes.

10 MEMBER ALBERTI: Which is 3rd
11 Street?

12 MR. REHMAN: 3rd Street, yes.

13 MEMBER ALBERTI: And there will be
14 no entrance on that peak corner that faces
15 Mass Ave.?

16 MR. REHMAN: There is an egress
17 over there.

18 MEMBER ALBERTI: There is an
19 entrance there?

20 MR. REHMAN: Yes, there is.

21 MEMBER ALBERTI: And will you be
22 using that as an entrance?

1 MR. REHMAN: We're going to use
2 that as an exit. We are going to use the main
3 entrance on the 3rd Street, yes.

4 MEMBER ALBERTI: Okay.

5 MR. REHMAN: It does -- what
6 happens is when you use that exit, you lose a
7 lot of seats inside the restaurant. When you
8 open that door all the air comes in because
9 you can't block it. You don't have much space
10 inside.

11 MEMBER ALBERTI: Right, right.
12 Gotcha.

13 MR. REHMAN: So we decided to use
14 the same door they used. It made more sense
15 to be able to -- it's a wide door and you have
16 a gap in between.

17 MEMBER ALBERTI: Okay. How many
18 entrances do you plan to the outdoor patio
19 from Massachusetts Avenue and 3rd Street?

20 MR. REHMAN: From Mass to get into
21 the place? You have one main entrance.

22 MEMBER ALBERTI: And it's to the

1 large unenclosed patio?

2 MR. REHMAN: Yes.

3 MEMBER ALBERTI: That's --

4 MR. REHMAN: And the other
5 entrance that you have on Mass Avenue, that's
6 for staff to come in and out to take the food
7 in and out.

8 MEMBER ALBERTI: Okay. There is a
9 back door.

10 MR. REHMAN: That's not there yet.

11 MEMBER ALBERTI: Okay. Great.

12 Now, what -- the enclosures for these two
13 patios. This is where I started. What are
14 they going to be made of?

15 MR. REHMAN: The architect is
16 using stuff that is like holds the voice in,
17 that if you need to take it off, you can take
18 it off easy and put it back on. He is going
19 to tell you exactly what is used. We want to
20 use some of that. That is easy to remove if
21 you have to remove it.

22 MEMBER ALBERTI: Okay. I was

1 going to -- will it be floor to ceiling
2 windows? Will there be some solid material?

3 MR. REHMAN: Most likely --

4 MEMBER ALBERTI: -- opaque
5 material on the base? I mean, describe it for
6 me. You are the --

7 MR. REHMAN: It's going to be --

8 MEMBER ALBERTI: -- person who is
9 supposed to be providing that information.

10 MR. REHMAN: It's going to be like
11 a greenhouse. It's glass over the -- proposed
12 glass that will open and close and can be
13 taken off.

14 MEMBER ALBERTI: So it's floor to
15 ceiling windows?

16 MR. REHMAN: Excuse me?

17 MEMBER ALBERTI: Floor to ceiling
18 windows all the way around?

19 MR. REHMAN: It's like probably
20 like 9 feet, 10 feet.

21 MEMBER ALBERTI: 9 feet, 10 feet
22 is what?

1 MR. REHMAN: It will -- we are
2 going to make it a glass patio out there.
3 Like almost like a greenhouse that you can
4 take -- that you can take it apart and put it
5 back on.

6 MEMBER ALBERTI: Great. So the--

7 MR. REHMAN: It's glass, yes.

8 MEMBER ALBERTI: -- exterior walls
9 will be floor to ceiling glass?

10 MR. REHMAN: Yes.

11 MEMBER ALBERTI: Okay. And what
12 will the roof be made of?

13 MR. REHMAN: Probably glass, too.
14 Plexiglass or something, yeah.

15 MEMBER ALBERTI: Plexiglass or
16 glass?

17 MR. REHMAN: Plexiglass or -- I'm
18 not sure yet 100 percent.

19 MEMBER ALBERTI: So you really
20 don't know right now other than the architect
21 saying well, we are going to get you some
22 sound mitigating materials, you really don't

1 have any confirmation as to, or knowledge, how
2 well --

3 MR. REHMAN: Actually --

4 MEMBER ALBERTI: Well, wait, wait,
5 wait. Let me finish my question.

6 MR. REHMAN: -- I --

7 MEMBER ALBERTI: Wait, wait.

8 MR. REHMAN: I am --

9 MEMBER ALBERTI: Sir, let me
10 finish my question, please.

11 MR. REHMAN: Sorry.

12 MEMBER ALBERTI: Let me finish my
13 question. You don't really know right now,
14 because you can't tell me what materials they
15 are, how well that construction will mitigate
16 sound. Is that correct?

17 MR. REHMAN: I mean, anything the
18 city approves I'm sure it's, you know --

19 MEMBER ALBERTI: You put up paper,
20 it's going to mitigate sound.

21 MR. REHMAN: I'm sorry?

22 MEMBER ALBERTI: If you put up

1 paper, it's going to mitigate sound. I
2 understand that. But you really don't know to
3 what extent that exterior construction will
4 mitigate sound. Is that correct?

5 MR. REHMAN: Yes.

6 MEMBER ALBERTI: Okay. Thank you.

7 MR. REHMAN: I mean, normally
8 outside seating we're not generally having
9 things blocked up on the outside seating.

10 MEMBER ALBERTI: Thank you. Thank
11 you.

12 MR. REHMAN: Thank you.

13 CHAIRPERSON MILLER: Other
14 questions? Mr. Jones?

15 MEMBER JONES: Thank you, Madam
16 Chair. What do you go by in terms of your
17 name?

18 MR. REHMAN: Michael.

19 MEMBER JONES: Michael. Okay.
20 Michael, I just want to start this off by
21 saying I'm going to need you to be patient and
22 I'm going to need you to try and just directly

1 answer the question that I'm asking.

2 MR. REHMAN: I'll do that.

3 MEMBER JONES: All right.

4 MR. REHMAN: All right.

5 MEMBER JONES: So what is your
6 primarily role in this establishment today and
7 what do you anticipate that role being when it
8 hopefully, from your standpoint anyway, comes
9 to be an operating establishment?

10 MR. REHMAN: My job? I would work
11 there directly with Frank. Frank is the
12 general manager. He is going to be running
13 the operations there, running the restaurant
14 part. And I'm going to work the rest. So I'm
15 going to be a partner.

16 CHAIRPERSON MILLER: I'm sorry,
17 could you speak up? You are going to what?

18 MR. REHMAN: I said if -- I'm a
19 partner in the restaurant, so I have other
20 partners who are welcome working in the
21 restaurant, helping out and giving menus,
22 whatever we can do. We are going to work

1 there. So it's going to be, you know, all the
2 partners will be working on-hands at the
3 restaurant.

4 MEMBER JONES: Today --

5 MR. REHMAN: So some nights I
6 might bartend. Some nights I might be a
7 server. Some nights I might have to be a
8 hostess.

9 MEMBER JONES: Today what do you
10 consider to be your function? Are you just a
11 financial backer? Are you a -- you are not an
12 architect by your own statements.

13 MR. REHMAN: No, I'm not an
14 architect.

15 MEMBER JONES: So I have heard
16 what you are not. I'm not clear on what you
17 are outside of an owner, i.e., financial
18 support. So what is your role here today in
19 terms of this establishment?

20 MR. REHMAN: My role there is as a
21 business. It's my restaurant. It's my
22 addition. And I want to open this place up.

1 And I'm going to run this place with a good
2 group of people.

3 MEMBER JONES: And what are you
4 contributing to bring that to fruition?

5 MR. REHMAN: Well, I'm putting
6 money into there, time in there. I've been
7 doing that for the last eight, nine months
8 now, yes.

9 MEMBER JONES: Okay. So your
10 financial --

11 MR. REHMAN: We have an architect,
12 you know, working with the architect, getting
13 the material, working with many people. Yes,
14 it's a lot of work opening a restaurant.

15 MEMBER JONES: Understood. So but
16 your primary function in facilitating that --
17 what I'm trying to figure out is where your
18 expertise is, because I want to be fair in the
19 questions that I'm asking you.

20 MR. REHMAN: That's fine.

21 MEMBER JONES: Because you seem to
22 be challenged by the questions that Board

1 Member Alberti was asking of you. And I have
2 a series of questions related to that same
3 line, but if you aren't -- if you don't feel
4 comfortable answering those questions, then I
5 will save it for the next individual that
6 perhaps your attorney will put on.

7 So I'm just trying to understand
8 what is it that would be fair of me to be able
9 to get from you from a standpoint of your
10 level of experience?

11 MR. REHMAN: Well, what I want to
12 do is I wanted to walk the restaurant and tell
13 you why we are opening the restaurant there
14 and we are not doing a nightclub. We are not
15 doing a bar of -- we can't do much. If you
16 look at the layout, if anybody looks at it,
17 there is a restaurant there.

18 MEMBER JONES: Okay. So you have
19 construction going on currently, yes?

20 MR. REHMAN: Yes.

21 MEMBER JONES: Okay. How did you
22 get to the point where you started that

1 process? Did you have to submit permits?
2 What's the process? What is part of the
3 process for getting permits?

4 MR. REHMAN: You have an
5 architect. He applies for permits. You get
6 permits and you --

7 MEMBER JONES: Did he have
8 drawings of what the insides will look like?

9 MR. REHMAN: Yeah, yeah, he had.

10 MEMBER JONES: You do.

11 MR. REHMAN: You guys all have it,
12 yes. The city has it. I'm sure you guys have
13 it, yeah.

14 MEMBER JONES: Okay. So from the
15 standpoint of those drawings, how did you come
16 to the product? All right. How did you
17 provide the architect the input to come up
18 with the final product through which you
19 submitted to get a permit?

20 MR. REHMAN: Well, we put ideas
21 and concepts together. And sat down and
22 talked to them, you know, what's the -- on

1 paper, we all sat and said this is what we are
2 going to do and he puts it on paper and this
3 is how we came up with it.

4 We all sat down, went over the
5 concept, how we were going to gut the place
6 out, that's where the place is renovated.
7 It's not like it used to be. We didn't just
8 go in and say, you know what, this place is
9 already established, let's just open it up the
10 way it is.

11 MEMBER JONES: Okay.

12 MR. REHMAN: Obviously, we have
13 different concepts that we are putting in
14 there, you know, for making the place look
15 better.

16 MEMBER JONES: Do you happen to
17 have Exhibit 9?

18 MR. REHMAN: Yes, I do, yes.

19 MEMBER JONES: Okay. So in
20 Exhibit 9, there is a great deal of detail
21 provided in terms of what the exterior is
22 going to look like, whereas tabletops,

1 etcetera. The inside on Exhibit 9 is gray
2 matter with no level of specificity provided
3 in there.

4 Do you agree with that statement?

5 MR. REHMAN: This pretty much
6 gives you everything on there.

7 MEMBER JONES: Exhibit 9? Are you
8 looking at Exhibit 9?

9 MR. REHMAN: Yes, I am, yes.

10 MEMBER JONES: Okay. Where it
11 says "existing space 301 Massachusetts Avenue,
12 N.E.," is that supposed to represent the
13 interior of the establishment?

14 MR. REHMAN: 301 Mass Ave.? Yes.

15 MEMBER JONES: Yes. From there,
16 do you see information that I should be able
17 to glean what your inside layout should be?

18 MR. REHMAN: From this? Yeah, you
19 can see the layout over here.

20 MEMBER JONES: I can see the
21 layout in terms of the tabletops and where the
22 bar is going to be, where the bathrooms are

1 located?

2 MR. REHMAN: Yeah, you have all it
3 here, sir.

4 MEMBER JONES: Is that the inside
5 or the outside of the establishment?

6 MR. REHMAN: Yes, the inside of
7 the -- you have the outside over there, yes,
8 right here.

9 MEMBER JONES: Okay. I'm
10 challenged. So it's probably just my own
11 ignorance, right, but you are the guy, right?
12 You are the guy with the vision. Is that
13 correct?

14 MR. REHMAN: Yes.

15 MEMBER JONES: So I'm looking at
16 Exhibit 9. Exhibit 9 has an area that is in
17 gray.

18 MR. REHMAN: Yes.

19 MEMBER JONES: And it says
20 "existing space 301 Massachusetts Avenue."

21 MR. REHMAN: Yes.

22 MEMBER JONES: A very simple

1 question for you. Is that the inside or the
2 outside of the establishment?

3 MR. REHMAN: That's the inside.

4 MEMBER JONES: That's the inside.

5 Okay. My question to you is what is the
6 layout of the inside of your establishment
7 that I can glean by looking at this diagram?

8 MR. REHMAN: Okay.

9 MEMBER JONES: Is there any?

10 MR. REHMAN: You mean the first
11 floor you are talking about, sir? Go ahead.
12 I'm listening. You said you only --

13 MEMBER JONES: So Exhibit 9.

14 MR. REHMAN: Okay.

15 MEMBER JONES: This is ground
16 level, which is first floor, correct?

17 MR. REHMAN: Okay. Yeah.

18 MEMBER JONES: What is the layout
19 that I can glean, what information can I glean
20 from the layout of the first floor based on
21 this diagram?

22 MR. REHMAN: You can't see too

1 much on this diagram.

2 MEMBER JONES: Okay. Thank you.

3 But there is an extreme -- there is a lot of
4 detail about what is going on in the exterior?

5 MR. REHMAN: Yes.

6 MEMBER JONES: Okay.

7 MR. REHMAN: Yes.

8 MEMBER JONES: Is there -- do you
9 have a representative drawing of what is on
10 the inside of the establishment?

11 MR. REHMAN: Yes.

12 MEMBER JONES: You do? Okay.

13 MR. REHMAN: Yes.

14 MEMBER JONES: Is there -- that
15 information, this layout, was submitted to
16 ABRA?

17 MR. REHMAN: You know, I'm not 100
18 percent sure. I don't want to say yes if it
19 wasn't for the inside.

20 MEMBER JONES: Oh, so you don't
21 know?

22 MR. REHMAN: No, I'm not sure.

1 MEMBER JONES: Okay. Because you
2 made a statement earlier that we had it.

3 MR. REHMAN: No, it's -- anything
4 we send in the Board everything, you guys
5 already have. The permitting and stuff in you
6 already have it and you guys have this. So I
7 figured you had it first.

8 MEMBER JONES: Okay. So I'm
9 challenged, because I don't understand how the
10 layout is going to be of the inside and I'm
11 not following your --

12 MR. REHMAN: Would you like me to
13 talk from the inside? Would it make it
14 easier?

15 MR. KLINE: Madam Chair, may I--

16 CHAIRPERSON MILLER: What was the
17 question?

18 MR. KLINE: May I move Applicant's
19 Exhibit 1, please? I don't think I did that.
20 He has identified it. The Board has it. May
21 I move Exhibit 1?

22 CHAIRPERSON MILLER: I don't know

1 what it is. Is it something? Is it a layout
2 that is going to help?

3 MR. KLINE: Yes.

4 CHAIRPERSON MILLER: I think that
5 would be helpful. Okay. I don't -- we don't
6 have it.

7 MR. KLINE: Oh, I had thought that
8 Ms. Jenkins had provided that.

9 CHAIRPERSON MILLER: Do we have
10 it?

11 MR. KLINE: Because when I showed
12 it to the witness, I referenced it. The Board
13 didn't have it.

14 CHAIRPERSON MILLER: Okay. Do you
15 have any?

16 MR. KLINE: I gave my copies to
17 Ms. Jenkins.

18 CHAIRPERSON MILLER: You did? Oh.
19 Can you check with her?

20 MR. KLINE: I'm sorry. I presumed
21 that the Board had that.

22 CHAIRPERSON MILLER: No, I thought

1 that was a good procedure.

2 MR. KLINE: I apologize.

3 CHAIRPERSON MILLER: So we would
4 have the exhibits, but they didn't make it to
5 us.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER ALBERTI: I believe Ms. --

8 MR. KLINE: So I would move
9 Applicant's Exhibit 1, which was identified by
10 the applicant earlier during the direct
11 testimony.

12 CHAIRPERSON MILLER: I'm sorry,
13 Mr. Alberti was talking at the same time.
14 What did you say, Mr. Kline?

15 MR. KLINE: I will formally move
16 into evidence Applicant's Exhibit 1, which is
17 the layout drawing that was identified by the
18 witness during his direct testimony.

19 CHAIRPERSON MILLER: Okay. Yes,
20 Ms. Wirt?

21 MS. WIRT: May I ask one more
22 question of the witness?

1 CHAIRPERSON MILLER: Not yet.

2 Well, you will get your turn, but unless you
3 have an objection to this exhibit or
4 something, that's what we are on right now.
5 So you don't have an objection to the exhibit?
6 Okay.

7 And the exhibit is --

8 MR. KLINE: So the exhibit is
9 admitted?

10 CHAIRPERSON MILLER: -- a layout
11 of the restaurant. Of the interior?

12 MR. KLINE: Yes.

13 CHAIRPERSON MILLER: Okay.

14 MR. KLINE: As identified by the
15 witness during his direct.

16 CHAIRPERSON MILLER: As there is
17 no objection, then I'll admit it.

18 MR. KLINE: All right. I would
19 request that a copy of it, which copies have
20 been made available, to the Board and
21 distributed to the Board Members.

22 MEMBER ALBERTI: Thank you.

1 (Whereupon, the document was
2 marked for identification as
3 Applicant Exhibit 1 and was
4 received in evidence.)

5 MR. REHMAN: Thank you, Mr. Kline.

6 MR. KLINE: Okay.

7 CHAIRPERSON MILLER: Thank you.

8 MEMBER JONES: Thank you, Madam
9 Chair. All right. Thank you very much. May
10 I continue, Madam Chair?

11 CHAIRPERSON MILLER: Absolutely.

12 MEMBER JONES: Thank you. All
13 right. Michael?

14 MR. REHMAN: Yes.

15 MEMBER JONES: You have identified
16 Exhibit 1 was being the proposed interior
17 layout for the establishment, correct?

18 MR. REHMAN: Yes, sir.

19 MEMBER JONES: All right. And
20 which side is the first floor? Which side is
21 the second floor as I look at the diagram?

22 MR. REHMAN: Exhibit 9 still, sir?

1 MEMBER JONES: I'm looking at this
2 diagram and I want to know is it the left side
3 or the right side that is representative of
4 the ground floor? It looks like the left side
5 is representative of the ground floor. Is
6 that correct?

7 MR. REHMAN: Yes.

8 MEMBER JONES: Okay.

9 MR. REHMAN: Yes, yes, it is.

10 Thank you.

11 MEMBER JONES: No, thank you. And
12 you are intending to have how many bars on
13 this level?

14 MR. REHMAN: On the first level,
15 sir?

16 MEMBER JONES: Yes.

17 MR. REHMAN: One bar.

18 MEMBER JONES: One bar?

19 MR. REHMAN: Yes.

20 MEMBER JONES: And that is located
21 more towards the top as I look at this
22 diagram?

1 MR. REHMAN: Yes, on your right
2 hand side.

3 MEMBER JONES: Right hand side.
4 Okay.

5 MR. REHMAN: Yes.

6 MEMBER JONES: All right. And the
7 bathroom areas did you say that were added
8 are?

9 MR. REHMAN: Right by the
10 staircase going up, right under the staircase
11 there. Right by the staircase going up.

12 MEMBER JONES: Got it. Okay. How
13 far along are you in the construction phase of
14 this activity?

15 MR. REHMAN: We are not that far
16 in. We have the staircase. I'm sorry, the
17 demolition is done. The demolition is done
18 and the staircase is in. We haven't gotten
19 that far. The kitchen -- like the kitchen
20 area is extended. The floors are extended.
21 But we haven't gotten that far in concept, no.

22 MEMBER JONES: Okay. So you are

1 primarily doing demo. You completed most of
2 your demolition?

3 MR. REHMAN: The demo. We added
4 the new staircase.

5 MEMBER JONES: Added a new
6 staircase. Okay.

7 MR. REHMAN: Added a new staircase
8 because they couldn't go up and down the
9 staircase were you were, so they had to change
10 it to metal staircases to go up and down.

11 MEMBER JONES: All right. And
12 when you submitted the application or
13 submitted to get the permit, what -- were
14 these the drawings that you submitted as they
15 are laid out here?

16 MR. REHMAN: A lot of the stuff as
17 we went along, we kept changing things. There
18 are some things that didn't work out, so we
19 went back to the architect and changed them
20 around. A lot of stuff got changed around as
21 we worked. As we got in the project, we
22 changed some things around.

1 MEMBER JONES: Understood. Okay.

2 MR. REHMAN: Yeah.

3 MEMBER JONES: So if you could
4 walk me through on the first floor, has
5 anything changed from the time that you
6 started to what it is intended to represent
7 going forward?

8 MR. REHMAN: I mean, the changes
9 as far as on here, no, we haven't made any
10 changes as far as now.

11 MEMBER JONES: Okay.

12 MR. REHMAN: Yes, these are pretty
13 much it. Whatever we have here, these are the
14 ones we are doing.

15 MEMBER JONES: Oh.

16 MR. REHMAN: This is what we
17 finalized with, yes.

18 MEMBER JONES: This is what you've
19 finalized?

20 MR. REHMAN: Yes. Before we went
21 through a lot of drawings, a lot of stuff that
22 didn't --

1 MEMBER JONES: Understood.

2 MR. REHMAN: Yes.

3 MEMBER JONES: Okay. So second
4 floor same question. Has there been any
5 changes on this one?

6 MR. REHMAN: The second floor is
7 basically the same thing. The only thing you
8 have different is all the bathrooms are being
9 renovated and the kitchen got extended on the
10 second floor. Because the kitchen was already
11 on the second floor and we extended and made
12 it bigger, so we took some room from the
13 dining room area and extended it to have more
14 kitchen space back there, because we didn't
15 have a big enough kitchen over there.

16 MEMBER JONES: Okay. On the first
17 and second floor, there appear to be areas
18 where there are bench seating or is benched
19 seating. Is that correct?

20 MR. REHMAN: You have booths, yes,
21 some booths against the wall, yes.

22 MEMBER JONES: Booths against the

1 wall. Okay. Were those -- is that booth a
2 fixed-build, i.e. --

3 MR. REHMAN: Yes, it is fixed,
4 yes.

5 MEMBER JONES: Okay.

6 MR. REHMAN: The table can be
7 moved around. This place had -- we are trying
8 to get -- we are trying to use the space as
9 much as we can, so we're building a lot of
10 booths against the wall in the back.

11 MEMBER JONES: Okay. So given
12 that --

13 MR. REHMAN: There is a lot of
14 windows in the second floor, too, as well.

15 MEMBER JONES: Okay. Thank you
16 for that.

17 MR. REHMAN: We have most of the
18 seating by the windows, because when you look
19 down, you see the patio, you know, it's a nice
20 view from there. It's not a big room, but
21 it's nice.

22 MEMBER JONES: Thank you for that.

1 Given the layout that you have here for the
2 first floor, how many patrons would you be
3 able to seat?

4 MR. REHMAN: We are hoping we can
5 seat like 50, 60 people inside.

6 MEMBER JONES: On the first floor?
7 I'm talking about just the first floor.

8 MR. REHMAN: First floor, yes.

9 MEMBER JONES: 50 to 60 people on
10 the first floor? Okay. To sit down?

11 MR. REHMAN: Yes.

12 MEMBER JONES: And eat?

13 MR. REHMAN: Yes.

14 MEMBER JONES: Okay. Do you
15 happen to have Exhibit 1 in front of you?

16 MR. REHMAN: Yes, I do.

17 MEMBER JONES: All right. Can you
18 help me understand how and where the 50 to 60
19 people --

20 MR. REHMAN: Are you talking about
21 inside? Only the inside, right?

22 MEMBER JONES: I'm only talking

1 about the inside.

2 MR. REHMAN: Okay. I'm sorry, I'm
3 sorry.

4 MEMBER JONES: On the first floor.

5 MR. REHMAN: Okay. No, we don't
6 have that many seating on the first floor. We
7 don't have enough. I don't think we can do 60
8 people there. I'm not sure what the exact
9 seating is. Frank can go over with you that.

10 MEMBER JONES: Okay. Fair enough.

11 MR. REHMAN: I'll have him go
12 through that.

13 MEMBER JONES: Okay. So I'll ask
14 Frank about the --

15 MR. REHMAN: Yes.

16 MEMBER JONES: -- capacity and
17 turnover questions. Okay. The intended
18 purpose of the construction for the third
19 floor. You spoke to it at a high level in
20 terms of their being office space up there?

21 MR. REHMAN: Yes, yes. Office,
22 there is walk-ins up there for storage. Most

1 of the space is used for office and storage
2 upstairs, yes. There is already big walk-in
3 freezers and friges upstairs.

4 MEMBER JONES: Okay.

5 MR. REHMAN: On the -- which was
6 already existing on the third floor.

7 MEMBER JONES: But you're
8 definitely going to have patrons on the third
9 floor?

10 MR. REHMAN: Yeah. It's a small
11 area.

12 MEMBER JONES: Okay.
13 Construction-wise, let's talk about the, if
14 you don't mind, first floor, the outdoor
15 seating areas.

16 MR. REHMAN: Yes.

17 MEMBER JONES: On the diagram that
18 I have from Exhibit 9, it speaks of -- it
19 shows what appears to be shrubbery of some
20 sort. There is a wood fence that is already
21 existing and in place.

22 MR. REHMAN: Yes.

1 MEMBER JONES: And there appears
2 to be typical architectural images for some
3 type of shrubs or some type of vegetation or
4 whatever the case --

5 MR. REHMAN: Yes.

6 MEMBER JONES: -- may be. Is that
7 the intended there? What's the intended
8 purpose of those?

9 MR. REHMAN: We want to keep all
10 the -- we want to have more plants on there.
11 We want to make it like an outside garden and
12 we want to raise -- the fence is kind of old
13 and beat up.

14 MEMBER JONES: Yes.

15 MR. REHMAN: So we want to redo
16 the same fence. We are also going to raise it
17 up a little bit.

18 MEMBER JONES: Okay. How high do
19 you want to raise it up?

20 MR. REHMAN: I think -- because
21 once you put booths up there and when people
22 are sitting on the booths like big benches

1 outside, you have to raise it a few more feet
2 up, so when they lean back -- right as you
3 lean back and you have benches, the fence is
4 not tall enough.

5 MEMBER JONES: Okay. So none of
6 the things that you are doing to the outside
7 have been done with the express purpose of
8 trying to mitigate sound emanating from people
9 having conversations in your outdoor seating
10 area. The purpose of the additional height to
11 the fence and the green items that you plan on
12 putting out there are the natural fence-type
13 items and strictly for appeal, visual appeal
14 or effects and for structural support of your
15 patrons sitting there.

16 MR. REHMAN: Yes.

17 MEMBER JONES: The intended
18 purpose was not to mitigate sound from
19 conversations. Is that a correct statement?

20 MR. REHMAN: Not on Mass Avenue,
21 but on the other side, a smaller area, we want
22 to close it up, because you have neighbors

1 right next to you and neighbors across the
2 street from the smaller area. That's the area
3 we wanted to close it up, so the sound doesn't
4 go out too much, because we have neighbors
5 across the street and neighbors next door.

6 MEMBER JONES: Okay. So your
7 noise abatement efforts are related to the
8 Enclosed Outdoor Seating 1 and Enclosed
9 Outdoor Seating 2?

10 MR. REHMAN: Yes.

11 MEMBER JONES: Okay. How many
12 bars are in those two areas?

13 MR. REHMAN: You have a small -- I
14 mean, on the --

15 MEMBER JONES: Either inside of
16 Enclosed Outdoor Seating 1 or 2?

17 MR. REHMAN: Okay. On Mass Avenue
18 you have like removable bar outside. A
19 removable bar, small bar outside.

20 MEMBER JONES: Yes.

21 MR. REHMAN: And then on -- that
22 is -- on the 3rd Street you have the bar that

1 is in side that is facing outside. So the bar
2 is actually inside with a window.

3 MEMBER JONES: It's inside the
4 window?

5 MR. REHMAN: Yes.

6 MEMBER JONES: Okay. Is it inside
7 the window? Is there one bar per indoor
8 seating or -- excuse me. Enclosed Outdoor
9 Seating 1, is there a bar there?

10 MR. REHMAN: Okay. Yeah, there is
11 a bar inside. It has three bartenders. So
12 when people come outside sitting in the closed
13 area, they can use -- they can sit outside,
14 but the bar is facing you, the back of the
15 bar. So people can sit at the bar outside and
16 have drinks as well or have dinner outside.

17 MEMBER JONES: Okay. Does the
18 same thing apply for Enclosed Outdoor Seating
19 2?

20 MR. REHMAN: Yes.

21 MEMBER JONES: Okay. How many
22 total bars do you have in the -- would you

1 envision at this point having in the
2 establishment?

3 MR. REHMAN: All three levels?

4 MEMBER JONES: Yes, all three
5 levels.

6 MR. REHMAN: The bars are like
7 really, really small. We will probably end up
8 having three small bars.

9 MEMBER JONES: Three small bars?

10 MR. REHMAN: Yes.

11 MEMBER JONES: For the entire
12 space?

13 MR. REHMAN: Yes.

14 MEMBER JONES: Okay.

15 MR. REHMAN: It's -- we don't have
16 enough space to do any big bars and we don't
17 really need them.

18 MEMBER JONES: Okay. Understood.
19 And lastly, what is your business relationship
20 with the individual that you identified as the
21 GM?

22 MR. REHMAN: You know, Frank is

1 somebody I always looked up to. He has been
2 in the restaurant business a lot longer than
3 I have, many, many years. And he set up Dirty
4 Martini for us. He worked with hotels. He
5 just has a lot more experience in what he
6 does.

7 MEMBER JONES: Okay. Is the
8 nature of your relationship with him to be an
9 employee? Is he going to be an employee that
10 works for you through or by virtue of the LLC?

11 MR. REHMAN: He is not --

12 MEMBER JONES: Is he going to be
13 an employee that works for you by virtue of
14 your ties to the LLC or is he something
15 different, i.e., is he --

16 MR. REHMAN: He is going to --

17 MEMBER JONES: -- a potential
18 equity owner?

19 MR. REHMAN: If everything works
20 right, he is going to be a future owner with
21 us, yes.

22 MEMBER JONES: Okay.

1 MR. REHMAN: If it works out.

2 MEMBER JONES: So the intent is if
3 he performs well in his role as a GM employee,
4 it is expected that he will become a part
5 owner at some point?

6 MR. REHMAN: Yes, sir.

7 MEMBER JONES: Okay. Thank you.

8 MR. REHMAN: Thank you.

9 MEMBER JONES: Thank you, Madam
10 Chair.

11 CHAIRPERSON MILLER: Mr. Alberti?

12 MEMBER ALBERTI: Yes, okay. Mr.
13 Rehman, I'm still struggling with the
14 drawings, so bear with me, please.

15 MR. REHMAN: No problem.

16 MEMBER ALBERTI: All right. I'm
17 now looking at your Exhibit No. 1, all right,
18 and to the far left is a drawing of the first
19 floor. Is that correct?

20 MR. REHMAN: Yes.

21 MEMBER ALBERTI: Okay. Now, I see
22 two walls labeled there. One says existing

1 bay window to remain and the other one says
2 existing window bay. Do you see those?

3 MR. REHMAN: Yes.

4 MEMBER ALBERTI: Okay. Now, on
5 the interior side of those, on the interior
6 side of the one that is labeled existing
7 window bay, it looks like you have got booths
8 there.

9 MR. REHMAN: Um-hum.

10 MEMBER ALBERTI: Right?

11 MR. REHMAN: Yes.

12 MEMBER ALBERTI: So on the
13 exterior side is where you are going to have
14 an enclosure. Is that correct?

15 MR. REHMAN: Yes.

16 MEMBER ALBERTI: All right. Where
17 is the bar going to be located there?

18 MR. REHMAN: The bar will be
19 inside at one place and we will also have a
20 portable bar that is outside.

21 MEMBER ALBERTI: Well, I don't see
22 the bar. If the bar is going to be inside, I

1 don't see labels here. I see seating where --
2 excuse me. I mean, I'm just guessing.

3 MR. REHMAN: Okay.

4 MEMBER ALBERTI: But I see -- wait
5 let me say this. I'm seeing banquet seating
6 where I would assume the bar would have to be
7 if you are going to be serving patrons from
8 inside to outside over a bar.

9 MR. REHMAN: It's on that side.
10 There is a bar on the other side off that
11 which is inside, which will be -- our main bar
12 inside on the small -- not on the Mass side.
13 I mean, I'm sorry, on the 3rd Street side.

14 MEMBER ALBERTI: Maybe you could
15 take a copy of this and sort of draw it in for
16 me.

17 MR. REHMAN: Okay.

18 MEMBER ALBERTI: Can you draw it
19 in for me?

20 MR. REHMAN: All right. Sure.

21 MEMBER ALBERTI: That would be
22 great. Mr. Kline, could you give him a pen or

1 pencil? Just try to draw me where -- you
2 described two bars, one in each of the
3 enclosed area, that would service the people
4 sitting outside.

5 MR. REHMAN: Okay.

6 MEMBER ALBERTI: The people would
7 be sitting outside and there would be
8 bartenders inside. And this is the way I
9 thought you described it. So draw those bars
10 in for me. And I'm not going to judge you on
11 the quality of your artistic --

12 MR. REHMAN: Thank goodness.

13 MEMBER ALBERTI: -- drawing.

14 MR. REHMAN: Okay.

15 MEMBER ALBERTI: Okay. So, Mr.
16 Kline, could -- can you get this from Mr.
17 Kline? I see in-out. Where is the bar?

18 MR. REHMAN: That's the window bar
19 right there that you are looking at.

20 MEMBER ALBERTI: That's the window
21 bar. What about -- okay. Okay. The one that
22 you didn't draw, is not going to be a window

1 bar, right?

2 MR. REHMAN: No. It's not going
3 to be a window bar.

4 MEMBER ALBERTI: Ah, okay. Will
5 there be a bar out there?

6 MR. REHMAN: We are going to come
7 up with a portable bar design, yes.

8 MEMBER ALBERTI: Oh, okay.

9 MR. REHMAN: A portable. Yes, we
10 need to use

11 MEMBER ALBERTI: How many seats
12 will the portable bar have? Do you know?

13 MR. REHMAN: No, it's a bar.

14 MEMBER ALBERTI: How many seats?

15 MR. REHMAN: The port --

16 MEMBER ALBERTI: On the place
17 where you didn't draw it, you can -- the one
18 closest to Mass Avenue.

19 MR. REHMAN: Okay. A portable bar
20 is just a service bar. That's it, that's all
21 it is, sir.

22 MEMBER ALBERTI: Oh, oh, oh.

1 MR. REHMAN: It's just to serve.

2 MEMBER ALBERTI: It's not -- oh,
3 it's just a service bar?

4 MR. REHMAN: It's a service bar.

5 MEMBER ALBERTI: It's not a bar
6 for customers. Okay. It's a service bar.
7 Okay. I'll describe it as a service station.

8 MR. REHMAN: Yes.

9 MEMBER ALBERTI: Ah, okay, great.
10 Great. Now, I understand. So now on the up-
11 part you have this portable bar. You have a
12 window bar. Okay.

13 MR. REHMAN: Yes.

14 MEMBER ALBERTI: Okay. Now, I'm
15 understanding.

16 MR. REHMAN: Yes, we don't want to
17 build a bar on-site, because if --

18 MEMBER ALBERTI: Okay. Maybe it's
19 just the terminology --

20 MR. REHMAN: No, no, it's --

21 MEMBER ALBERTI: -- when you say
22 bar down here, I'm thinking --

1 MR. REHMAN: I know. I know.

2 MEMBER ALBERTI: Okay. Service
3 station.

4 MR. REHMAN: It's confusing. It's
5 my fault. It's not your fault.

6 MEMBER ALBERTI: Okay.

7 MR. REHMAN: I kind of confused
8 you guys a little bit. Sorry, I apologize.

9 MEMBER ALBERTI: I understand.
10 It's okay. Okay. Okay. So you will have
11 that window bar at the one that's on 3rd
12 Street --

13 MR. REHMAN: Yes.

14 MEMBER ALBERTI: -- away from Mass
15 Avenue?

16 MR. REHMAN: Yes.

17 MEMBER ALBERTI: Okay. How many
18 seats will you have there?

19 MR. REHMAN: From the bar?

20 MEMBER ALBERTI: Yeah, on the
21 exterior side, how many seats do you
22 anticipate having?

1 MR. REHMAN: Where the bar is?

2 MEMBER ALBERTI: Where the bar is.

3 MR. REHMAN: Okay. On Mass Avenue
4 side? I mean, I'm sorry. On --

5 MEMBER ALBERTI: On the exterior
6 side of that?

7 MR. REHMAN: I think that it's 14
8 or 16 seats. Not that many seats.

9 MEMBER ALBERTI: 14 or 16 seats on
10 that side.

11 MR. REHMAN: Yes, it's a small
12 section.

13 MEMBER ALBERTI: Okay. All right.
14 Very good. And then I see three seats on the
15 inside.

16 MR. REHMAN: Yes.

17 MEMBER ALBERTI: Okay. Okay. I
18 don't know how to deal with this. Should we
19 enter this as --

20 CHAIRPERSON MILLER: Oh.

21 MEMBER ALBERTI: -- part of the
22 exhibit? It's not that useful.

1 CHAIRPERSON MILLER: It doesn't
2 have to be in.

3 MEMBER ALBERTI: I think I
4 understand it now. Okay. Fine. Good.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: Then we don't
7 need it.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: Thank you, Mr.
10 Rehman.

11 CHAIRPERSON MILLER: Other Board
12 questions?

13 MR. REHMAN: Thanks for making
14 that clear. I appreciate it.

15 CHAIRPERSON MILLER: Wait. So I
16 just have a few.

17 MR. REHMAN: Sure.

18 CHAIRPERSON MILLER: Anything
19 else? Looking at Exhibit 9, well, let me ask
20 you this in general. I'm not that familiar
21 with what was there before, so can you tell me
22 what was there before?

1 MR. REHMAN: There was an Indian
2 restaurant there before.

3 CHAIRPERSON MILLER: Indian.

4 MR. REHMAN: For many, many years.
5 It was a pretty good restaurant.

6 CHAIRPERSON MILLER: Okay.

7 MR. REHMAN: That was there.
8 Yeah, but it just needed a lot of work.

9 CHAIRPERSON MILLER: So did the
10 Indian restaurant have outdoor seating?

11 MR. REHMAN: Yes, it did, yes.

12 CHAIRPERSON MILLER: Okay. And
13 how did --

14 MR. REHMAN: I think they had more
15 seating than what we are asking for actually.

16 CHAIRPERSON MILLER: You think
17 they had more seating? Are you using more
18 area or the same amount of area as they used?

19 MR. REHMAN: Same amount of area.

20 CHAIRPERSON MILLER: Same area.
21 Okay. So on Exhibit 9, can you tell me just
22 explain what is the shaded area on the

1 Massachusetts side? It looks like, you know,
2 this is all patio area on enclosed patio area
3 and some of it is white and some of it is
4 diagonal lines.

5 MR. REHMAN: Okay. In the front
6 over here?

7 CHAIRPERSON MILLER: Over here.
8 This area.

9 MR. REHMAN: Okay. Okay. Oh,
10 this is the outside, yes.

11 CHAIRPERSON MILLER: This is all
12 outside, correct?

13 MR. REHMAN: Yes, it's all
14 outside, yes.

15 CHAIRPERSON MILLER: What's the
16 difference between -- why is this shaded?

17 MR. REHMAN: Why is this area --
18 oh, you know what, because there's wood over
19 there. Maybe that's why the plank wood is on
20 there.

21 CHAIRPERSON MILLER: The --

22 MR. REHMAN: On the floor.

1 CHAIRPERSON MILLER: Okay. The
2 material is different on the flooring.

3 MR. REHMAN: Yeah, yeah.

4 CHAIRPERSON MILLER: All right.

5 MR. REHMAN: And that's the only
6 thing I can think of. I cannot tell you what
7 it is.

8 CHAIRPERSON MILLER: Okay. So you
9 testified that you think they had more seating
10 that you are putting outside?

11 MR. REHMAN: Yes. We are making
12 like benches, bigger benches, more comfortable
13 seating, mixing it up a little bit. I want to
14 -- we want it to look really appealing. I
15 mean, the patio before wasn't really
16 appealing. They didn't have trash removal
17 that much. Even we have pictures of it. Even
18 when we gutted the building out, there was
19 like dead rats in there. It was disgusting.
20 I can't believe that this was open as a
21 restaurant.

22 CHAIRPERSON MILLER: So when did

1 that restaurant close? Do you know?

2 MR. REHMAN: I'm sorry?

3 CHAIRPERSON MILLER: Do you know
4 when that restaurant closed?

5 MR. REHMAN: Well, I could have
6 kept it -- when I -- we took over a year and
7 a half ago or so, beginning of the process,
8 and it has been closed like a year, year and
9 a half.

10 CHAIRPERSON MILLER: And what was
11 the name of it?

12 MR. REHMAN: It was called White
13 Tiger.

14 CHAIRPERSON MILLER: Okay. How
15 about on the inside, are you having -- do you
16 have any idea if you are having less seating
17 or more seating?

18 MR. REHMAN: It's -- I think it's
19 probably the same.

20 CHAIRPERSON MILLER: About the
21 same?

22 MR. REHMAN: Probably the same,

1 yes.

2 CHAIRPERSON MILLER: So --

3 MR. REHMAN: I mean, our layout is
4 a little bit different, that's all, but the
5 bar was different. The layout it was
6 different. It didn't really make too much
7 sense the layout for us. I can't imagine not
8 having bathrooms on the first floor for a
9 restaurant.

10 CHAIRPERSON MILLER: Right.

11 MR. REHMAN: So the layout wasn't
12 right.

13 CHAIRPERSON MILLER: So that's one
14 of the things you said you're changing, having
15 the bathrooms. You said that you were trying
16 to make it cozy inside?

17 MR. REHMAN: Yes.

18 CHAIRPERSON MILLER: What kind of
19 changes did you make to make it cozy?

20 MR. REHMAN: I mean, when you walk
21 in a place that the downstairs is traditional
22 old-school Italian restaurant. You know,

1 you're going to have an oven with they are
2 making like, you know, fresh pizzas, a fun
3 menu. It's eye-appealing. It's booths. We
4 have a wine cellar on the first floor also.
5 We are going to do a lot of different wines.

6 I mean, Frank will describe you
7 more the food and everything, he is better at
8 it.

9 CHAIRPERSON MILLER: Okay. And I
10 was just wondering if you made some changes
11 physically to the inside?

12 MR. REHMAN: The place is
13 completely different than it was before. As
14 far as changes, yes, because like I said,
15 those -- what they had there -- honestly if
16 you guys had walked in that place, White
17 Tiger, you would never eat there. I can't
18 imagine anybody eating there. It was really,
19 really that bad. I mean, I don't want to go
20 into a place and put a bunch of money in there
21 and go through this hassle with the ANC, go
22 through the liquor license.

1 Nobody wants to do this. We
2 didn't have an option, because the place was
3 a dump inside. There is no way anybody would
4 eat in there. It looked really, really bad.
5 And the landlord was very tough on us. He
6 wanted a good concept there. He wanted a good
7 layout. He wants somebody to come clean this
8 building up. That's just it, that's his baby
9 over there.

10 And he liked our concept.
11 Everything we did is for bettering that
12 building.

13 CHAIRPERSON MILLER: Okay. And
14 then I just want to clarify one more thing.
15 Did you work with your architect with respect
16 to sound absorbing materials on the patios?

17 MR. REHMAN: Frank worked with
18 them on that.

19 CHAIRPERSON MILLER: Frank did?

20 MR. REHMAN: Yeah.

21 CHAIRPERSON MILLER: Okay. So we
22 will save that question for him. Okay.

1 MR. REHMAN: The thing is we
2 haven't even had a chance to open up yet. We
3 haven't even opened yet. I mean, the idea is
4 just I feel bad even fighting the neighbors
5 over this and arguing, because we want to be
6 there and we want to be part of the
7 neighborhood. That's the whole idea. That's
8 why we went there.

9 And it's a long, long process,
10 but, you know, everything takes time. But we
11 went there because of that neighborhood.

12 CHAIRPERSON MILLER: Okay.

13 MR. REHMAN: Otherwise we would
14 have never gone there.

15 CHAIRPERSON MILLER: Okay. So now
16 if there are no more Board questions, I will
17 open it up to questions based on Board
18 questions. So, Ms. Wirt, do you have a
19 question based on the Board's questioning?

20 RECROSS-EXAMINATION

21 MS. WIRT: This is the first the
22 ANC is hearing about bars outside. Can you

1 please describe me what a bar is? It's just
2 like a table where they have --

3 MR. REHMAN: No.

4 MS. WIRT: -- glasses of water
5 and --

6 MR. REHMAN: This is perfect right
7 here.

8 MS. WIRT: -- forks and knives or
9 is it liquor and --

10 MR. REHMAN: You see this right
11 here, it's going to be something like this
12 locked up.

13 MS. WIRT: I can't see.

14 MR. REHMAN: Oh. Like this big,
15 something a little bigger.

16 MS. WIRT: Oh, this big?

17 MR. REHMAN: Yeah. You store
18 stuff in it. It has tires on it. You move it
19 in, you move it out, yeah.

20 MS. WIRT: But it's not a liquor--
21 it doesn't have bottles of liquor on it, does
22 it?

1 MR. REHMAN: It will have bottles
2 of wine in it. Yeah, glassware.

3 MS. WIRT: And it will be rolled
4 outside?

5 MR. REHMAN: Yeah, if needed, we
6 will have it outside.

7 MS. WIRT: And will be --

8 MR. REHMAN: It's like a work
9 station.

10 MS. WIRT: Will there be one on
11 the Mass Ave. side?

12 MR. REHMAN: Excuse me?

13 MS. WIRT: Will there be one on
14 the Mass Ave. side?

15 MR. REHMAN: Yes, yes, because
16 it's a bigger patio, so you want to have all
17 your plates, your glassware, your watercups.
18 You want to have everything right then and
19 there, yeah.

20 MS. WIRT: And the wine. This is
21 the first the ANC has heard of this.

22 MR. REHMAN: For the removable --

1 MS. WIRT: Bars, bars outside.

2 MR. REHMAN: No, it's not a real
3 bar. It's to satisfy customers.

4 MS. WIRT: Now, on the 3rd Street
5 side, is there a bar there that is outside?

6 MR. REHMAN: No, there is no bar
7 outside. It's inside.

8 MS. WIRT: Okay. Let the record
9 show this is the first the ANC has heard about
10 the bars outside.

11 CHAIRPERSON MILLER: Okay.

12 MR. REHMAN: It's not a real bar.
13 It's --

14 MR. KLINE: Shhhh. There is no
15 question pending, Mr. Rehman.

16 CHAIRPERSON MILLER: Okay.

17 MR. REHMAN: All right. Sorry,
18 sir.

19 CHAIRPERSON MILLER: Mr. Kline, do
20 you have any --

21 MR. KLINE: Just one.

22 REDIRECT EXAMINATION

1 MR. KLINE: Mr. Rehman, the "bar"
2 that you are talking about, and I'm using air
3 quotes, let the record reflect.

4 MR. REHMAN: Okay.

5 MR. KLINE: It is a service bar we
6 are talking about, correct?

7 MR. REHMAN: Yes, yes.

8 MR. KLINE: There won't be any
9 seats at this bar --

10 MR. REHMAN: No.

11 MR. KLINE: -- that you are
12 describing.

13 MR. REHMAN: No.

14 MR. KLINE: Will there?

15 MR. REHMAN: No, no seats.

16 MR. KLINE: That's all I have.

17 Thank you.

18 MEMBER ALBERTI: I'm not sure just
19 for my and for the record, what bar are you
20 talking about? In my questioning to Mr.
21 Rehman, we discussed two bars. So which bar
22 are you referring to, Mr. Kline?

1 CHAIRPERSON MILLER: Service.

2 MEMBER ALBERTI: Just for the
3 record.

4 MR. KLINE: I'm referring to the
5 portable bar that he was talking about being
6 rolled out.

7 MEMBER ALBERTI: In which section?
8 Just to be clear.

9 MR. KLINE: The one that he was
10 asked about by Ms. Wirt.

11 MS. WIRT: The Massachusetts
12 Avenue side.

13 MEMBER ALBERTI: She talked about
14 two areas. Are we talking about, just to be
15 clear, the Massachusetts? The one closest to
16 Massachusetts Avenue or the one --

17 MR. KLINE: I'll withdraw the
18 question then.

19 MEMBER ALBERTI: I just --

20 MR. KLINE: I will examine Mr.
21 Ortiz --

22 MEMBER ALBERTI: For the record, I

1 mean, we need to know.

2 MR. KLINE: -- about it.

3 MEMBER ALBERTI: All right.

4 CHAIRPERSON MILLER: Okay.

5 MEMBER ALBERTI: Thank you.

6 CHAIRPERSON MILLER: Mr. Rehman, I
7 just want to clarify. Is this service bar
8 like a cart?

9 MR. REHMAN: Yes.

10 CHAIRPERSON MILLER: Okay.

11 MR. REHMAN: It's like a big cart,
12 yes.

13 CHAIRPERSON MILLER: All right.

14 MR. REHMAN: There's a small case
15 inside. It's nice to have that outside. It
16 makes it easier for the waiters and it gives
17 better customer service. I mean, most places
18 that have outdoor areas have these portable
19 things. We don't have a 10,000 square foot
20 restaurant where you can keep everything
21 inside. We are doing the best we can to keep
22 things inside, so there is less mess outside,

1 less to clean up, you know.

2 We don't want to have -- we are
3 trying to keep everything inside as much as we
4 can.

5 CHAIRPERSON MILLER: So this could
6 be rolled inside, too?

7 MR. REHMAN: Yes, at nighttime it
8 will be rolled inside, yes.

9 CHAIRPERSON MILLER: Okay. All
10 right.

11 MR. REHMAN: They already had one
12 there outside.

13 MR. KLINE: Mr. Rehman, there is
14 no question pending.

15 MR. REHMAN: All right.

16 CHAIRPERSON MILLER: Thank you
17 very much. Thank you. I guess we are
18 finished unless --

19 MR. KLINE: We are done, yes.

20 CHAIRPERSON MILLER: Okay. Thank
21 you.

22 MR. KLINE: You may step down.

1 (Whereupon, witness was excused.)

2 MR. REHMAN: All right. Sorry if
3 I confused you guys. I apologize, all right?

4 MR. KLINE: I call to the stand --

5 MR. REHMAN: I didn't mean to
6 confuse you guys.

7 MR. KLINE: You can step down and
8 sit right there. No, I need you to sit right
9 here.

10 I call to the stand Mr. Frank
11 Ortiz.

12 MR. ORTIZ: Good afternoon. I'm
13 Frank Ortiz.

14 CHAIRPERSON MILLER: Good
15 afternoon. Okay. Let me swear you in.
16 Whereupon,

17 FRANK ORTIZ
18 was called as a witness by Counsel for the
19 Applicant, and having been first duly sworn,
20 assumed the witness stand and was examined and
21 testified as follows:

22 CHAIRPERSON MILLER: Okay. Thank

1 you. Have a seat.

2 DIRECT EXAMINATION

3 MR. KLINE: Mr. Ortiz, you are
4 connected with the applicant, Romeo & Juliet?

5 MR. ORTIZ: Yes, I am.

6 MR. KLINE: What's your connection
7 to the applicant?

8 MR. ORTIZ: Director of
9 Operations.

10 MR. KLINE: All right. And as
11 Director of Operations, what has been your
12 role in developing this restaurant for
13 opening?

14 MR. ORTIZ: First of all, making
15 the restaurant designed in a way that it can
16 be truly a restaurant, because it wasn't
17 before.

18 MR. KLINE: Okay.

19 MR. ORTIZ: Menus, also talking
20 about customer service, looking to marketing
21 strategies for the place, because it's a
22 neighborhood place, looking about working --

1 trying to work with ANC before to make sure
2 that we -- they understood what we were
3 working and coming up with a new concept to
4 the place.

5 MR. KLINE: Now, as part of that
6 role in developing the restaurant, did you --
7 is it you that worked with the architect?

8 MR. ORTIZ: Well, Michael most of
9 the time worked with the architect. What I
10 give was my input of how a restaurant shall
11 operate as a building.

12 MR. KLINE: Okay. And in doing
13 that, did you work with these drawings that--

14 MR. ORTIZ: Yes, I did.

15 MR. KLINE: Wait, let me finish my
16 question. That you have in front of you, the
17 one that's marked as Applicant's Exhibit 1 and
18 the other is applicant's -- or is the
19 Investigator's Exhibit 9?

20 MR. ORTIZ: Yes, I did.

21 MR. KLINE: Okay. And so are you
22 thoroughly familiar with those drawings?

1 MR. ORTIZ: Very familiar.

2 MR. KLINE: And the restaurant is
3 currently under construction. Is that
4 correct?

5 MR. ORTIZ: Yes, it is.

6 MR. KLINE: Is the construction
7 contemplated consistent with what is shown on
8 those drawings?

9 MR. ORTIZ: It is.

10 MR. KLINE: Is the construction
11 that is contemplated, forgive me, consistent
12 with Mr. Rehman's testimony 100 percent?

13 MR. ORTIZ: No.

14 MR. KLINE: Okay. All right. So
15 could you walk the Board through the plans and
16 clarify, to the extent that clarification is
17 needed, what is intended first in the interior
18 of the establishment looking at Applicant's
19 Exhibit 1?

20 MR. ORTIZ: Can I get a copy of
21 Exhibit 1, please?

22 MR. KLINE: Oh, you don't have

1 one?

2 MR. ORTIZ: Yes, that was taken
3 away.

4 CHAIRPERSON MILLER: Okay. We
5 have extra.

6 MR. KLINE: Do you have an extra
7 one?

8 CHAIRPERSON MILLER: We have an
9 extra one if you need it, right?

10 MEMBER ALBERTI: Yes.

11 MR. KLINE: We're good. Thank
12 you. So do you have Exhibit 1?

13 MR. ORTIZ: Yes, I do.

14 MR. KLINE: All right. Are there
15 two layouts shown on there?

16 MR. ORTIZ: Yes, there are.

17 MR. KLINE: And the one to the
18 left is what?

19 MR. ORTIZ: The one on my left
20 will be the first floor of the restaurant.

21 MR. KLINE: All right. And the
22 one on the right?

1 MR. ORTIZ: Would be the second
2 floor of the restaurant.

3 MR. KLINE: All right. Now, with
4 respect to the first floor, is there a bar to
5 be constructed on the first floor?

6 MR. ORTIZ: It is one bar to be
7 constructed on the first floor.

8 MR. KLINE: And is it just one
9 bar?

10 MR. ORTIZ: Just one bar.

11 MR. KLINE: And if you could tell
12 the Board by any labeling on the drawing where
13 that bar is to be constructed, that would be
14 helpful.

15 MR. ORTIZ: Okay. Let me read it
16 exactly here what he says on the exhibit, so
17 they can understand what I'm saying. The
18 first one will be set on the side of the 3rd
19 Street.

20 MR. KLINE: Okay.

21 MR. ORTIZ: Ending of --

22 MR. KLINE: Is there any labeling

1 on the drawing that would give me -- remember,
2 we have a court reporter who is taking this
3 down here who is not looking at drawings. So
4 if you could tell the Board if there are any
5 markings on the drawing which would delineate
6 where that bar is, is there any labeling there
7 that would make it easy to understand?

8 MR. ORTIZ: Yes. If you are
9 looking at the diagram, the only way that you
10 understand is like where he has an ice bin,
11 hand sink, drink guides.

12 MR. KLINE: Okay. So that's the
13 bar that we are talking that?

14 MR. ORTIZ: That's the bar, yes.

15 MR. KLINE: And how many seats
16 will be at that bar?

17 MR. ORTIZ: Only six.

18 MR. KLINE: Only six. And where
19 are the six? It looks like there are three on
20 the drawing. Are there another three
21 somewhere else?

22 MR. ORTIZ: The other ones

1 supposed to come. When they approve a station
2 of the enclosure, for your enclosed summer
3 garden enclosed.

4 MR. KLINE: Okay. So those would
5 be located in the summer garden area?

6 MR. ORTIZ: Exactly.

7 MR. KLINE: Okay. And those would
8 be facing the window that opens up?

9 MR. ORTIZ: They will be facing --
10 the bar will be facing that window. The
11 client will be facing the bar.

12 MR. KLINE: Okay. And will the --
13 and there will be an opening there between
14 what is shown on Exhibit 1 and an area that,
15 perhaps is shown on the Investigator's Exhibit
16 9?

17 MR. ORTIZ: There is not an
18 opening, other than the windows that the
19 enclosure will have.

20 MR. KLINE: Okay. But between the
21 building line --

22 MR. ORTIZ: Um-hum.

1 MR. KLINE: -- in the building
2 line, there will be a window, correct?

3 MR. ORTIZ: Exactly.

4 MR. KLINE: And there is
5 anticipated bar service through that window?

6 MR. ORTIZ: No.

7 MR. KLINE: No?

8 MR. ORTIZ: No.

9 MR. KLINE: Okay. So where are
10 the other three seats that we are talking
11 about?

12 MR. ORTIZ: The three seats are
13 already in the diagram. You can sit in there.

14 MR. KLINE: Right.

15 MR. ORTIZ: Uh-huh.

16 MR. KLINE: You said six.

17 MR. ORTIZ: Yes, that was -- you
18 told me other three. So what I'm saying is,
19 pardon me, let me refresh myself.

20 The bar that is designed already
21 in diagram has three seats. There should be
22 three on the other side. That has a little

1 table on it and the requested enclosure that
2 will have the extra seats that we requested.

3 MR. KLINE: And how will those
4 extra three seats access this bar?

5 MR. ORTIZ: The bar will have an
6 area where people can come up there and get
7 drinks. Although, we plan to be a restaurant.
8 I requested that for service, food service,
9 not for being really bar seats. As you can
10 see in the diagram -- I don't know if you have
11 the exhibit.

12 MR. KLINE: Are you looking -- are
13 you referring now to the Investigator's
14 Exhibit 9?

15 MR. ORTIZ: Let me double check if
16 we have it there. The exhibit now you cannot
17 see that. Yeah, you can see it. And you can
18 see there the seats. The seats are tables on
19 the -- Investigator Exhibit 7, 9, there are
20 tables that we serve, but that's for us. What
21 we are looking for is dinner on those tables.

22 MR. KLINE: Okay. So the six

1 seats that you are referring to are the six
2 seats in what?

3 MR. ORTIZ: That you can see
4 there.

5 MR. KLINE: Well, let me finish
6 the question. In the enclosed sidewalk cafe
7 area?

8 MR. ORTIZ: Correct.

9 MR. KLINE: Okay. So it's really
10 nine seats. Six seats there and three seats
11 in the interior, correct?

12 MR. ORTIZ: Correct.

13 MR. KLINE: Now, the seats in the
14 interior, are those contemplated to be
15 barstool height?

16 MR. ORTIZ: They are contemplated
17 to be barstools.

18 MR. KLINE: All right. And what
19 about the seats in the enclosed cafe area, are
20 those barstool height or dining height?

21 MR. ORTIZ: They are supposed to
22 be stools.

1 MR. KLINE: Okay. But they will
2 be at a table as opposed to a counter?

3 MR. ORTIZ: Exactly.

4 MR. KLINE: All right. And the
5 idea is that you would dine there?

6 MR. ORTIZ: That's it.

7 MR. KLINE: All right. Now, other
8 than that bar, are there any other bars
9 contemplated in the first floor area, either
10 interior or exterior? Let's start with
11 interior. Are there any other bars
12 contemplated in the interior?

13 MR. ORTIZ: No. There is no other
14 bar. What I requested from the builders was
15 to give me a service station for the servers
16 to be rolled out for the servers when we are
17 open.

18 MR. KLINE: All right. Now, with
19 respect to the second floor, will there be any
20 bar on the second floor?

21 MR. ORTIZ: No, there will be no
22 bars on the second floor.

1 MR. KLINE: All right. So sum
2 total in terms of barseats that one would
3 consider at a traditional bar, there is a
4 grand total of three. Is that correct?

5 MR. ORTIZ: As operational bar,
6 yes.

7 MR. KLINE: Okay. So there is not
8 -- you are not testifying. You get to be
9 quiet.

10 So there is not a large bar area
11 in this restaurant establishment, is there?

12 MR. ORTIZ: It is not.

13 MR. KLINE: All right. Now,
14 before you go further in terms of this place,
15 let's talk about your background a little bit.
16 You have said that you are the person that is
17 responsible for developing this restaurant,
18 correct?

19 MR. ORTIZ: Yes, I am.

20 MR. KLINE: And you are working
21 with Mr. Rehman and the other owners, at this
22 point?

1 MR. ORTIZ: That's correct.

2 MR. KLINE: And you have worked
3 with Mr. Rehman before?

4 MR. ORTIZ: Yes. Actually --

5 MR. KLINE: And where have you
6 worked with Mr. Rehman before?

7 MR. ORTIZ: I was going to build a
8 restaurant for him in downtown. Well,
9 actually in Dupont Circle. It's called Dirty
10 Martini.

11 MR. KLINE: Okay.

12 MR. ORTIZ: He had a first floor
13 complete, two floors actually for restaurant.
14 He told me like he almost close, but he has
15 these two floors that he wants to open a
16 restaurant. So I came over and work on
17 development and also operations for that
18 building itself.

19 MR. KLINE: Now, at Dirty Martini
20 there are also, in addition to a restaurant,
21 nightclub activities, correct?

22 MR. ORTIZ: Yeah, yes.

1 MR. KLINE: And where are they
2 located?

3 MR. ORTIZ: They are on the third
4 floor, separate from the two floors of the
5 restaurant.

6 MR. KLINE: Are you involved in
7 that part of the operation over at Dirty
8 Martini?

9 MR. ORTIZ: No, I just get
10 involved in the restaurant operations.

11 MR. KLINE: Your background is in
12 restaurants, correct?

13 MR. ORTIZ: It is in restaurants/
14 hotels.

15 MR. KLINE: Will you tell the
16 Board your experience in the restaurant
17 industry?

18 MR. ORTIZ: Okay. Going onto 24,
19 25 years on that, on the restaurant
20 experience. My first job ever in D.C. market
21 was with, at that time, Primo. Primo is now
22 called Think Food Group. I was one of the

1 first managers Think Food Group had. When we
2 build, even when we -- Jose Andres Ramone
3 wasn't there yet.

4 We build the first Jaleo on 7 and
5 E Street, I believe it is, in Chinatown. And
6 then we got into it with the owners, of
7 course, into Primo expanding and we opened new
8 restaurants in Cafe Atlantico, which was moved
9 from, I believe it was, 18th Street to
10 downtown. And then we got together with the
11 owners to run the whole company. They
12 included The Austin Grille at that time.

13 And we opened Zaytinya. We opened
14 also a couple other restaurants with them.
15 And I was naturally in development with them
16 since the beginning. I worked for them eight
17 years. After those eight years, I --

18 MR. KLINE: Wait, wait. Before
19 you move on from those eight years.

20 MR. ORTIZ: Yes, sir.

21 MR. KLINE: So that's the company
22 that is now known as Think Food Group?

1 MR. ORTIZ: That's the Think Food
2 Group.

3 MR. KLINE: And you were with them
4 in the early days when -- well, let me finish
5 the question before you start to answer.

6 You were with them in the early
7 days when many of these restaurants were open?

8 MR. ORTIZ: Yes, sir.

9 MR. KLINE: And what was your role
10 in the opening of these various restaurants?

11 MR. ORTIZ: My first role was just
12 as manager. My first role ever. But when the
13 company start expanding, I was moved from
14 restaurant to restaurant, to open the
15 restaurants and work with the concepts of the
16 restaurant itself.

17 MR. KLINE: Okay. So you were
18 there eight years. And then you moved on from
19 there. And where did you go?

20 MR. ORTIZ: I went to work for
21 Intercontinental Hotel Group. My base person
22 was here in D.C., The International Hotel

1 Group. And then I was moved abroad. I came
2 back later on and we opened Cafe du Parc,
3 which is actually a restaurant that was built
4 outside the hotel.

5 Then after I went back to South
6 America. I worked by myself trying to do my
7 consulting by myself and the economy flunked,
8 so I came back to D.C. and help out the
9 development of branding for this restaurant
10 called Mio Restaurant, which is on Vermont
11 Avenue, 14 and Vermont.

12 They were really going down and we
13 brought a demand, a new, actually, operation
14 system for them, new menu and new concepts for
15 the restaurant. And the restaurant is doing
16 really well now, since we took over.

17 And thereafter, I came to work
18 three years and a half ago for Michael Rehman.

19 MR. KLINE: Okay. And that was
20 when? Around the time that Dirty Martini
21 opened?

22 MR. ORTIZ: It was the time when--

1 yeah, I opened Dirty Martini.

2 MR. KLINE: You opened Dirty
3 Martini?

4 MR. ORTIZ: Uh-huh, exactly.

5 MR. KLINE: And you were with
6 Intercontinental Hotel Group how long?

7 MR. ORTIZ: Intercontinental Hotel
8 Group, I was based on the Williard Hotel.

9 MR. KLINE: The Williard Hotel.

10 MR. ORTIZ: Here in D.C.

11 MR. KLINE: Okay.

12 MR. ORTIZ: When I was in D.C.,
13 but I was more abroad then.

14 MR. KLINE: Okay. And you were
15 involved in the opening of Cafe du Parc, you
16 said?

17 MR. ORTIZ: Cafe du Parc was one
18 of the things that we did when I was -- it was
19 a bigger thing. When you worked with hotels,
20 there is so many people working on concept.
21 So I was part of a little group, you know,
22 more like about 50 people working on concept.

1 MR. KLINE: Okay. Now, turning
2 back to this restaurant, turning back to
3 Exhibit 9, we talked a lot about the outdoor
4 seating area. You have worked with the
5 architect in terms of developing the look and
6 feel and the operational aspects of this
7 outside seating area?

8 MR. ORTIZ: Yes, I did.

9 MR. KLINE: All right. And let's
10 start as you are holding the drawing in the
11 lower right hand corner it says A200. Let's
12 start from there on the right and move left.
13 We have an area that says "Enclosed Outdoor
14 Seating 2, 17 feet." Do you see that area?

15 MR. ORTIZ: Correct.

16 MR. KLINE: Tell the Board about
17 that area. What is contemplated there? What
18 the materials will be. How it will work.

19 MR. ORTIZ: Okay.

20 MS. WIRT: Can I get a copy of
21 that, please?

22 MR. ORTIZ: Well, let me --

1 MR. KLINE: It's in the
2 Investigator's report. That's where I got my
3 copy.

4 MR. ORTIZ: Well, let's begin with
5 saying that we talked to the architect about
6 this building and how we are going to proceed
7 about it after having several conversations
8 with the neighborhood and their concerns. So
9 we decided to use temporary glass, actually
10 what he called, at one point by temporary
11 glass, it was a thicker glass that has a sound
12 -- it shall stay the sound.

13 And also we took an accountability
14 what the neighbors have to say at the time and
15 this idea came from a neighbor. Using
16 curtains on the walls, so that way it will
17 minimize the noise for the neighborhood as
18 well. And that's in the enclosure part.

19 We also looked at how we can
20 prevent noise coming out of the ceiling as
21 well, because, you know, we have houses there.
22 So we -- the architect came with the idea

1 using -- in the window, ceiling and the roof
2 itself, he would use a foam, so it would
3 eliminate a lot of the noise that would come
4 out of the restaurant.

5 MR. KLINE: Okay.

6 CHAIRPERSON MILLER: I'm sorry,
7 what did you -- I'm sorry. He will use what?

8 MR. ORTIZ: Foam.

9 CHAIRPERSON MILLER: Foam.

10 MR. ORTIZ: There is a foam like
11 he says it's very -- noise, you know. It
12 retain noise. And it will be used in the
13 window, ceiling and the roof of that. And
14 that's what he believe he has already in the
15 construction papers, but I don't see it here,
16 unfortunately.

17 MR. KLINE: All right. So you are
18 talking about the roof of Enclosed Outdoor
19 Seating No. 2 on the drawing? Is that what we
20 are still talking about? Just so we're clear.

21 MR. ORTIZ: Yes, the one closer to
22 the --

1 MR. KLINE: Okay.

2 MR. ORTIZ: Yes.

3 MR. KLINE: All right.

4 CHAIRPERSON MILLER: Oh, okay.

5 MR. KLINE: And then turning to
6 the next one as we are proceeding left on the
7 drawing, we have Enclosed Outdoor Seating 1,
8 11 seats. Describe for the Board what is
9 contemplated there and the operational aspects
10 of it.

11 MR. ORTIZ: Well that one since it
12 already existed, the space, that we -- all we
13 do is making sure the canopy that was there
14 will come a little bit out of -- to cover the
15 table, so people will feel more comfortable in
16 the sun on those tables.

17 We also decided to add more plans
18 and this time we were talking about evergreens
19 that were very tall to prevent the noise also
20 coming out of the spaces. And that's what we
21 said about that, that little space.

22 MR. KLINE: Okay.

1 MR. ORTIZ: It's not a real
2 enclosure. It's just enclosure because of the
3 law, but it's only a canopy in there.

4 MR. KLINE: All right. And then
5 moving around to the Massachusetts Avenue
6 side, that's all outdoor seating, correct?

7 MR. ORTIZ: It is all outdoor
8 seating.

9 MR. KLINE: And is that, to your
10 knowledge if you know, consistent with the use
11 of outdoor space at that location prior to
12 your group taking over the site, if you know?

13 MR. ORTIZ: It is close to
14 consistence of what it is. What we did was we
15 used bigger booths on top of the wooden area,
16 the gray area that you mentioned, so it would
17 have more space for people. So we deduct some
18 seats from there, but I guess those seats were
19 adding a couple of tables at the end of that
20 floor area.

21 MR. KLINE: Okay. Now, you have
22 indicated that you are involved in the dining

1 part of Dirty Martini, but there is a
2 nightclub aspect of that operation. Will this
3 operation have a similar nightclub aspect that
4 you are not going to be involved in or will it
5 have one at all?

6 MR. ORTIZ: Not at all. That's
7 why we didn't apply for like entertainment
8 license. Only a restaurant.

9 MR. KLINE: Okay. Now, you -- I
10 know you have heard concerns about the hours
11 of this establishment. And you have a certain
12 amount of decision making authority about the
13 operations of this business. Is that correct?

14 MR. ORTIZ: It is correct.

15 MR. KLINE: All right. You are
16 not an owner, at this point, right?

17 MR. ORTIZ: No.

18 MR. KLINE: Is

19 MR. ORTIZ: Not at this point.

20 MR. KLINE: -- that contemplated
21 in the future?

22 MR. ORTIZ: Of course it is.

1 MR. KLINE: Okay.

2 MR. ORTIZ: In terms of the
3 operation of the outdoor space, are you
4 willing to -- we have applied for 2:00 a.m.
5 and 3:00 a.m., which means 2:00 a.m. Sunday
6 through Thursday and 3:00 a.m. Friday and
7 Saturday.

8 Have you considered whether
9 changes might be made to that or should be
10 made to that to accommodate some of the
11 concerns that you have heard from neighbors?

12 MR. ORTIZ: We always consider
13 anything possible on the table, mostly when we
14 talking to neighbors. This case, we don't
15 know the area. We are investing really a lot
16 of money to make sure that this place
17 generates the revenue that the owners, really
18 the investors can get.

19 And we always open to that, but
20 the idea of the hours of operations was bring
21 up today, because we tried to make
22 negotiations before this.

1 MR. KLINE: Well, let's not talk
2 about negotiations.

3 MR. ORTIZ: Um-hum.

4 MR. KLINE: Let's talk about what
5 you are willing to do and what you believe you
6 need to make this restaurant successful if
7 those hours are less than the 2:00 a.m. and
8 the 3:00 a.m. that have been applied for.

9 MR. ORTIZ: Yes, I was looking to
10 having the outside at least until 1:00 in the
11 morning, which is actually the summer garden.
12 And 2:00 a.m. on the inside of the restaurant.
13 That's what we were looking for.

14 MR. KLINE: Okay. All right.
15 Now, do you make any differentiations between
16 3rd Street and Massachusetts Avenue in terms
17 of the outside seating area, in terms of what
18 you think might be done or should be done with
19 respect to the hours of operation of those
20 areas?

21 MR. ORTIZ: Certainly. It is.
22 And we were talking about 1:00 all the area

1 outside, but the ones for --

2 MEMBER SILVERSTEIN: Say that
3 again, please.

4 MR. ORTIZ: Pardon?

5 MEMBER SILVERSTEIN: Say that
6 again, please.

7 MR. ORTIZ: We were working on two
8 -- 1:00 in the morning on the outside seating
9 area. And we contemplating until midnight on
10 the seating area on the 3rd Street corner.

11 MR. KLINE: And midnight on 3rd
12 Street.

13 MR. ORTIZ: On 3rd Street, but --

14 MR. KLINE: And a different hour
15 on the Massachusetts side?

16 MR. ORTIZ: On Massachusetts until
17 1:00.

18 MR. KLINE: Okay. And why the
19 distinction in case anyone is confused about
20 that?

21 MR. ORTIZ: Because of the
22 neighbors. We want to make sure that, you

1 know, the neighbors -- we are trying to work
2 some with the neighbors, you know.

3 MR. KLINE: Okay. And what's the
4 difference in terms of the neighbors on
5 Massachusetts versus 3rd Street? Just so the
6 record is very clear.

7 MR. ORTIZ: Yes, it is housing
8 close to the enclosures on 3rd Street, but
9 there is nothing close to the side on the
10 Massachusetts Avenue. And when we talk about
11 the noise with the engineers and everybody,
12 experts that we talked to about, the wall --
13 the building itself will buffer the noise
14 towards the 3rd Street. That's the case, sir.

15 MR. KLINE: Now, towards the end,
16 towards the very end of Mr. Rehman's testimony
17 there was an exchange with Ms. Wirt, who is
18 here on behalf of the protestants, where it
19 was suggested that there may not be any
20 business at the later hours in the restaurant.

21 You were here for that exchange,
22 correct?

1 MR. ORTIZ: Yes, sir.

2 MR. KLINE: If that's true, what
3 will that mean with respect to your business
4 operations?

5 MR. ORTIZ: What it mean?

6 MR. KLINE: Will it stay open if
7 there is no business?

8 MR. ORTIZ: It's -- at this
9 moment, we are not opening the doors. We
10 can't tell you exactly how it is going to be,
11 but there's no business, of course, the hours
12 will be reduced automatically by chance,
13 because that also is part of the operation to
14 make sure of the cost, because payroll and
15 everything goes down.

16 So automatically our hours will be
17 cut down.

18 MR. KLINE: Now, with respect to
19 parking -- and for the record, we are not
20 conceding that that's an issue in this
21 proceeding, but it was raised by the
22 Investigator, so we will go ahead and address

1 it. It was not in the Protest Letter.

2 With respect to parking, have you
3 given any thought, have you and the ownership
4 given any thought as to how you might deal
5 with the parking in the neighborhood?

6 MR. ORTIZ: Since the beginning,
7 we were looking for a valet company. We
8 already have a valet company that will take
9 case of this. Then name is B-Tag or Tag-B
10 actually. Tag-B is the name of the company.
11 And we were talking to a couple of garages
12 that are there actually.

13 One of them is on the building
14 where we held ANC, The Legacy.

15 CHAIRPERSON MILLER: Heritage?

16 MR. ORTIZ: Heritage. Heritage
17 Building. They have a garage there. We were
18 talking to to see if we can get access to the
19 garage and they -- it's a really, really big
20 possibility that we can deliver.

21 MR. KLINE: And have you already
22 had discussions with representatives of that

1 building?

2 MR. ORTIZ: And we have -- the
3 valet parking people already can get, because
4 the partner has to go to the valet parking, so
5 that they get the license, not us.

6 MR. KLINE: All right. I
7 understand, but to your knowledge, have they
8 had --

9 MR. ORTIZ: Yes.

10 MR. KLINE: -- conversations.
11 Wait, let me finish the question, please.
12 Have they had conversations with
13 representatives of the Heritage Building about
14 your having access to the garage for valet
15 parking?

16 MR. ORTIZ: And not only that one,
17 but another one that is close that I can't
18 recall the name, as well. But, yes, they
19 have.

20 MR. KLINE: Okay. And that's
21 something you are actively exploring, at this
22 time?

1 MR. ORTIZ: Actively supporting as
2 well.

3 MR. KLINE: And there has also
4 been discussion about having a bike rack
5 located near the establishment?

6 MR. ORTIZ: Yeah, that was an idea
7 that came up from the same ANC. And I think
8 it was a great idea, because it looks like --
9 the patio looks like a garden. It would be
10 nice to have a bike rack, bike racks in there.

11 MR. KLINE: So you are agreeable
12 to installing those?

13 MR. ORTIZ: Correct.

14 MR. KLINE: And you plan to
15 install those?

16 MR. ORTIZ: Yes, we will.

17 MR. KLINE: I don't have any
18 further questions of the witness, at this
19 time. Thank you.

20 CHAIRPERSON MILLER: Okay. Ms.
21 Wirt?

22 MS. WIRT: Yes.

CROSS-EXAMINATION

1
2 MS. WIRT: How many seats are
3 there in the interior?

4 MR. ORTIZ: In interior seats,
5 there will be 60, as we applied for.

6 MS. WIRT: 60.

7 MR. ORTIZ: 60.

8 MEMBER ALBERTI: I'm sorry, what
9 was that? How many?

10 MR. ORTIZ: 60, 6-0.

11 MEMBER ALBERTI: 6-0.

12 MS. WIRT: Was there a building
13 permit taken out to increase the occupancy
14 from the existing 90 to -- this 90 seats and
15 90 occupancy load to 17 seats and 21 occupancy
16 load?

17 MR. ORTIZ: Correct. We lower
18 actually the occupancy that we have, that they
19 had before.

20 MS. WIRT: Okay. Then why did you
21 take out a permit to increase the occupancy?

22 MR. ORTIZ: We -- well, we take a

1 permit. This is problem. Let me explain to
2 you. This was a discrepancy what you are
3 saying and what we are saying.

4 We took the seats, what they
5 already had. Where we asked for more seats
6 was to get the garden, the enclosure garden on
7 3rd Street to add some more seats on that
8 garden, because they were not there before.

9 MS. WIRT: This very clearly says
10 interior alteration. It doesn't say --

11 MR. KLINE: Objection. I have no
12 idea what we are referring to.

13 MS. WIRT: I only have one copy.
14 If someone can make copies?

15 CHAIRPERSON MILLER: Oh, yeah.

16 MS. WIRT: That would be fine.

17 CHAIRPERSON MILLER: Well, yeah,
18 you need to show opposing counsel.

19 MS. WIRT: Okay. Up near the top.
20 While he is looking at that, there --

21 MEMBER ALBERTI: Wait, wait. One
22 thing at a time, Ms. Wirt.

1 MS. WIRT: All right.

2 MEMBER ALBERTI: We are a little
3 slow up here. I can't keep track.

4 CHAIRPERSON MILLER: Ms. Wirt, is
5 that document something that you identified in
6 your PIF and that you may be offering into
7 evidence?

8 MR. KLINE: Yeah, I haven't seen.
9 Yes, this is news to me, because it was not
10 mentioned on the PIF.

11 CHAIRPERSON MILLER: Well, you
12 described your exhibits very generally. Is
13 that --

14 MS. WIRT: Right. It's a building
15 permit sheet that shows a request for an
16 increase from 90 interior to 110 and 117. And
17 it doesn't jive with the 60 that they are
18 saying now.

19 MR. KLINE: We will object. It's
20 not -- there is only two exhibits listed on
21 the PIF and we would object in as much as they
22 were not disclosed on the PIF.

1 CHAIRPERSON MILLER: Okay. I have
2 to look at it. I can't really make any
3 judgment on it. Can I see it?

4 MS. WIRT: Can I submit this
5 today?

6 CHAIRPERSON MILLER: What?

7 MS. WIRT: Can I submit this
8 today?

9 MEMBER ALBERTI: Yes.

10 CHAIRPERSON MILLER: Well, he is
11 objecting, so I need to look at it to see
12 whether we will accept it. Do we have that
13 exhibit?

14 MEMBER ALBERTI: She has the only
15 copy.

16 CHAIRPERSON MILLER: You didn't
17 give any copies to our counsel or anything?

18 MS. WIRT: (No audible answer.)

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: Well, Ms. Wirt,
21 here's the deal, if you want to submit --

22 CHAIRPERSON MILLER: You will need

1 to make copies.

2 MEMBER ALBERTI: -- that as an
3 exhibit, proposing to submit it into evidence,
4 the Chair needs to see a copy. So if you
5 would give our -- Ms. Walker that, the Chair
6 will judge and if it comes into evidence, we
7 will get copies for everybody. But the Chair
8 will decide whether to accept it.

9 MR. KLINE: And at this point, I
10 have two objections. One is it hasn't been
11 identified or authenticated by any party. It
12 has come from protestants' table without any
13 identification. And second, it's not listed
14 on the Protest Information Form.

15 CHAIRPERSON MILLER: Okay.

16 MS. WIRT: Now, the exterior --

17 CHAIRPERSON MILLER: Wait a
18 second.

19 MEMBER ALBERTI: Whoa, whoa.

20 CHAIRPERSON MILLER: I haven't
21 ruled on this.

22 MEMBER ALBERTI: Remember one

1 thing at a time.

2 MS. WIRT: I thought you were
3 finished.

4 CHAIRPERSON MILLER: So this is a
5 building permit. It looks like a building
6 permit from DCRA that you have submitted that
7 you would like us to admit into evidence,
8 correct?

9 MEMBER ALBERTI: How did you
10 obtain this?

11 MS. WIRT: One of my constituents
12 went downtown to DCRA.

13 MEMBER ALBERTI: And so you were
14 told that it was submit -- it was retrieved
15 from --

16 MS. WIRT: DCRA.

17 MEMBER ALBERTI: A copy was
18 retrieved from DCRA files?

19 MS. WIRT: (No audible answer.)

20 MEMBER ALBERTI: Okay.

21 CHAIRPERSON MILLER: Okay. Well,
22 this looks like a public document, which we

1 usually admit unless there is some good reason
2 not to, which I don't really -- haven't really
3 heard. But I don't -- could you just -- okay.
4 You are offering it to address the question of
5 occupancy?

6 MS. WIRT: Right.

7 CHAIRPERSON MILLER: Okay. All
8 right. Well, I'm going to admit it then.

9 MEMBER ALBERTI: Should we get
10 copies of it?

11 CHAIRPERSON MILLER: Yeah.

12 MEMBER ALBERTI: Okay.

13 CHAIRPERSON MILLER: We need to
14 have copies made.

15 MEMBER ALBERTI: I'll have Ms.
16 Walker make copies.

17 CHAIRPERSON MILLER: As
18 Protestant's Exhibit No. 1, building permit.

19 (Whereupon, the document was
20 marked for identification as
21 Protestant Exhibit 1 and was
22 received in evidence.)

1 CHAIRPERSON MILLER: Okay. Now,
2 but if you are going to question him about it,
3 are you going to?

4 MS. WIRT: I have other questions
5 about occupancy.

6 CHAIRPERSON MILLER: Okay.
7 Because it is being copied. All right.

8 MS. WIRT: Extensions, we'll go to
9 extensions. What is the occupancy --

10 MEMBER SILVERSTEIN: Ms. Wirt,
11 please, speak up.

12 MS. WIRT: -- of --

13 CHAIRPERSON MILLER: Ms. Wirt?
14 Can you speak up?

15 MS. WIRT: I'm sorry, yeah.

16 CHAIRPERSON MILLER: A lot of
17 people have trouble hearing you.

18 MS. WIRT: What is the occupancy
19 of the southern most extension on 3rd Street?

20 MR. ORTIZ: 16.

21 MS. WIRT: 16. And what is the
22 occupancy of the northern most canopy-covered

1 extension?

2 CHAIRPERSON MILLER: I couldn't
3 hear that.

4 MS. WIRT: The canopy-covered
5 extension on the north side of 3rd Street, the
6 sidewalk.

7 MR. ORTIZ: 11.

8 MEMBER ALBERTI: Just for the
9 record, Exhibit 9 labels the latter outdoor
10 area as Outdoor Seating Area 1 and the former
11 area that you spoke of as Outdoor Seating 2.
12 Is that correct?

13 MS. WIRT: That's correct.

14 MEMBER ALBERTI: Okay.

15 MS. WIRT: Interior 60?

16 MR. ORTIZ: That's what it signed.
17 I talked last time was about.

18 MS. WIRT: 60. Okay.

19 MR. ORTIZ: I can't seat more than
20 60 people in this building.

21 CHAIRPERSON MILLER: I'm sorry, we
22 can't hear you. What are you saying?

1 MR. ORTIZ: Yeah, I said there is
2 no way that I can seat more than 60.

3 CHAIRPERSON MILLER: Okay.

4 MR. ORTIZ: In these two floors.

5 MS. WIRT: I would like to ask
6 about hours.

7 MR. ORTIZ: Yes, ma'am.

8 MS. WIRT: Mr. Kline asked you
9 what hours you would consider good hours that
10 would make -- would comply with what the
11 neighborhood wants and you said midnight on
12 3rd Street. Can you clarify that? Is that
13 midnight on Saturday/Sunday or is that --

14 MR. ORTIZ: Yeah, part of.

15 MS. WIRT: -- midnight --

16 MR. ORTIZ: Yes, you're right.

17 MS. WIRT: -- on weekdays?

18 MR. ORTIZ: We were talking about
19 on 3rd Street.

20 MS. WIRT: 3rd Street.

21 MR. ORTIZ: We were working about
22 on the weekdays until 11:00 and on the

1 weekends until midnight.

2 CHAIRPERSON MILLER: I'm sorry, I
3 can't hear that.

4 MS. WIRT: So Friday/Saturday.

5 CHAIRPERSON MILLER: Could you
6 speak louder?

7 MR. ORTIZ: On the weekends --

8 CHAIRPERSON MILLER: Yeah.

9 MR. ORTIZ: -- until midnight on
10 the 3rd Street and on the weekdays until 11:00
11 p.m.

12 CHAIRPERSON MILLER: Oh, okay.

13 MS. WIRT: And on the
14 Massachusetts Avenue side?

15 MR. ORTIZ: We're talking about
16 midnight on the weekdays and 1:00 a.m. on the
17 weekends.

18 MS. WIRT: And the interior is?

19 MR. ORTIZ: The interior, we would
20 like to keep full until 3:00 in the morning,
21 2:00 in the morning actually.

22 MS. WIRT: 2:00 in the morning on

1 Friday and Saturday and 1:00 --

2 MR. ORTIZ: Friday and Saturday
3 and 1:00 on weekdays.

4 MEMBER ALBERTI: Well, I missed
5 that. 1:00 for the interior?

6 MS. WIRT: On week --

7 MR. ORTIZ: On weekdays.

8 MEMBER ALBERTI: On weekdays,
9 okay.

10 MS. WIRT: I would like to talk
11 about the valet.

12 MR. ORTIZ: Yes, ma'am.

13 MS. WIRT: If you were going to a
14 restaurant on Capitol Hill and you had the
15 choice between paying a valet, tipping a valet
16 or parking in the residential streets, which
17 would you choose?

18 MR. KLINE: Objection. Calls for
19 speculation. We don't know what place we are
20 talking about, where we are going, when we are
21 going.

22 MS. WIRT: Okay. The 301

1 Restaurant --

2 CHAIRPERSON MILLER: Sustained.

3 MS. WIRT: -- and it's a Friday
4 night.

5 MR. KLINE: Same objection.

6 CHAIRPERSON MILLER: Sustained. I
7 mean, he doesn't have any particular expertise
8 in that.

9 MR. KLINE: She can argue it, but
10 I don't -- my objection is to asking him a
11 question of which would he prefer. I'm not
12 sure it's terribly relevant.

13 MS. WIRT: I think it is relevant,
14 because most people would prefer to try and
15 park themselves and not use the valet, so the
16 valet is not terribly helpful to our parking
17 problem.

18 MR. KLINE: Well, I would always
19 prefer to valet if we are all going to
20 testify.

21 CHAIRPERSON MILLER: No, right.
22 He doesn't have any particular expertise in

1 that question, so --

2 MS. WIRT: Can you tell me with
3 whom this valet company has been?

4 CHAIRPERSON MILLER: Can you speak
5 up, Ms. Wirt?

6 MS. WIRT: Can you tell me with
7 whom the valet company has been talking about
8 parking space?

9 MR. ORTIZ: I don't know the name
10 of the person they have been talking to.

11 MS. WIRT: Okay. You said someone
12 at Heritage?

13 MR. ORTIZ: They are -- Tag-B is
14 the company. They are talking directly to
15 them, not me. So they are the one engaging
16 people in those places.

17 CHAIRPERSON MILLER: Who is Tag?
18 What?

19 MR. ORTIZ: Tag-B.

20 CHAIRPERSON MILLER: Tag-B?

21 MR. ORTIZ: T-A-G dash B.

22 CHAIRPERSON MILLER: Okay.

1 MS. WIRT: I also have some
2 questions about -- one question about taxes
3 and rent.

4 CHAIRPERSON MILLER: Taxes and
5 what?

6 MS. WIRT: Taxes and rent.

7 CHAIRPERSON MILLER: Taxes and
8 what?

9 MS. WIRT: Taxes and rent.

10 CHAIRPERSON MILLER: Rent, okay.

11 MS. WIRT: Were you involved in
12 any of the operations at Fur?

13 MR. ORTIZ: No, ma'am.

14 MS. WIRT: But you are an
15 operations partner?

16 MR. ORTIZ: I --

17 MEMBER SILVERSTEIN: Say again,
18 please.

19 MS. WIRT: You are an operations
20 partner. Is that right?

21 MR. ORTIZ: Yes, I specify to you
22 came three years and a half ago to open Dirty

1 Martini and I ventured with him again opening
2 Romeo & Juliet.

3 MS. WIRT: Well, then who can
4 answer a question I have about taxes and rent
5 for Fur?

6 MR. KLINE: Objection.
7 Argumentative and irrelevant.

8 CHAIRPERSON MILLER: Yes, what is
9 the relevance of --

10 MS. WIRT: The relevance is --

11 CHAIRPERSON MILLER: -- Fur?

12 MS. WIRT: -- there is an ABRA
13 Code that states that the Board shall not
14 issue a license or a permit to an applicant if
15 the applicant has failed to file required
16 District Tax Returns or owes more than \$100 in
17 outstanding debt to the District. When Fur
18 closed and owed \$133,000 in back rent and
19 taxes. And it is submitted as an exhibit.

20 CHAIRPERSON MILLER: Well, the--

21 MR. KLINE: Objection to the
22 submission of exhibits that are not on the

1 PIF. I mean, if we are going to have PIFs and
2 I have been held to them before, I don't
3 understand why protestants are not held to
4 them, just like I have been before this Board
5 in the past.

6 And second, in terms of taxes
7 being owed in some other applicant that's not
8 before the Board, this is completely
9 irrelevant and prejudicial.

10 MS. WIRT: I believe that Fur is
11 owned by Mr. Rehman or was owned by Mr.
12 Rehman.

13 CHAIRPERSON MILLER: You have Mr.
14 Ortiz on the stand right now. Does Mr. Ortiz
15 have any connection to Fur?

16 MR. ORTIZ: No, ma'am.

17 CHAIRPERSON MILLER: Okay. So I
18 don't see any connection here.

19 MS. WIRT: Well --

20 AUDIENCE MEMBER: We can't hear.

21 CHAIRPERSON MILLER: You can't
22 hear me?

1 AUDIENCE MEMBER: No.

2 CHAIRPERSON MILLER: Is it off?

3 Mine says its on.

4 MEMBER ALBERTI: It's on. I can
5 see direct green light. It's on.

6 CHAIRPERSON MILLER: I said that
7 Mr. Ortiz said that he doesn't have any
8 connection to Fur.

9 MS. WIRT: All right. But I don't
10 see it as irrelevant.

11 CHAIRPERSON MILLER: So he is the
12 witness on the stand, so you need to be
13 questioning him with respect to his knowledge
14 and connection.

15 MS. WIRT: So I'll ask Mr. Kline
16 the question at some point.

17 MR. KLINE: I'm not getting on the
18 stand, so I won't be answering any questions.

19 MS. WIRT: So in other words, the
20 Board has a rule that says that no license
21 shall be issued if an applicant owes \$100 in
22 taxes. And this company, this outfit that

1 owns Fur and other companies owes a lot in
2 taxes. So why are they being issued a permit?
3 Why are they getting a permit?

4 CHAIRPERSON MILLER: The Board has
5 not issued a license yet, so if you -- you can
6 make your arguments in this case. What I said
7 was you can't ask this witness that
8 information, because --

9 MS. WIRT: All right.

10 CHAIRPERSON MILLER: -- he has no
11 connection as far as he has stated.

12 MS. WIRT: So you are operations
13 manager, but you had nothing to do with Fur?

14 MR. ORTIZ: No, ma'am.

15 MR. KLINE: Objection. Asked and
16 answered a couple of times.

17 CHAIRPERSON MILLER: Overruled. I
18 didn't hear it before.

19 MS. WIRT: It is on. It is on.
20 She pulled it closer.

21 MEMBER ALBERTI: So what was the
22 answer? Because the question still stands

1 what was the answer?

2 MR. KLINE: There was an
3 objection.

4 MEMBER ALBERTI: Would you repeat
5 your question? Wait. Ms. Wirt, would you,
6 please, repeat your question for my sake?

7 MS. WIRT: Did you have an
8 operational role with -- at Fur?

9 MR. ORTIZ: No.

10 MEMBER ALBERTI: Thank you.

11 MS. WIRT: Do you know who was the
12 operator or who was the manager who operated
13 there?

14 MR. ORTIZ: No, ma'am.

15 MS. WIRT: Was it Mr. Diego
16 Segueira?

17 MR. ORTIZ: I have no knowledge of
18 that, ma'am.

19 MS. WIRT: No more questions.

20 CHAIRPERSON MILLER: Okay. Are
21 there Board questions?

22 MEMBER ALBERTI: Yes.

1 CHAIRPERSON MILLER: Okay. Mr.
2 Alberti?

3 MEMBER ALBERTI: Okay. Let's
4 start with occupancy, since that came up.
5 Okay. When you answered the question about --
6 you answered Ms. Wirt's question about how
7 many seats on the interior and you said that
8 you, right now, are planning on 60. Is that
9 correct?

10 MR. ORTIZ: That's correct, sir.

11 MEMBER ALBERTI: Okay. All right.
12 Is there a difference in your interpretation
13 between seats and total occupancy?

14 MR. ORTIZ: I believe so.

15 MEMBER ALBERTI: All right. Do
16 you know what the total occupancy would be on
17 the interior? If you don't, that's fine.

18 MR. ORTIZ: I have no clue.

19 MEMBER ALBERTI: Okay. Okay. How
20 many seats -- well, I'm going to break this
21 down. How many seats do you anticipate on the
22 first floor?

1 MR. ORTIZ: On the first floor, I
2 anticipate 40.

3 MEMBER ALBERTI: How many?

4 MR. ORTIZ: 40.

5 MEMBER ALBERTI: 40?

6 MR. ORTIZ: 4-0.

7 MEMBER ALBERTI: Second floor?

8 MR. ORTIZ: 20 total.

9 MEMBER ALBERTI: Third floor?

10 MR. ORTIZ: Is not on our
11 participation, because the third -- may I
12 explain? The third floor if we ever have a
13 table, the third floor is going to be like a
14 dining table for eight people, at the most.
15 Like one private table, that's all the space
16 there is on the third floor.

17 MEMBER ALBERTI: Right. But it
18 exists, so how do you plan to use the third
19 floor?

20 MR. ORTIZ: And that's what I'm
21 saying, look -- if you look at the space, with
22 the third floor I was counting 66, but I only

1 had two floors to work with.

2 MEMBER ALBERTI: Did you plan to
3 use the third floor --

4 MR. ORTIZ: In the future, yes.

5 MEMBER ALBERTI: -- on a daily
6 basis?

7 MR. ORTIZ: In the future, yes.
8 If the business there.

9 MEMBER ALBERTI: Okay. Okay. All
10 right. So we are now up to 66 seats?

11 MR. ORTIZ: I believe so, sir.

12 MEMBER ALBERTI: Okay. Okay. All
13 right. Just so I know. If I understand it
14 then you have -- the seating that you just
15 spoke of, does that include the Enclosed
16 Outdoor Seating 1 and Enclosed Outdoor Seating
17 2 or is that separate seating?

18 MR. ORTIZ: Includes Indoor
19 Seating 1. The one that is closest -- the
20 Enclosure 1. The only one --

21 MEMBER ALBERTI: And for Seating
22 2?

1 MR. ORTIZ: No, it doesn't include
2 it, because that's really outside. It's not--
3 enclosure is outside.

4 MEMBER ALBERTI: Okay. So that
5 would be an additional 17 seats, correct?

6 MR. ORTIZ: Six -- sixteen, I
7 remember.

8 MEMBER ALBERTI: Okay. 16, okay.
9 All right. So on the unenclosed area, we have
10 142 seats, correct?

11 MR. ORTIZ: That's correct.

12 MEMBER ALBERTI: You have 11 seats
13 in Outdoor Seating Area 1 and 16 seats in
14 Outdoor Seating Area 2. Is that correct?

15 MR. ORTIZ: Correct.

16 MEMBER ALBERTI: Okay. Now, I'm a
17 little curious here. And you are the
18 operations guy, so help me out, I'm the
19 layperson. You've got a kitchen on the second
20 floor. How is that going to work in terms of
21 flow of delivering food to patrons? Because,
22 you know, I mean, you've got to understand

1 what I'm asking.

2 You've got -- you have over 160
3 seats on the ground. Well, with the interior,
4 you probably have close to 200 seats on the
5 first floor between the outside and the
6 inside. At least 175. How is that flow going
7 to work.

8 MR. ORTIZ: There is -- well, if
9 you see on there, the two plans, the main
10 kitchen expanded is up on the second floor.
11 But the first kitchen is taking the low on
12 what we called the peak side station, which is
13 located beside the bar, as we mentioned on the
14 first floor.

15 MEMBER ALBERTI: Now, whoa, wait,
16 wait, wait. Let me get my stuff out here.

17 MR. ORTIZ: Yes, sir.

18 MEMBER ALBERTI: All right. So
19 where is there a kitchen on the first floor?

20 MR. ORTIZ: Right beside the bar.
21 You see a little stand there, that's a kitchen
22 oven with a station.

1 MEMBER ALBERTI: I don't see it at
2 all.

3 MR. ORTIZ: It hasn't been
4 highlighted, but it's a little square that is
5 behind the bar, not behind, beside the bar on
6 the very back.

7 MEMBER ALBERTI: But that's -- how
8 big is that?

9 MR. ORTIZ: It is actually 4 x two
10 decks. It's very small place, tapas plates,
11 small plates.

12 MEMBER ALBERTI: 4 x what?

13 MR. ORTIZ: It's a 4 -- it's a
14 three layer for food, wine, but it has three
15 decks oven.

16 MEMBER ALBERTI: Oh, oh, ovens.
17 Okay.

18 MR. ORTIZ: Yes, ovens.

19 MEMBER ALBERTI: Okay. Okay.

20 MR. ORTIZ: Not a furnace.

21 MEMBER ALBERTI: So who would --
22 so explain to me how the food gets there.

1 MR. ORTIZ: Okay.

2 MEMBER ALBERTI: I mean, you've
3 got your prep area and everything up in the
4 kitchen. And now you have got these ovens
5 here. How does the operation --

6 MR. ORTIZ: Okay.

7 MEMBER ALBERTI: School me.

8 MR. ORTIZ: The operations --

9 MEMBER ALBERTI: Tell me how this
10 is going to work.

11 MR. ORTIZ: The idea is mostly
12 because we have tapas.

13 MEMBER ALBERTI: Um-hum.

14 MR. ORTIZ: Tapas means small
15 plates.

16 MEMBER ALBERTI: Yes.

17 MR. ORTIZ: Then you go to build
18 the menu and we get a consultant, a chef
19 consultant to help us out with the menu at the
20 facility of how we can run food.

21 On the second floor we have all
22 the preparation. Yet on the first floor, we

1 have our main station that will supply a lot
2 of the tapas that will take the load from the
3 second floor kitchen.

4 We are -- as you can see the
5 stairways that we added, they are wide enough
6 to make sure the traffic is consistent onto
7 the two floors. What we expect and part of me
8 I expect more business than that, what we
9 expect is like at least one -- 20 percent of
10 the year to have the right conditions outside
11 when we become really full, which is 20
12 percent of the year only, where we can bring
13 food outside.

14 We don't expect to be sitting
15 inside because everybody wants to be outside
16 when the weather is beautiful outside and vice
17 versa. When it is cold out, we don't have
18 nobody outside, so we lose all the majority
19 seating, but therefore it's what we have the
20 enclosure to add a little more seating to the
21 operations to become a real business, a
22 profitable business.

1 MEMBER ALBERTI: Okay. I think I
2 understand. Just out of curiosity, how many
3 patrons do you think would kind of overload
4 you, so that your service would be
5 unacceptably slow?

6 MR. ORTIZ: In a place like that--

7 MEMBER ALBERTI: I know it --

8 MR. ORTIZ: -- with all the food--

9 MEMBER ALBERTI: -- asks you to
10 speculate, but, yeah.

11 MR. ORTIZ: Okay. Fine. In a
12 place like that with the food conditions,
13 weather nice using the patio outside, I
14 believe like I can cover a night a maximum of
15 300 covers. I'm talking about the floor. And
16 why I tell you this was because --

17 MEMBER ALBERTI: I understand.
18 300 through the whole night?

19 MR. ORTIZ: Through the whole
20 night, of course.

21 MEMBER ALBERTI: Okay. Gotcha.

22 MR. ORTIZ: And what I believe was

1 because in Jaleo I was able to do 500.
2 Zaytinya, of course, bigger kitchen, number
3 one, but bigger restaurants as well, we were
4 able to do 700 covers with tapas-style food.
5 Fast cooking, food doesn't take that long when
6 they are ordering, but fast in coming out,
7 fast in coming for preparation, preparation
8 coming out and having the right stuff like
9 cooks, burners, everything and that's why they
10 come into operation.

11 MEMBER ALBERTI: Okay. Thank you.
12 That's helpful. It gives me some idea.
13 Great. Thank you. Is there going to be
14 piped-in music on the interior? We have like
15 back -- will you have any music, speakers and
16 music being played on the interior?

17 MR. ORTIZ: We supposed to use an
18 iPod, which we will use an iPod like Italian
19 music that plays.

20 MEMBER ALBERTI: Will you have
21 speakers on the inside? Do you have a sound
22 system on the inside?

1 MR. ORTIZ: We will have a speaker
2 sound system.

3 MEMBER ALBERTI: I'm not asking
4 about who is operating it, how it is --

5 MR. ORTIZ: No, no, I --

6 MEMBER ALBERTI: -- being
7 operated. I don't want to get into that.

8 MR. ORTIZ: We will have --

9 MEMBER ALBERTI: You don't have an
10 entertainment endorsement, I understand, but
11 you will have a sound system.

12 MR. ORTIZ: I think so. Yes, sir.

13 MEMBER ALBERTI: Do you know what
14 it is going to look like?

15 MR. ORTIZ: Right now, the --

16 MEMBER ALBERTI: Can you describe
17 it at all?

18 MR. ORTIZ: It's not even visible
19 actually. It's only a couple of speakers on
20 each floor coming out of the ceiling connected
21 to a main --

22 MEMBER ALBERTI: Okay.

1 MR. ORTIZ: -- system.

2 MEMBER ALBERTI: Do you anticipate
3 having music being played on the exterior at
4 all in the unenclosed portions, including
5 Outdoor Seating Area 1?

6 MR. ORTIZ: I wasn't -- there is
7 no layout right now for outdoor.

8 MEMBER ALBERTI: Pardon?

9 MR. ORTIZ: There is no layout
10 that I have this cost -- I was telling you
11 what I have these costs with the other owners
12 and architect. We have not put anything
13 outside.

14 MEMBER ALBERTI: So there is no --
15 currently --

16 MR. ORTIZ: Currently nothing
17 outside.

18 MEMBER ALBERTI: -- there is no
19 chance of speakers outside?

20 MR. ORTIZ: Nothing outside, no.

21 MEMBER ALBERTI: Okay. Okay.
22 Okay. Now, I have looked at your application

1 and I noted that for all areas the application
2 requests full legal hours, but you are here
3 telling us that as far as you know, the owner
4 would be willing to alter those hours. Is
5 that correct?

6 MR. ORTIZ: That's correct.

7 MEMBER ALBERTI: Okay. And just
8 so I'm clear, we have on the interior, not to
9 any of the outdoor seating areas, we're
10 talking about 2:00 a.m. weekdays and 1:00 a.m.
11 -- 2:00 a.m. weekends and 1:00 a.m. weekdays?

12 MR. ORTIZ: Correct.

13 MEMBER ALBERTI: Okay. I know you
14 can't speak for the owner, you are just
15 conveying what you think the owner will -- I
16 understand that.

17 MR. KLINE: I can in matters --

18 MEMBER ALBERTI: I don't want to
19 make people nervous.

20 MR. KLINE: -- acceptable to the
21 owner.

22 MEMBER ALBERTI: Right. Okay. So

1 that's a representation?

2 MR. KLINE: That's a
3 representation.

4 MEMBER ALBERTI: Okay. Great.

5 MR. KLINE: On the record.

6 MEMBER ALBERTI: And the
7 unenclosed outdoor area would be 1:00 a.m.
8 weekends and 12:00 a.m. weekdays. Is that
9 correct?

10 MR. ORTIZ: Correct.

11 MEMBER ALBERTI: Okay. And that
12 would include the sort of partially Enclosed
13 Outdoor Seating Area 1. Is that correct?

14 MR. ORTIZ: That's correct.

15 MEMBER ALBERTI: All right. And
16 the Outdoor Seating Area 2 would have the same
17 hours as the interior, correct?

18 MR. ORTIZ: Right.

19 MEMBER ALBERTI: All right. I
20 don't think I have any other questions. Mr.
21 Ortiz, thank you.

22 MR. ORTIZ: You're welcome.

1 CHAIRPERSON MILLER: Other Board
2 Members? Mr. Jones?

3 MEMBER JONES: Thank you, Madam
4 Chair. You indicated that you were an
5 employee or will be an employee -- are you
6 currently an employee of the LLC associated
7 with this license or this application?

8 MR. ORTIZ: Yes, I'm Director of
9 Operations right now for this license, yes.
10 I've been behind all the planning with the
11 food, operation.

12 MEMBER JONES: Okay. How long
13 have you been an employee?

14 MR. ORTIZ: I been working with
15 Dirty Martini.

16 MEMBER JONES: How long have you
17 been an employee of this LLC? If I understand
18 correctly, this is a different LLC.

19 MR. ORTIZ: It is.

20 MEMBER JONES: Okay. How long
21 have you been an employee of this LLC?

22 MR. ORTIZ: Since nine months ago

1 when the task came onto my hands.

2 MEMBER JONES: Nine months ago,
3 okay. Are you affiliated or are you working
4 with any other LLC upon -- over which or a
5 part of which or includes or involves Mr.
6 Rehman?

7 MR. ORTIZ: Yes.

8 MEMBER JONES: You are. Okay.
9 What organization?

10 MR. ORTIZ: Dirty Martini.

11 MEMBER JONES: Dirty Martini.
12 Okay. So you are an employee of both the LLC
13 with Dirty Martini and the LLC associated with
14 this?

15 MR. ORTIZ: Correct.

16 MEMBER JONES: Okay. What is the
17 nature of your relationship as it spans those
18 two? Are you a full-time employee of both?
19 Do you have two full-time jobs? Are you going
20 to continue to work at Dirty Martini until
21 this place is fully up and operational and
22 then you are going to stop working at Dirty

1 Martini and work full-time at this location?
2 Just trying to get an understanding. You are
3 only one person and this is a start-up
4 activity, a new restaurant, so I'm trying to
5 understand where your mind is really going to
6 be.

7 MR. ORTIZ: Yes, the new -- and
8 the answer to that is the new product. Like
9 any person like I do, I take full
10 responsibility for the new project that comes
11 along until it is fully running. And then I
12 go put in a little box and operate the venues
13 that I'm in charge of.

14 But at the beginning, all the
15 operations under one, they go there to make
16 sure everything works, everything is in place,
17 make sure we giving the right food, the right
18 customer service and so forth.

19 MEMBER JONES: Are you going to be
20 working as a full-time employee at Romeo &
21 Juliet?

22 MR. ORTIZ: Yes.

1 MEMBER JONES: Okay. Will you not
2 be working as an employee at all at Dirty
3 Martini?

4 MR. ORTIZ: I will continue
5 getting salary from Dirty Martini. So, yes,
6 I'll be continue overlooking the operations to
7 the GM up there.

8 MEMBER JONES: Okay. You
9 mentioned that there was a part of your
10 understanding that you would become an owner
11 of Romeo & Juliet at some point.

12 MR. ORTIZ: Correct.

13 MEMBER JONES: What is that
14 trigger?

15 MR. ORTIZ: It's about
16 performance.

17 MEMBER JONES: What is it your --
18 what is the performance measure upon which you
19 would make that decision or upon which the
20 decision would be made?

21 MR. ORTIZ: The performance right
22 now is build onto -- into the amount of money

1 that we can bring into the venue. But that
2 performance will be -- and that's why I'm not
3 an owner yet, because that performance would
4 be attributed to the first three months of the
5 venue. Thereafter, we can show exactly what
6 I want for that.

7 Because we don't know exactly what
8 is going to happen, so I cannot talk about
9 specific numbers right now.

10 MEMBER JONES: Okay. So I'm not
11 necessarily looking for what the specific
12 regular revenue projections are.

13 MR. ORTIZ: Um-hum.

14 MEMBER JONES: I understand that
15 it is not operating. I want to understand
16 what you understand to be the nature of your
17 contract or relationship with the owners of
18 this establishment, whereby you would become
19 an owner.

20 MR. ORTIZ: Yes.

21 MEMBER JONES: You said it's based
22 on performance.

1 MR. ORTIZ: It is.

2 MEMBER JONES: So do you have any
3 idea at what point you would become an owner?

4 MR. ORTIZ: I believe for what I
5 have --

6 MEMBER JONES: I can't hear you.
7 Can you speak up?

8 MR. ORTIZ: I know and believe
9 that for what I have accomplished before, I be
10 part of this company in no longer than six
11 months after we open.

12 MEMBER JONES: Why?

13 MR. ORTIZ: Because my background
14 and also places that have worked with them,
15 they are pleased with what I do for them. So
16 I know they will be pleased in this place as
17 well for what I do for them.

18 MEMBER JONES: So you don't have
19 any quantifiable measure as to when. So Mr.
20 Rehman technically could move that bar to the
21 right and he could keep telling you that oh,
22 it's not good enough for me, you need to do

1 more, through perpetuity and you would have no
2 recourse to address that. Is that what I'm
3 hearing from you?

4 MR. ORTIZ: Our future partnership
5 is on totally me operating the venue. If he
6 raise that part of it, I can walk away any
7 time. In the city, I can work with anybody in
8 the city. So the only reason I'm with Michael
9 is because I can be a partner in the near
10 future, something the other companies don't
11 offer.

12 MEMBER JONES: Did you operate
13 under the same relationship or same construct
14 with Dirty Martini?

15 MR. ORTIZ: No.

16 MEMBER JONES: No? Okay. Have
17 you ever operated and ran an establishment in
18 the manner in which you are being put forward
19 to us as operating Romeo & Juliet?

20 MR. ORTIZ: Will you repeat the
21 question, please?

22 MEMBER JONES: Have you ever ran

1 an establishment in the manner and capacity in
2 which you would be running Romeo & Juliet in
3 a different venue?

4 MR. ORTIZ: Yes.

5 MEMBER JONES: Yes. What venue
6 was that?

7 MR. ORTIZ: Three, by the way.
8 Jaleo, Zaytinya and Cafe Atlantico.

9 MEMBER JONES: Okay. So you were
10 the general manager or operations manager?

11 MR. ORTIZ: I was the opening
12 manager for the places. At that time, that
13 was the title I was given. Manager that were
14 used from place-to-place to open new venues.
15 It was, if I recall, like about 15 years ago.

16 MEMBER JONES: Okay. So you're
17 saying, if I heard you correctly, an open
18 manager, O-P-E-N?

19 MR. ORTIZ: Yes, exactly.

20 MEMBER JONES: Okay. But that's
21 not what your role is here. Your role here,
22 as I understand it, is bigger than just

1 opening it. You will be the sustainable
2 operations point of contact and person
3 responsible for the ongoing operations of this
4 establishment?

5 MR. ORTIZ: Correct.

6 MEMBER JONES: Correct.

7 MEMBER JONES: Correct, okay. So
8 have you had that role in any other venue or
9 have you typically been a consultant, an open
10 manager, as you described it? I'm trying to--
11 I don't -- I understand that your background
12 is as a planner.

13 MR. ORTIZ: Um-hum.

14 MEMBER JONES: But I don't
15 understand your background as an operator. So
16 I'm trying to get field background on that
17 background as an operator.

18 MR. ORTIZ: Okay. The first Jaleo
19 that we opened, I was the full operator of the
20 restaurant, that restaurant. And that's why
21 I was promoted to be on the other buildings as
22 well for opening.

1 The other place also is --
2 recently is Dirty Martini. Actually, I kind
3 of built Dirty Martini.

4 MEMBER JONES: So right there, as
5 far as Dirty Martini is concerned, you are the
6 operations manager?

7 MR. ORTIZ: Correct.

8 MEMBER JONES: And you have been
9 since it has opened?

10 MR. ORTIZ: Yes, sir.

11 MEMBER JONES: Okay. But you only
12 run the restaurant portion of that?

13 MR. ORTIZ: Correct.

14 MEMBER JONES: Okay. How do you
15 segregate, how do you keep the -- how do you
16 keep it separated?

17 MR. ORTIZ: You see, actually our
18 process systems are easy to defer, so we have
19 a platform that defers what is there and then
20 we have monitors on the floor. They are
21 actually directed by Mike or they carry that
22 part, so the numbers come together at the end

1 of the night, but separate during the daytime.

2 So that way we can keep the costs
3 and also managing also scheduling separate and
4 then the closing date.

5 MEMBER JONES: How does Dirty
6 Martini compare to the nature of the
7 operations that you would be responsible for
8 at this location? So you are responsible for
9 certain operations at Dirty Martini. How
10 would those -- how would that compare to what
11 you would expect to be doing at Romeo &
12 Juliet?

13 MR. ORTIZ: Well, to tell you my
14 expertise would be equal or lesser because
15 Dirty Martini itself is more like a bigger
16 monster venue than Romeo & Juliet is.

17 MEMBER JONES: Can you give me
18 some relative perspective? Assume I'm
19 ignorant, which I am, how is it that they are
20 different?

21 MR. ORTIZ: The difference is that
22 mostly Romeo & Juliet will be a small building

1 really running through the whole year about 20
2 percent of the time when the outside is
3 available for people. But most of the time
4 will be only a small restaurant to run. And
5 therefore, it makes it easier to operate.

6 MEMBER JONES: Okay. How much
7 smaller?

8 MR. ORTIZ: At least 40 percent
9 smaller with Dirty Martini.

10 MEMBER JONES: So 40 percent
11 smaller. Okay. So this will be an easier
12 process for you than --

13 MR. ORTIZ: Correct.

14 MEMBER JONES: -- Dirty Martini?

15 MR. ORTIZ: Correct.

16 MEMBER JONES: Just because of the
17 size. Okay. As far as the operations, have
18 you done any revenue-type of projections? And
19 I don't need to know the numbers, that's not
20 why I'm asking the question. I'm just trying
21 to get a feel for a different sense of how the
22 hours comes into play in terms of your

1 projections.

2 MR. ORTIZ: Yes. Right now, as I
3 said before, projects are there, operations
4 are only mostly based on the cost, not based
5 on the revenue itself. So what we're looking
6 for is like any other restaurant, that's they
7 open the first three months and see exactly
8 how the sales can be balanced and put into the
9 cost action.

10 There is no number based on sales,
11 but a number based on cost that we are going
12 to have. So we already know how much our
13 payroll is going to be, how much our rent, how
14 much our taxes, how much the extra bills will
15 come with the utilities and some extras added
16 to the cost of operations.

17 MEMBER JONES: Okay. What types
18 of food service would you be having after
19 10:00?

20 MR. ORTIZ: We are trying to go
21 all the way until midnight with still tapas-
22 style restaurant. So it's not going to be a

1 different schedule from early until late
2 night. And I'm talking about evenings. When
3 we are talking about lunch, that's different.
4 That's a different menu. Talking about
5 brunch, that's a different menu.

6 And when we talk about dinner,
7 there is no different extension of hours.
8 There is no like other place to have late --
9 no, it's dinner all the way and it start with
10 dinner and it ends with it.

11 MEMBER JONES: What time does
12 dinner start?

13 MR. ORTIZ: Dinner will start at
14 4:00, because of the way the building is setup
15 in the area.

16 MEMBER JONES: Okay. So from 4:00
17 until closing or until 12:00 or 4:00 until
18 closing you will have?

19 MR. ORTIZ: We will have food.

20 MEMBER JONES: The menu?

21 MR. ORTIZ: We have food on there.

22 MEMBER JONES: You have a full

1 dinner menu from 4:00 until --

2 MR. ORTIZ: We have a full dinner
3 menu because it's easy tapas. So there is no
4 different schedule from -- a small menu from
5 that. People will pick out the same food
6 anyway.

7 MEMBER JONES: No, I just wanted
8 to make sure I understood you correctly. So
9 what would be the impact based on your
10 anticipated revenue of not being able to have
11 the late night hours? I would consider those
12 to be anything after 12:00, from my individual
13 Board Member perspective.

14 MR. ORTIZ: Okay. That's
15 something that I cannot comment on and that's
16 why we want to go there open and see what is
17 there. We look at the other places that are
18 there and tell you truth, nobody has the same
19 style. Some people go later. Some people go
20 earlier. Nobody does the concept that we have
21 to begin with, so we don't have a real idea
22 exactly what is going to happen with the

1 hours.

2 What we expect is to accommodate
3 our hours of operation according to the needs,
4 because a restaurant apparently will be with
5 the staff in the kitchen mostly when you're
6 serving food, then you need to cut hours
7 according to the needs, you know, or you
8 increase hours according to the sales that you
9 have.

10 MEMBER JONES: Understood. So
11 those are business drivers and I get that and
12 I appreciate that and I also understand the
13 desire to want as much flexibility as a
14 business owner as you could possibly have as
15 the law would allow. So I get that concept.

16 But that's not what I'm asking.
17 I'm just trying to understand, do you have a
18 feel, have you done any assessment as to what
19 the impact would be to your revenue if you
20 were not able to operate after 12:00?

21 MR. ORTIZ: I believe, yes.

22 MEMBER JONES: Yes, okay. What

1 would be that -- would that impact be? It
2 wouldn't even be -- I'm just -- would it not
3 even make sense to open up this establishment
4 if you couldn't or not allowed or were not
5 able to have dinner?

6 MR. ORTIZ: If I don't stay open
7 until 12:00 and that's why we are here today,
8 it seems like we -- I failing in front of my--
9 the investors, because I can offer a real
10 money to the -- what we can do there if we
11 don't have the sales.

12 MEMBER JONES: Say that again one
13 more time. I think I missed something very
14 important.

15 MR. ORTIZ: Yes. At this moment,
16 it will be referred to me to talk to the
17 investors and tell them they will do well
18 opening only until midnight. I think we need
19 an extra hour there to make sure the extra
20 revenue that comes in a daily basis help us
21 out and to pay the bills and create some
22 revenue.

1 MEMBER JONES: Okay. So well is a
2 relative term. So would you be able to open
3 and operate this establishment and make a
4 profit in the sense that your investors will
5 be pleased or you are saying no, it wouldn't
6 make any sense to open because my investors
7 aren't getting the identified or desired rate
8 of return on their investment?

9 MR. ORTIZ: As a consultant, I can
10 expect a consultant to say -- I haven't for a
11 while. My take on that is we -- I also would
12 encourage the owner to go for the maximum
13 hours then to give us the flexibility that we
14 need.

15 MEMBER JONES: I understood that.
16 But if you -- it sounds like you are saying
17 the answer is no, you haven't looked into
18 this. You are just telling me that --

19 MR. ORTIZ: It is.

20 MEMBER JONES: -- if you don't
21 have the hours or don't get the hours, then it
22 wouldn't be any point in opening up this

1 restaurant. Is that -- from an operations
2 consultant standpoint, is that what you are
3 trying to say?

4 MR. ORTIZ: As to the pressures, I
5 would say yes.

6 MEMBER JONES: Okay.

7 MR. ORTIZ: The answer is yes.

8 MEMBER JONES: You can't have the
9 what?

10 MR. ORTIZ: As a consultant, I
11 would say yes. Operationally, I would say--

12 MEMBER JONES: Okay. As a
13 consultant you say yes. As a general manager,
14 what would you say?

15 MR. ORTIZ: I would say the same
16 thing, yes.

17 MEMBER JONES: Yes. And as a
18 future owner, would you say the same thing?

19 MR. ORTIZ: Yes.

20 MEMBER JONES: Okay. All right.
21 Thanks. I'm done.

22 CHAIRPERSON MILLER: Others?

1 Okay. I just want to clarify what you just
2 said to Mr. Jones.

3 Did you say that if your hours
4 were limited to 12:00 p.m., I guess any day,
5 you wouldn't recommend the restaurant opening?

6 MR. ORTIZ: Not if the inside
7 hours are cut to 12:00.

8 CHAIRPERSON MILLER: Oh, not the
9 inside hours.

10 MR. ORTIZ: We are talking about
11 the inside because that's the space that I
12 need the more hours.

13 CHAIRPERSON MILLER: Okay. On the
14 outside hours, I also want to get a
15 clarification. You had said something like
16 though the applicant asked for full hours,
17 they would be willing to cut back to 1:00 on
18 the Massachusetts side and midnight on 3rd
19 Street?

20 MR. ORTIZ: Yes.

21 CHAIRPERSON MILLER: Is that
22 Monday through -- Sunday through Saturday or

1 is that different?

2 MR. ORTIZ: That's the weekends.

3 CHAIRPERSON MILLER: That's the
4 weekends. Okay. And what was the weekday?

5 MR. ORTIZ: The weekdays was
6 midnight on Massachusetts Avenue and 11:00 on
7 the 3rd Street corner.

8 CHAIRPERSON MILLER: Okay. Thank
9 you. This might be apples and oranges, but
10 I'm just going to ask anyway. Okay. Since
11 you had a part in running Jaleo and Zaytinya
12 and they both have outdoor seatings, do you
13 have any recollection as to how much of the
14 business was after 1:00 or after 12:00?

15 MR. ORTIZ: Yes, increasing, but
16 there is a different situation about Zaytinya
17 and Jaleo. If you notice, most of the ones
18 downtown has like about eight seats outside
19 and this place, the beauty of this building,
20 is the outside.

21 CHAIRPERSON MILLER: Okay. So it
22 is kind of like apples and oranges. I wanted

1 to ask you about Exhibit No. 9, just so that
2 I'm reading it correctly.

3 MR. ORTIZ: Um-hum.

4 CHAIRPERSON MILLER: Do you have
5 that in front of you?

6 MR. ORTIZ: Yes.

7 CHAIRPERSON MILLER: Okay. So all
8 the little circles that go around the borders,
9 are they all plantings or are they something
10 else?

11 MR. ORTIZ: They are plantings.
12 We discussed it with the architect about the
13 noise. We were looking for some evergreens,
14 tall evergreens to make sure the noise level
15 goes down onto the area and not also includes
16 the looks of the place. But the main idea
17 about that's where you see only the area very
18 heavy bushes in there --

19 CHAIRPERSON MILLER: Right.

20 MR. ORTIZ: -- is because we were
21 thinking about the noise in the area, specific
22 area.

1 CHAIRPERSON MILLER: Okay. And
2 the plantings in front of the enclosed outdoor
3 seating areas --

4 MR. ORTIZ: Sure.

5 CHAIRPERSON MILLER: -- are they
6 going to be tall, so that you can't see the
7 customers or are they like --

8 MR. ORTIZ: The idea is to be
9 tall. Whether I can tell you can see the
10 customers, because nothing can be really shown
11 on here, the plans don't look that way.

12 CHAIRPERSON MILLER: Right. They
13 are going to shield?

14 MR. ORTIZ: Yes. It is to be
15 tall.

16 CHAIRPERSON MILLER: Okay. And
17 Enclosed Outdoor Seating No. 1, is that the
18 only "outdoor seating area" that is going to
19 be available in the cold?

20 MR. ORTIZ: It is.

21 CHAIRPERSON MILLER: Okay.

22 MR. ORTIZ: That's all.

1 CHAIRPERSON MILLER: Okay.

2 Because that one is totally enclosed, right?

3 MR. ORTIZ: It is totally
4 enclosed, that's right.

5 CHAIRPERSON MILLER: Okay. And
6 the Enclosed Outdoor Seating No. 2 with the
7 table and the six seats?

8 MR. ORTIZ: Um-hum.

9 CHAIRPERSON MILLER: Okay. Next
10 to that did you say there is going to be a
11 service window to the bar on the other side?

12 MR. ORTIZ: No.

13 CHAIRPERSON MILLER: No? No
14 connection?

15 MR. ORTIZ: No connection.

16 CHAIRPERSON MILLER: No connection
17 between them and the inside?

18 MR. ORTIZ: No.

19 CHAIRPERSON MILLER: Okay.

20 MR. ORTIZ: Are you talking about
21 the No. 2, right?

22 CHAIRPERSON MILLER: Um-hum.

1 MR. ORTIZ: Yes. No.

2 CHAIRPERSON MILLER: And did you
3 say there is only going to be one and a half
4 bars or something? How many bars are there?

5 MR. ORTIZ: It is a service
6 station. And because service stations have
7 wine, you know, the service area wines have a
8 station, so it I guess is considered a bar.
9 But I asked when I talked to Michael and the
10 architect, I asked for a service station to be
11 allowed to be able to serve the patio when it
12 is a beautiful day.

13 CHAIRPERSON MILLER: Right. How
14 many regular bars does the restaurant have?

15 MR. ORTIZ: One.

16 CHAIRPERSON MILLER: Just one?

17 MR. ORTIZ: One only.

18 CHAIRPERSON MILLER: With just
19 three seats?

20 MR. ORTIZ: Three seats because
21 that bar also will be served from the whole
22 restaurant there.

1 CHAIRPERSON MILLER: Okay.

2 MR. ORTIZ: It is like -- mostly
3 like two of those, but then there is -- on a
4 busy day, they will be busy serving the
5 clients in the restaurant.

6 CHAIRPERSON MILLER: Okay. They
7 are making drinks for the people at the
8 tables?

9 MR. ORTIZ: Making drinks, yes.

10 CHAIRPERSON MILLER: Okay.

11 MR. ORTIZ: Which -- well, anyway,
12 nothing really.

13 CHAIRPERSON MILLER: Okay. Thank
14 you. Is there any questions? Do you have a
15 question?

16 MEMBER SILVERSTEIN: Yes, I do.

17 CHAIRPERSON MILLER: Yes, Mr.
18 Silverstein?

19 MEMBER SILVERSTEIN: Mr. Ortiz,
20 you are talking about 12:00 and 1:00, but in
21 a lot of places in this city, a lot of
22 neighborhoods, these outdoor sidewalk cafe

1 areas are limited to 11:00 on weekdays and
2 midnight on weekends. As a matter of fact, in
3 the area where I live, that is pretty much the
4 neighborhood standard.

5 How much of a cutback is that
6 going to mean to you, if these people simply
7 take their business inside and, you know, you
8 are shut down at 11:00 and 12:00 on that side?

9 MR. ORTIZ: To tell you the truth
10 right now, I don't know the affect of that.
11 I was more concerned that when we closed the
12 outside, as well, it takes away 16 seats of my
13 inside building for the enclosure part of it.

14 MEMBER SILVERSTEIN: I'm sorry?

15 MR. ORTIZ: I'm more concerned
16 about that when I close at 11:00, it takes
17 away 16 seats that I have on the outside on
18 the -- about the weather situation.

19 MEMBER SILVERSTEIN: Okay.

20 MR. ORTIZ: The enclosure part of
21 the restaurant, the one that has all enclosure
22 has 16 seats. If I close at 11:00, I losing

1 those seats on the main restaurant. And if --
2 well, you all go to restaurants and you
3 understand that people don't go to a
4 restaurant at midnight. But they go early,
5 but they don't like to be pushed out of the
6 restaurants.

7 So we had to make sure that we
8 allow people to sit down and finish their
9 meals on time, so that way they can come back
10 to us for the next day business or for the
11 following day.

12 MEMBER SILVERSTEIN: No further
13 questions.

14 CHAIRPERSON MILLER: Okay. I have
15 one follow-up question.

16 MR. ORTIZ: Yes, ma'am.

17 CHAIRPERSON MILLER: With respect
18 to the Board's consideration of the hours for
19 the enclosed seating areas, certainly would
20 you say that certainly Enclosed Seating No. 1
21 which is totally enclosed --

22 MR. ORTIZ: Yes, ma'am.

1 CHAIRPERSON MILLER: -- has a
2 different --

3 MEMBER ALBERTI: Is it 1 or 2?

4 CHAIRPERSON MILLER: I think --

5 MEMBER ALBERTI: I mean, I think I
6 have -- just I'm sorry to interrupt.

7 CHAIRPERSON MILLER: No, go ahead.

8 MEMBER ALBERTI: Madam Chair, but
9 Outdoor Seating Area 2 is the one I thought
10 was totally enclosed. Is that correct, Mr.
11 Ortiz? Do you have Exhibit 9?

12 MR. ORTIZ: Yes, I looking at
13 Exhibit 9 right now. Let me see. Enclosed
14 Part 2, yes. No. 2 is the one that is
15 enclosed.

16 MEMBER ALBERTI: That's the one
17 that has the walls.

18 MR. ORTIZ: Exactly.

19 CHAIRPERSON MILLER: Oh. Thank
20 you. Okay.

21 MEMBER ALBERTI: And Area 1 is the
22 one that does not have walls.

1 MR. ORTIZ: Right.

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON MILLER: Area 1 ha
4 canopy.

5 MR. ORTIZ: Exactly.

6 MEMBER ALBERTI: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: Okay.

9 CHAIRPERSON MILLER: Thank you.

10 MEMBER ALBERTI: It just so we
11 don't confuse the record.

12 CHAIRPERSON MILLER: No, exactly.
13 All right. So let's talk about the one with
14 the walls. Do you think that the sound
15 emanating from that area is different from the
16 sound emanating from the rest of the patio?

17 MR. ORTIZ: Yes, ma'am. And
18 mostly because of the materials that we using
19 for the enclosure.

20 CHAIRPERSON MILLER: How about is
21 it different from the interior, the sound that
22 would be coming out of there?

1 MR. ORTIZ: I don't believe that--
2 on my expertise about restaurants, I don't
3 think that if it's a restaurant, it would be
4 much greater than anything else, because it's
5 only having 16 seats on that area. It's not
6 like a full ballroom in the area.

7 CHAIRPERSON MILLER: And it's
8 totally enclosed?

9 MR. ORTIZ: It's totally enclosed.

10 CHAIRPERSON MILLER: And has foam
11 in the ceiling?

12 MR. ORTIZ: Correct.

13 CHAIRPERSON MILLER: Okay. And
14 how about the other enclosed outdoor seating,
15 it has a canopy?

16 MR. ORTIZ: Yes. And that's the
17 one --

18 CHAIRPERSON MILLER: Not really
19 totally enclosed, correct?

20 MR. ORTIZ: And that one is far
21 away from the houses, which are close, but
22 it's farther away than the enclosure part.

1 And that's the one that you can see mostly all
2 the areas being put with those evergreens that
3 would be tall to buffer a little bit the noise
4 on that part.

5 CHAIRPERSON MILLER: So why is
6 that called an enclosed?

7 MR. ORTIZ: The city requested for
8 us to name is enclosed.

9 CHAIRPERSON MILLER: What?

10 MR. ORTIZ: They actually did
11 that. When something has a canopy --

12 CHAIRPERSON MILLER: A canopy?

13 MR. ORTIZ: -- it calls it
14 enclosure.

15 CHAIRPERSON MILLER: Okay. So for
16 DDOT's purposes, it is enclosed, but for sound
17 purposes, is it much different than the seats
18 on the patio?

19 MR. ORTIZ: It is not much
20 different.

21 CHAIRPERSON MILLER: Okay.
22 Because they are still -- it is still pretty

1 open. Okay. I guess my last question is, I'm
2 just kind of curious because you have had this
3 experience at other restaurants, let's say
4 that the hours were until 12:00 on the patio,
5 what time would you have to stop seating the
6 patrons?

7 MR. ORTIZ: You have to give like
8 at least two hours to somebody to have a great
9 experience. In my experience with
10 restaurants, the time it hour and a half to
11 two hours. So 10:00 would be the last sitting
12 for dinner, if some people really want to have
13 dinner.

14 CHAIRPERSON MILLER: So if a
15 patron came up at 11:00 and said I want to eat
16 outside?

17 MR. ORTIZ: Then we are going to
18 be forced to tell them yes, you can sit
19 outside this time, midnight move inside,
20 because I don't want to lose the business no
21 more.

22 CHAIRPERSON MILLER: Right. But

1 you have to move by 12:00 inside. Okay. All
2 right. Thank you. Anybody else? Any
3 questions on Board questions? Redirect on
4 Board questions? Okay. Mr. Kline?

5 REDIRECT EXAMINATION

6 MR. KLINE: Mr. Ortiz, in response
7 to questions from Mr. Alberti, you had an
8 extensive conversation about the food and the
9 tapas, I want to show you what we have marked
10 as Applicant's 2 and ask you if you can
11 identify that?

12 MR. ORTIZ: It is actually one of
13 the menus that we tested in sampler ready for
14 Romeo & Juliet with one of the consultants.

15 MR. KLINE: Okay. And does that
16 represent potentially the style of the menu
17 that will be employed in the establishment?

18 MR. ORTIZ: It is. It is totally,
19 yeah. It's the type of food that we are going
20 to bring to it.

21 MR. KLINE: And you talked about
22 tapas and the ability to deliver those plates,

1 those dishes quickly. These are the types of
2 dishes that you are talking about?

3 MR. ORTIZ: Correct.

4 MR. KLINE: Okay.

5 MR. ORTIZ: That's why -- in the
6 menu you can see pastas, you can see things
7 that can be really already prepared or have
8 ready in five minutes at most to be out on the
9 table.

10 MR. KLINE: Great. I move
11 Applicant's Exhibit 2.

12 CHAIRPERSON MILLER: Okay. Not
13 hearing any objection, Applicant's Exhibit 2,
14 which is, I guess, a preliminary menu is
15 admitted.

16 (Whereupon, the document was
17 marked for identification as
18 Protestant Exhibit 2 and was
19 received in evidence.)

20 MR. KLINE: And I have no further
21 questions of this witness.

22 CHAIRPERSON MILLER: Ms. Wirt, do

1 you have any questions related to this
2 exhibit?

3 MS. WIRT: (No audible answer.)

4 CHAIRPERSON MILLER: I would just
5 like to ask you, do you have any idea what the
6 price range is going to be?

7 MR. ORTIZ: Yes, we already make
8 out marketing strategy for the food. And we
9 are looking at about between \$7 and \$12 per
10 portion.

11 CHAIRPERSON MILLER: Per portion,
12 per tapas?

13 MR. ORTIZ: Per tapas, yes.

14 CHAIRPERSON MILLER: Okay.

15 MR. ORTIZ: Per tapas.

16 CHAIRPERSON MILLER: All right.

17 Thank you. Okay. Thank you very much.

18 MR. KLINE: Thank you.

19 (Whereupon, witness was excused.)

20 MR. KLINE: And with that the
21 applicant rests.

22 CHAIRPERSON MILLER: Okay. Ms.

1 Wirt, are you ready to go forward or do you
2 need a couple minute break?

3 MS. WIRT: What's the usual
4 procedure?

5 CHAIRPERSON MILLER: Well, I guess
6 we usually go forward, unless someone wants a
7 break.

8 MS. WIRT: Take a break?

9 CHAIRPERSON MILLER: You want a
10 break. Okay. So we will take a five minute
11 break.

12 MR. KLINE: Okay.

13 MS. WIRT: Okay.

14 (Whereupon, at 4:20 p.m. a recess
15 until 4:31 p.m.)

16 CHAIRPERSON MILLER: Okay. We are
17 back on the record to hear the protestant's
18 case whenever you are ready, Ms. Wirt.

19 MS. WIRT: I would like to call
20 Betsy Gardner, please.

21 CHAIRPERSON MILLER: Good
22 afternoon.

1 MS. GARDNER: Hello.

2 Whereupon,

3 ELIZABETH GARDNER

4 was called as a witness by Counsel for the
5 Protestant, and having been first duly sworn,
6 assumed the witness stand and was examined and
7 testified as follows:

8 CHAIRPERSON MILLER: Okay. Have a
9 seat.

10 DIRECT EXAMINATION

11 MS. GARDNER: I live at 313 3rd
12 Street, N.E.

13 MEMBER SILVERSTEIN: Would you
14 identify yourself for the record?

15 MS. GARDNER: Elizabeth Gardner.
16 Two houses up from the property on the same
17 side as the property. And I'm a nurse at
18 Washington Hospital Center and have to be at
19 work at 7:00 or 7:30 most mornings, that's
20 just the typical hours that nurses have to
21 work. And I conform to those.

22 So I'm joining this protest to

1 limit the hours of business and alcohol sales
2 of this establishment on the grounds that they
3 would be disruptive of the quiet, order and
4 safety of our residential neighborhood.

5 And I'm going to speak to the
6 issue of noise. There is a paragraph in DC
7 Municipal Code which outlines what we hope for
8 as residents of this city, number 2700.1. "It
9 is the declared public policy of the District
10 that every person is entitled to ambient noise
11 levels that are not detrimental to life,
12 health and enjoyment of his or her property."

13 It is hereby declared that
14 excessive or unnecessary noises within the
15 District are a menace to the welfare and
16 prosperity of the residents and businesses of
17 the District.

18 It is the declared public policy
19 of the District to reduce the ambient noise
20 level in the District to promote public
21 health, safety, welfare and the peace and
22 quiet of the inhabitants of the District.

1 And bear with me for one more
2 round of these, number 2800.4. "Sounds shall
3 not project outside of place of business at a
4 level that exceeds 60 decibels at a distance
5 of not less than 1 meter from outside the
6 business establishment."

7 DC has quiet hours between 10:00
8 p.m. and 7:00 a.m. and having an honoring
9 noise ordinance is important because people
10 need to sleep in order to function. Indeed,
11 according to the National Sleep Foundation,
12 sleeping too little cannot only inhibit your
13 productivity and ability to remember and
14 consolidate information, but lack of sleep can
15 also lead to serious health consequences and
16 jeopardize your safety and the safety of
17 individuals around you.

18 I apologize for the nurse-based
19 presentation. But short sleep duration is
20 linked with increased risk of motor vehicle
21 accidents, increased body mass index, greater
22 likelihood of obesity due to increased

1 appetite caused by sleep deprivation with
2 increased risk of diabetes and heart problems.

3 Increased risk for psychiatric
4 conditions including depression, decreased
5 ability to pay attention, react to signals or
6 remember new information.

7 Noise at night, it's basic,
8 disrupts sleep and noise late at night
9 subjects neighbors to limited opportunities to
10 get adequate sleep.

11 In our particular neighborhood,
12 noise late at night is a special hardship.
13 The streetscape and housing stock in this
14 residential neighborhood surrounding the
15 property is comprised of two and three story
16 brick row houses built at the end of the 19th
17 Century.

18 The lots on which they sit come
19 together at the back to create a canyon effect
20 whereby sounds ricochet off the silos that are
21 formed by these houses and the sound are
22 amplified. And the narrow residential

1 streets, unlike the wide open boulevard where
2 sound may be absorbed or dissipated, result in
3 noise being trapped and further amplified.

4 Even with the triple glazed
5 windows we have had to buy in compliance with
6 our Historic District Regulations, the decibel
7 level inside the houses from ambient noise at
8 night exceeds -- often exceeds levels
9 permitted by DC's Noise Control Act.

10 And I just want to make it clear
11 that these are not highrise buildings or
12 warehouses without inhabitants, but very
13 densely arranged lowrise residential buildings
14 that are connected to each other.

15 I have used a decibel measurement
16 device in the neighborhood that we have used
17 in the hospital. We use it to measure noise
18 when we are trying to enforce quiet hours
19 there and I can assure you that the former
20 White Tiger, which was very food-oriented,
21 hardly any alcohol service and which was
22 fairly under-utilized and which also, by the

1 way, closed at 10:00 and 11:00 p.m., regularly
2 involved the occurrence of noise in excess of
3 the decibel level of 55 permitted by the DC
4 Noise Ordinance during night hours.

5 I took decibel readings from
6 within my house well back of my property line
7 from close of business when bottles and trash
8 would be disposed of at the end of the evening
9 and also from patrons on that 3rd Street side
10 patio closest to my house, which I must note
11 was not as close to my house as the new second
12 enclosure will be. They are migrating up 3rd
13 Street much closer to the residential houses.

14 I generally tolerated this because
15 it was before 11:00 and I felt, okay, as long
16 as I get a crack at sleeping a normal amount
17 of time, you know, I can live with it. On
18 several occasions, I had to call 311 to have
19 the police make a visit.

20 And please just, as I have said,
21 note that they are not only asking for late
22 liquor hours, but they are moving closer up,

1 farther up the residential street at the same
2 time.

3 And I want to point out that the
4 door of the establishment is on residential
5 3rd Street. People will be coming in and
6 going out of 3rd Street, not Mass Avenue, so
7 if we have different hours for different
8 places, they are still coming and going
9 through the 3rd Street door.

10 Having read some other ABRA
11 hearing summaries, I know that protesting the
12 license on the grounds of potential noise
13 violations isn't generally considered to be
14 robust evidence.

15 My findings from my own experience
16 with the previous under-utilized restaurant
17 gave me a very clear sense and some actual
18 decibel readings which foretell what we will
19 experience with a restaurant that serves small
20 plates of food, stays open much later, serves
21 alcohol without food much later and is
22 migrating up the residential street with

1 tables and apparently with a bar, which I
2 hadn't heard before in that enclosed space.

3 We do understand the connection
4 between retail establishments and the creation
5 of jobs and revenue from taxation of alcohol
6 sales. We get that that's important to the
7 District of Columbia's physical well-being.
8 And we also appreciate the challenge that the
9 Board faces in trying to balance these issues
10 with residents' health and welfare concerns.

11 But we are asking you to consider
12 the specific context in which this
13 establishment seeks to do business and to
14 limit the hours of liquor sales in accordance
15 with the residential quality of the
16 neighborhood.

17 If you grant these very late hours
18 for the serving of alcohol in this residential
19 neighborhood with its particular architecture,
20 lot arrangement and street parameters of the
21 locality, you are going to be consigning its
22 immediate residents to nights of inadequate

1 sleep, a clear risk to their health and
2 safety, not to mention quality of life.

3 And it is not speculative to state
4 that the level of noise involved in late night
5 restaurant and alcohol activity in this
6 neighborhood with its very specific physical
7 characteristics is demonstrably unhealthy.

8 This is not my topic of noise, but
9 I need to add that we did make substantial
10 effort to determine the identity of the
11 principal parties involved in the Romeo &
12 Juliet LLC without ever really knowing until
13 we saw the Protest Hearing documents late last
14 week.

15 And I did call DCRA Corporate
16 Office to try to find out who was involved and
17 was told I could initiate a written request
18 with a fee of \$50 or I could come into the
19 second floor business office of DCRA and see
20 what was available. The staffer I spoke with
21 off the record said she didn't recommend
22 taking a day off from work, which is what it

1 would have required for me, because the LLC
2 listing did not appear to be complete or
3 specific, but that was all she would say.
4 Thanks.

5 CHAIRPERSON MILLER: Thank you.

6 MR. KLINE: Madam Chair, I would
7 ask that the last part of that statement
8 concerning inquiries as to ownership be
9 stricken as irrelevant. I didn't have any
10 opportunity to object to a question, because
11 there were no questions, obviously, but in
12 terms of what inquiries in terms of ownership,
13 it's in the Board's file.

14 I mean, I don't know what the
15 relevance is of inquiries as to ownership.
16 The filing was here. It's public record.
17 Anyone could have come down to ABRA and looked
18 at it.

19 MS. WIRT: May I respond to that?

20 CHAIRPERSON MILLER: Yes,
21 absolutely.

22 MS. WIRT: The reason why we were

1 denied this continuance was because we found
2 out at the last minute who the owner was. We
3 -- this is evidence that she tried to find who
4 the owner was. I also tried. I had a
5 colleague who investigated -- who knew two
6 ABRA Investigators and asked them who 301 LLC
7 was and neither one of those Investigators
8 knew.

9 We did try to find the owner, yet
10 we couldn't find it until I got the PIF a week
11 ago. So we are at a disadvantage because we
12 didn't have the information.

13 CHAIRPERSON MILLER: Okay. I'm
14 going to overrule it. I don't think that it
15 is --

16 MEMBER ALBERTI: Can I ask a
17 question --

18 CHAIRPERSON MILLER: --
19 prejudicial and should be stricken.

20 MEMBER ALBERTI: -- before we
21 judge?

22 CHAIRPERSON MILLER: Go ahead.

1 MEMBER ALBERTI: Ms. Wirt, who did
2 you speak with at ABRA? Because --

3 MS. WIRT: Not --

4 MEMBER ALBERTI: -- the reason I
5 ask this is because I have a copy of the
6 application which has been on file since July,
7 which is a public document. So I would be
8 curious as to know who you questioned at ABRA
9 that wouldn't allow you to see a copy of the
10 application.

11 MS. WIRT: I spoke with Tony
12 Goodman who is -- I'm sorry, Tony Richardson
13 who is our former ANC Commissioner who does
14 our alcohol -- who did our Alcohol Committee
15 work and he spoke to two Investigators at
16 ABRA. I don't know who they were.

17 MEMBER ALBERTI: But no one
18 contacted our records person or our general
19 counsel? Is that correct? To your knowledge,
20 is that correct?

21 MS. WIRT: That's correct.

22 MEMBER ALBERTI: Okay. Just for

1 the record, I want to note, I want to make it
2 clear that ABRA isn't at fault for not
3 cooperating. And that's the reason I wanted
4 to make that point.

5 CHAIRPERSON MILLER: Thank you.
6 Okay. Do you have any other questions for
7 your witness?

8 MS. WIRT: No.

9 CHAIRPERSON MILLER: No. Okay.
10 Mr. Kline, do you have some cross-exam? No,
11 no, no, you are not -- you are subject to
12 cross-examination.

13 CROSS-EXAMINATION

14 MR. KLINE: Ms. Gardner, good
15 afternoon. You live on 3rd Street, you said?

16 MS. GARDNER: Um-hum.

17 MR. KLINE: And you indicated
18 concern because the entrance to the
19 establishment is on 3rd Street, correct?

20 MS. GARDNER: Right.

21 MR. KLINE: Where the entrances
22 are located in in commercial though isn't it?

1 MS. GARDNER: I don't know.

2 MR. KLINE: You don't know?

3 MS. GARDNER: I don't know the
4 zoning.

5 MR. KLINE: How long have you
6 lived there?

7 MS. GARDNER: Since 2003.

8 MR. KLINE: And --

9 MS. GARDNER: I bought the house
10 in 2003.

11 MR. KLINE: -- did you investigate
12 the zoning before you moved into the
13 neighborhood?

14 MS. GARDNER: No.

15 MR. KLINE: And you testified you
16 are a nurse and you are due at work at 7:00 or
17 7:30?

18 MS. GARDNER: Um-hum.

19 MR. KLINE: And when you come in,
20 there is a staff of nurses that are getting
21 off work, isn't there?

22 MS. GARDNER: Um-hum.

1 MR. KLINE: And they sleep during
2 the day, don't they?

3 MS. GARDNER: Um-hum.

4 MR. KLINE: So in terms of
5 people's needs for sleep, they differ
6 depending upon what their shifts might be,
7 what industries they are in and a variety of
8 other factors, don't they?

9 MS. GARDNER: Sure.

10 MR. KLINE: And they even differ
11 in your particular occupation, don't they?

12 MS. GARDNER: Um-hum.

13 MR. KLINE: Thank you. That's all
14 I have.

15 CHAIRPERSON MILLER: Board
16 questions?

17 MS. GARDNER: My opportunity to
18 sleep is at night.

19 MR. KLINE: There is no question
20 pending.

21 MS. GARDNER: Based on my --

22 MEMBER ALBERTI: Wait.

1 CHAIRPERSON MILLER: No, no.

2 MEMBER ALBERTI: Please, please.

3 CHAIRPERSON MILLER: I'm sorry --

4 MS. GARDNER: -- I'm not finished.

5 I've got to go to work. Sorry.

6 CHAIRPERSON MILLER: Okay. The

7 Board may have some questions for you.

8 MS. GARDNER: Okay. Sorry.

9 CHAIRPERSON MILLER: Are there
10 questions from the Board Members?

11 MEMBER ALBERTI: Ms. Gardner, you
12 spoke about ambient noise in that
13 neighborhood. Can you describe where that --
14 the nature of that noise? You know, where it
15 is coming from?

16 MS. GARDNER: Well, what I'm
17 talking about having been disturbed by it in
18 the past, I mean, I was specifically speaking
19 about when there was a restaurant there and
20 making the point that it was disturbing even
21 then, but then it was before 11:00 in a less--
22 in an under-utilized restaurant that didn't

1 come as far up toward the houses. So my -- I
2 know we are not supposed to talk about
3 perspective noise, but I would --

4 MEMBER ALBERTI: We can do that.

5 MS. GARDNER: -- okay. Well, I
6 would expect that there would be more noise if
7 it's closer to my house and that if the -- and
8 there will be more late noise if the place is
9 open later.

10 MEMBER ALBERTI: All right.

11 Just --

12 MS. GARDNER: And there will be
13 more noise if there are more patrons in there
14 than there typically had been in the past.

15 MEMBER ALBERTI: I got you. Just
16 out of curiosity, I mean, there are a couple
17 of restaurants or establishments up on Mass
18 Avenue going around at that bend at D Street
19 that have large outdoor patios. I forget the
20 names of them right now, but there are some
21 large --

22 MS. GARDNER: You mean like

1 towards --

2 MEMBER ALBERTI: There are a
3 couple, without naming them, there are large
4 outdoor patios.

5 MS. GARDNER: Right.

6 MEMBER ALBERTI: Are you --

7 MS. GARDNER: Historic --

8 MEMBER ALBERTI: Do you ever --
9 are you ever aware of noise from those
10 establishments?

11 MS. GARDNER: They are across Mass
12 Avenue, which is a wide boulevard from me, but
13 they also close earlier. They close at 11:00.

14 MEMBER ALBERTI: As far as you --
15 okay.

16 MS. GARDNER: Yeah.

17 MEMBER ALBERTI: Okay. They close
18 at 11:00, as far as you know?

19 MS. GARDNER: Yes.

20 MEMBER ALBERTI: Okay.

21 MS. GARDNER: And as I -- you
22 know, when I moved into the city, although I

1 didn't check the zoning, I did make my peace
2 with the fact that cities are busy and you
3 want them to be busy and you expect a certain
4 amount of noise up to a certain time. And I
5 figured I could live with -- you know, 11:00
6 is liveable.

7 MEMBER ALBERTI: I understand. I
8 gotcha. Thank you.

9 MS. GARDNER: Um-hum.

10 CHAIRPERSON MILLER: Others? Yes,
11 Mr. Silverstein?

12 MEMBER SILVERSTEIN: Thank you,
13 Ms. Gardner and thank you for your service in
14 the medical community. How close are
15 residents to this place? What's the nearest
16 who would be affected?

17 MS. GARDNER: There is another
18 house closer than mine and then, you know,
19 because they are row houses, they are all
20 pretty close. I mean, I'm the second one up.
21 So there is one immediately next to the fence
22 that they were talking about.

1 MEMBER SILVERSTEIN: So how close
2 are you physically to the nearest outdoor
3 seating?

4 MS. GARDNER: Oh, from this place?
5 Currently, as it has previously been?

6 MEMBER SILVERSTEIN: As the way it
7 would be on the diagram.

8 MS. GARDNER: As the way it will
9 be, there will be -- well, it depends. I
10 mean, outdoor meaning with the canopy or --

11 MEMBER SILVERSTEIN: Yes.

12 MS. GARDNER: -- outdoor meaning
13 with the glass thing that is not permanent?

14 MEMBER SILVERSTEIN: Either and
15 both.

16 MS. GARDNER: Well, I'm very
17 close.

18 MEMBER SILVERSTEIN: Both.

19 MS. GARDNER: Okay. Well, the
20 thing that will be new is the glass thing that
21 is not permanent, yet permanent. It's walking
22 a fine line.

1 MEMBER SILVERSTEIN: Well --

2 MS. GARDNER: I would be --

3 MEMBER SILVERSTEIN: -- there is a
4 reason for that.

5 MS. GARDNER: Yes, I know. Let's
6 see, I guess I would say math is not my long
7 suit, but I would -- bad for a nurse, right?
8 But I would say about 12 feet maybe from the
9 end of their enclosure maybe. Because the
10 houses are not wide and they are right next to
11 each other. So I would say 12 to 14 feet from
12 the end of their enclosure to be beginning of
13 my property line.

14 MEMBER SILVERSTEIN: And you have
15 double-pane, triple-pane windows?

16 MS. GARDNER: Yes, well, I sprang
17 for the replacement windows, yep.

18 MEMBER SILVERSTEIN: And you have
19 done everything that you can to muffle noise?

20 MS. GARDNER: I use white noise
21 all the time, yes. I'm trying to.

22 MEMBER SILVERSTEIN: And the other

1 places, you say the other sidewalk cafes, what
2 are the hours that you know of of the places
3 that are nearby?

4 MS. GARDNER: Well, the ones that
5 are on that block, as I said, they close at
6 11:00. The German place, the Mexican place,
7 the French place, I think they all close at
8 11:00.

9 MEMBER SILVERSTEIN: And --

10 MS. GARDNER: Maybe 12:00 on
11 weekends, but it's definitely not later than
12 11:00 on week nights.

13 MEMBER SILVERSTEIN: In your
14 particular case, what would be -- what could
15 be the ramifications if you are not getting a
16 good night sleep?

17 MS. GARDNER: What could what?

18 MEMBER SILVERSTEIN: In your
19 occupation, what are the negative
20 ramifications if you are not getting a good
21 nights sleep?

22 MS. GARDNER: Well, I could make

1 less than good judgments about patient care.
2 My reaction time could be dull. I mean, I
3 have -- I do a lot of triage of patient
4 clinical complaints on behalf of several
5 surgeons and I take calls and decide if
6 somebody needs to be seen urgently.

7 And if I'm off kilter, I think it
8 could -- it would be reasonable to think that
9 I might be making less than the best judgments
10 I could make if I'm chronically not getting
11 enough sleep because there is something that
12 is making noise on a regular basis late at
13 night.

14 MEMBER SILVERSTEIN: You also
15 mentioned problems with disposing of bottles?

16 MS. GARDNER: Yeah, I did. It was
17 customary at the end of the evening for people
18 to -- they would throw things into the
19 dumpsters outside the restaurant as part of
20 closing down and that was very noisy and kind
21 of like a sudden -- I sort of knew roughly
22 when it was going to happen, but it always was

1 so loud and there were several rounds of that.

2 MEMBER SILVERSTEIN: It's not
3 unheard of, but it is certainly heard.

4 MS. GARDNER: It's heard
5 certainly.

6 MEMBER SILVERSTEIN: And just a
7 question that we often ask. For the sake of
8 argument, arguendo, the place gets its
9 license. What do you need to make it
10 liveable? What are you -- put in one or two
11 or three things that you really need if this
12 was going to get its license to make it
13 liveable.

14 MS. GARDNER: As I -- I mean, as
15 we have said, we just would like to see the
16 hours not be as -- we would like to see the
17 hours be the same as the ones across the
18 street, which as far as I know, we have
19 checked over and over, but it's 11:00 and --
20 11:00 on week nights and 12:00 on weekends.

21 MEMBER SILVERSTEIN: Okay.
22 Anything else?

1 MS. GARDNER: No. I've been told
2 that there is going to be maximum noise-
3 proofing to the enclosure so that it will
4 serve as a buffer, a barrier, you know. I'm
5 going on faith that that's true. That is a --
6 that was a public space thing that we granted.
7 I mean, we are not feeling adversarial in toto
8 about this endeavor.

9 You know, we -- but they are
10 moving up 3rd Street in a way that they hadn't
11 been before. We would like to really be told
12 with some certainty that this is going to be
13 noise-proofed. This -- the enclosure space
14 that is closest to the houses.

15 MEMBER SILVERSTEIN: Thank you. I
16 have no further questions, Madam Chair.

17 CHAIRPERSON MILLER: Okay.
18 Others? Okay. I do. Following up on that,
19 the 11:00 on weekdays and the 12:00 on
20 weekends, do you see a difference? Do you
21 have a difference with respect to interior
22 versus exterior?

1 MS. GARDNER: In a sense that I
2 don't see how you negotiate different hours,
3 I mean, it just seems like a real hard
4 enforcement. And in the sense that the door
5 is still on 3rd Street. I mean, coming and
6 going is 3rd Street and I'm not sure what the
7 exact arrangement is going to be for trash
8 disposal, but that is a very noisy end of the
9 evening activity.

10 It's a very noisy early in the
11 morning pick-up activity. So I would need to
12 know that, too. I mean, I would rather see
13 them all be the same hours.

14 CHAIRPERSON MILLER: So based on
15 your experience with the restaurant that was
16 there before, were you bothered equally by the
17 patrons coming into the restaurant as you were
18 by the patrons by eating outside on the patio?

19 MS. GARDNER: Just coming in not
20 so much, no.

21 CHAIRPERSON MILLER: Oh, going
22 out?

1 MS. GARDNER: Going out, there --
2 yeah, there was some going out noise, but it
3 was more the outdoor patrons on the patio.

4 CHAIRPERSON MILLER: More the
5 eating on the patio, okay.

6 MS. GARDNER: Yeah, a lot would
7 depend on the -- what kind of noise that there
8 is in the new structure.

9 CHAIRPERSON MILLER: Right.

10 MS. GARDNER: It's hard to say
11 what that is going to feel like in real life.
12 What impact that will have.

13 CHAIRPERSON MILLER: Have you seen
14 the diagram which is Exhibit 9 to the
15 investigation report, that we have been
16 referring to, which has all these plantings
17 shown on the diagram?

18 MS. GARDNER: I don't know if I
19 have seen a recent incarnation.

20 CHAIRPERSON MILLER: Okay.

21 MS. GARDNER: I have seen some
22 prior drawings.

1 CHAIRPERSON MILLER: But you have
2 heard about all these plantings? So the other
3 restaurant didn't have plantings to buffer
4 sound?

5 MS. GARDNER: Well, the other
6 restaurant didn't go all the way up. It had
7 a white fence with kind of a window-boxy
8 foundation and had plantings in it, but not
9 anything that looks like it would have
10 withstood any noise, reflected any noise.

11 CHAIRPERSON MILLER: So what is
12 changing? They are extending the patio?

13 MS. GARDNER: No. They are
14 putting that seating place. They are coming
15 close to the -- right up next to the --

16 CHAIRPERSON MILLER: Closer this
17 way with the enclosed patio?

18 MS. GARDNER: Yes.

19 CHAIRPERSON MILLER: Okay. But
20 that's enclosed.

21 MS. GARDNER: Yeah, but with what
22 and how? And does it open and, you know. I

1 didn't -- hadn't known before or hadn't heard
2 before, we hadn't heard before there was going
3 to be a bar seating kind of pass-through
4 there, which is what I have heard today.

5 CHAIRPERSON MILLER: Okay. Can
6 you just tell me a little bit more about the
7 quiet hours that you were referring to?

8 MS. GARDNER: With the hospital?

9 CHAIRPERSON MILLER: No. I think
10 you --

11 MS. GARDNER: Oh.

12 CHAIRPERSON MILLER: I thought you
13 said --

14 MS. GARDNER: Oh, I did. I'm
15 sorry.

16 CHAIRPERSON MILLER: -- in the
17 District or something. The District's quite
18 hours.

19 MS. GARDNER: The District has
20 nighttime quite hours where people can be
21 fined pretty substantially, I think it is,
22 after 10:00 p.m. and until 7:00 a.m. for

1 making disruptive noise.

2 CHAIRPERSON MILLER: Okay. You're
3 talking about like people on the street that
4 are making noise.

5 MS. GARDNER: Yes.

6 CHAIRPERSON MILLER: Okay.

7 MS. GARDNER: The code gets a
8 little murky. I mean, I think it does.

9 CHAIRPERSON MILLER: When you took
10 decibel counts in the past, did you report
11 them to ABRA or anybody like that or DCRA?

12 MS. GARDNER: No. I always -- I
13 mean, when I called it would be to 311, the
14 Mayor's Call Center, to say could you please
15 come out and stop the noise? I did not --

16 CHAIRPERSON MILLER: Okay. It
17 would be to whom?

18 MS. GARDNER: 311. Rather than
19 call 911 --

20 CHAIRPERSON MILLER: Right, right.

21 MS. GARDNER: -- since this isn't
22 a life threatening emergency, I would call

1 311, the police. I mean, I guess it's the
2 Mayor's Call Center, but then they call the
3 local crews it requires.

4 CHAIRPERSON MILLER: So you did
5 get a response?

6 MS. GARDNER: Yes.

7 CHAIRPERSON MILLER: Okay. and
8 your windows, I just want to make sure I
9 understand you. You said -- you redid your
10 windows to try to soundproof your home?

11 MS. GARDNER: I --

12 CHAIRPERSON MILLER: Are you
13 limited by historic in what you can do or
14 what?

15 MS. GARDNER: We are only allowed
16 to get certain kinds of windows because we are
17 in the Historic District in those residences.
18 And you had to get -- I mean, there are just
19 a lot of restrictions. I did opt for the
20 soundproofing version, which was also supposed
21 to be weatherproofing.

22 CHAIRPERSON MILLER: Oh.

1 MS. GARDNER: So but I mean, I
2 can't tell you specifically beyond Marvin's.

3 CHAIRPERSON MILLER: Okay. I just
4 wanted to make sure I understood. So you were
5 able to do soundproofing windows?

6 MS. GARDNER: I was able to do
7 what the state of the art was at the time,
8 which was about 5 years ago in terms of
9 triple-thickness.

10 CHAIRPERSON MILLER: Okay. So you
11 still hear the noise from the restaurant that
12 was there with your windows closed?

13 MS. GARDNER: Yes. I mean, when
14 they are doing the, you now, late night. I
15 mean, first of all, in the summer if they are
16 on the patio, I don't tend to have the windows
17 closed, but in the winter when they would do
18 the end of evening dumping and people would
19 come and go and leave laughing and being
20 presumably inebriated, yes, I would definitely
21 still hear it.

22 CHAIRPERSON MILLER: Okay.

1 MS. GARDNER: Including on the top
2 floor.

3 CHAIRPERSON MILLER: Okay. That's
4 all for me. Are there any follow-up question
5 on Board questions? All right. Thank you
6 very much.

7 MS. WIRT: I have --

8 CHAIRPERSON MILLER: Oh, you have
9 other questions? Okay.

10 REDIRECT EXAMINATION

11 MS. WIRT: Ms. Gardner, how many
12 months of the year are those doors open, the
13 main doors? How many months are the open?

14 MS. GARDNER: The main doors?

15 MS. WIRT: Yes.

16 MS. GARDNER: What do you mean
17 main doors?

18 MS. WIRT: The main doors for the
19 restaurant on 3rd Street.

20 CHAIRPERSON MILLER: How many --
21 don't understand. Could you say the question
22 again?

1 MS. GARDNER: I'm not getting it
2 either.

3 MS. WIRT: I mean, well, let me
4 rephrase it. How many months of the year to
5 people eat outside --

6 MS. GARDNER: Oh, well --

7 MS. WIRT: -- at the sidewalk
8 cafe?

9 MS. GARDNER: -- that's an easier
10 question.

11 MS. WIRT: Month to month.

12 MS. GARDNER: A lot. I mean,
13 through -- into the fall.

14 MS. WIRT: Starting when?

15 MS. GARDNER: Starting in spring
16 when it is -- I mean, I remember sitting out
17 there on the patio at the White Tiger in late
18 April.

19 MS. WIRT: April through?

20 MS. GARDNER: April through
21 October. You get an occasional Indian Summer
22 evening in November, if you are lucky.

1 MS. WIRT: Thank you.

2 MS. GARDNER: A lot of months.

3 CHAIRPERSON MILLER: Okay.

4 MS. GARDNER: I'm sprung?

5 CHAIRPERSON MILLER: Thank you
6 very much.

7 MS. GARDNER: Thank you.

8 (Whereupon, witness was excused.)

9 MS. WIRT: Okay. I would like to
10 call Kay Elsasser.

11 CHAIRPERSON MILLER: Good
12 afternoon.

13 Whereupon,

14 KAY ELSASSER
15 was called as a witness by Counsel for the
16 Protestant, and having been first duly sworn,
17 assumed the witness stand and was examined and
18 testified as follows:

19 CHAIRPERSON MILLER: Okay. Thank
20 you. Have a seat.

21 DIRECT EXAMINATION

22 MS. ELSASSER: All right. My name

1 is Kay Elsasser and I reside at 319 C Street,
2 N.E., which is a little less than a block and
3 a half from where the White Tiger or former
4 White Tiger is located.

5 And I am concerned about several
6 things. The first thing that causes me
7 concern is the failure of the applicants to
8 notify the Architect of the Capitol about the
9 proposed alcoholic beverage license.

10 MR. KLINE: Objection on the
11 grounds of relevance.

12 CHAIRPERSON MILLER: Well --

13 MS. ELSASSER: I think it is quite
14 relevant. And the reason I say so is --

15 MEMBER ALBERTI: Wait, wait.

16 CHAIRPERSON MILLER: I'm hearing
17 their side. Why do you say wait?

18 MEMBER ALBERTI: No. Well,
19 actually, it's Ms. Wirt who should be arguing
20 the motion, not the witness. I mean, that's
21 usual procedure is that Ms. Wirt is arguing
22 the motion, not the witness.

1 MS. WIRT: I do believe it is
2 relevant for the reasons that Ms. Elsasser is
3 about to tell you.

4 CHAIRPERSON MILLER: I'm going to
5 give her a little leeway.

6 MR. KLINE: In the interest of
7 time, I will withdraw the objection and I will
8 leave it to the Board to determine what is
9 relevant.

10 CHAIRPERSON MILLER: Okay.

11 MS. ELSASSER: The Senate Daycare
12 Center is located in the middle of the 300
13 Block of C Street, N.E., and extends back
14 across to Massachusetts Avenue. You will
15 notice that it is right in the middle of the
16 block. There are areas where it is
17 considerably less than 100 feet from the
18 former White Tiger Restaurant.

19 It almost adjoins the property.
20 The children's playground for the daycare
21 center extends along Massachusetts Avenue
22 fairly close to the patio of Romeo & Juliet.

1 And then next to the daycare center is the
2 Senate Page School and Dormitory.

3 The main entrance space is for the
4 street, but there is a side entrance on C
5 Street. This encompasses the land next to the
6 daycare center playground on Massachusetts
7 Avenue and extending along C Street, N.E.
8 Both of these properties are under the
9 jurisdiction of the Architect of the Capitol.
10 It is responsible for the care and safety of
11 the infants and young children of members of
12 the Senate staff as well as the minors
13 residing in the Senate Page School and I
14 believe there are about 35 young men and
15 women, minors, who serve as pages in the
16 Senate.

17 Children residing in the Page
18 School are there every night and on weekends.
19 All right. That's very close proximity to an
20 establishment that will be serving alcohol.
21 And it is also a school and it's within the
22 same block.

1 The other concern I have is the
2 possible failure to notice by the 1st District
3 of the District of Columbia Police Department
4 and there are reasons for that that I will get
5 into in a minute.

6 There were several bars owned by
7 the Michael Romeo Group who were in the
8 jurisdiction of the 1st District. They
9 include Fur --

10 MR. KLINE: Now, I'm going to
11 object. I mean --

12 MS. ELSASSER: -- Tattoo and --

13 MR. KLINE: -- there isn't --

14 MS. ELSASSER: -- Lotus.

15 MR. KLINE: -- any evidence --

16 CHAIRPERSON MILLER: There is an
17 objection.

18 MR. KLINE: -- to the ownership of
19 Fur in the record, at this point. I mean,
20 this is -- I'm not going to sit here and have
21 a witness engage in character assassination
22 and sit silently by without objection.

1 CHAIRPERSON MILLER: Okay. I
2 mean, the PIF says that the protest is on the
3 basis of disturbance to the peace, order and
4 quiet of the neighborhood. So it's not -- the
5 PIF says that the nature of the protest is on
6 the basis of disturbance to the peace, order
7 and quiet of the neighborhood.

8 So Mr. --

9 MS. ELSASSER: My concern is that
10 this is a bar. This is not primarily a
11 restaurant, particularly with the request for
12 the late hours.

13 CHAIRPERSON MILLER: Okay. Well,
14 that's -- okay. You have said that then.

15 MS. ELSASSER: All right. I think
16 that I have stated that I had to state then.

17 CHAIRPERSON MILLER: Okay. All
18 right. Hang around a little just to see if
19 there is -- do you have any further questions,
20 Ms. Wirt?

21 MS. WIRT: No, I don't, but I had
22 an exhibit here that -- I don't know if this

1 is the appropriate time to submit it or not.

2 CHAIRPERSON MILLER: Do you --
3 well, is she going to identify it?

4 MS. WIRT: Yes. It is what I have
5 labeled Exhibit No. 9 and it is a statement
6 from the Heritage Foundation regarding similar
7 concerns for their interns. They have a
8 building right next to 214 that houses young
9 people and they are concerned about a request
10 to extend operating hours into the pre-dawn
11 morning hours, not consistent with the fabric
12 of the neighborhood, but adversely affecting
13 the surrounding residents and businesses and
14 so on.

15 CHAIRPERSON MILLER: Ms. --

16 MS. WIRT: They also support
17 operating hours from 11:00 to 12:00 on
18 weekdays and weekends.

19 CHAIRPERSON MILLER: Let me ask
20 you this then. Why wasn't that document
21 identified on your PIF?

22 MS. WIRT: On the what?

1 CHAIRPERSON MILLER: It doesn't
2 look like it was. Correct me if I'm mistaken,
3 but the PIF asked for you to identify the
4 exhibits that you are going to offer at the
5 hearing.

6 MS. WIRT: Well, my understanding
7 is that, you know what I got from Ms.
8 Anderson, copies of exhibits could be attached
9 to what I do today.

10 CHAIRPERSON MILLER: I'm sorry,
11 what?

12 MS. WIRT: That copies of exhibits
13 could be brought today. Seven copies of
14 exhibits.

15 CHAIRPERSON MILLER: Did you not
16 get -- did you come to the Status Hearing?

17 MS. WIRT: Yes.

18 CHAIRPERSON MILLER: Okay. And
19 then didn't you hear me say and isn't it on
20 the PIF that you need to identify your
21 witnesses and your exhibits on the PIF?

22 MS. WIRT: Yes.

1 CHAIRPERSON MILLER: You
2 identified your witnesses.

3 MS. WIRT: At that point I did.
4 At that point I did, but then since then I
5 have identified a number of other exhibits and
6 my understanding from my reading of Ms.
7 Anderson's email was that I could bring any
8 exhibits I wanted. I'm new to this process.

9 CHAIRPERSON MILLER: That's okay.
10 All right. I just want to also -- you know,
11 I know that Mr. Kline had raised earlier that
12 it can be unfair that if we say you have to
13 identify it before and you don't, then there
14 goes the rule. But we do make exceptions
15 sometimes when there is like, you know, a
16 compelling reason or whatever.

17 MR. KLINE: I have another
18 objection which is this email is to Ms. Wirt.
19 It hasn't been authenticated, at this point.
20 Given what has already been read into the
21 record, the substance of the email concerns
22 about operating into the "pre-dawn morning

1 hours," I certainly would have a lot of
2 questions of whoever proffered this exhibit,
3 if they were on the stand, about what it was
4 Mr. Corsval, who was the person that allegedly
5 authored this email, was told which prompted
6 him to send it.

7 I mean, there is just a lot of
8 issues in terms of an email just out of the
9 blue that doesn't even relate to the witness
10 on the stand.

11 MS. WIRT: It relates to the
12 number of institutes that are close by that
13 are affected negatively by certain liquor late
14 at night. Young people just the same as the
15 witness was talking about.

16 CHAIRPERSON MILLER: Um-hum.
17 Okay. I guess it's my view that this
18 document, unlike the previous document that we
19 accepted, is really not reliable. It's not
20 signed and he is not here for cross-
21 examination. I think you are noticed that you
22 needed to identify the exhibits in the PIF.

1 The other document was an
2 official --

3 MS. WIRT: Going forward, I think
4 that the email --

5 CHAIRPERSON MILLER: -- document--

6 MS. WIRT: -- that Ms. Anderson
7 sends out should be a little clearer.

8 CHAIRPERSON MILLER: Do you have
9 that? I don't have that before me. Do you
10 want me to accept it?

11 MEMBER ALBERTI: Madam Chair, give
12 it the weight it deserves. I mean, you have
13 stated --

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: Madam Chair, I
16 think we should accept this.

17 CHAIRPERSON MILLER: All right.

18 MEMBER ALBERTI: I think you
19 stated the caveat. Mr. Kline has certainly
20 stated several caveats that we should take
21 into consideration when we consider this. And
22 so I think we should accept it and give it the

1 weight that it deserves.

2 CHAIRPERSON MILLER: Okay. That
3 seems to be the sentiment. I seem to be
4 overruled here and then it is in the record,
5 but it has some very strong weaknesses, which
6 the Board recognizes. So that's Protestant
7 Exhibit No. 2. Okay. Are we finished? Are
8 you finished with this witness?

9 MS. WIRT: Yes.

10 CHAIRPERSON MILLER: Okay. So it
11 is cross, Mr. Kline?

12 MR. KLINE: I have no questions.

13 CHAIRPERSON MILLER: Okay. Does
14 the Board have any questions? Mr.
15 Silverstein?

16 MEMBER SILVERSTEIN: Ms. Elsassser,
17 have you been in contact with Mr. Ayers?

18 MS. ELSASSER: Mr. Ayers?

19 MEMBER SILVERSTEIN: Stephen
20 Ayers?

21 MS. ELSASSER: I don't believe so.
22 I don't know who he is.

1 MEMBER SILVERSTEIN: But you claim
2 to be representing the Architect of the
3 Capitol.

4 MS. ELSASSER: I am not --

5 MEMBER SILVERSTEIN: And Mr. --

6 MS. ELSASSER: -- saying that I am
7 the Architect of the Capitol or representing
8 him.

9 MEMBER SILVERSTEIN: Then do you
10 know whether these people --

11 MS. ELSASSER: I spoke --

12 MEMBER SILVERSTEIN: -- contacted
13 him?

14 MS. ELSASSER: -- with a friend of
15 mine who works in his office.

16 MEMBER SILVERSTEIN: I have no
17 further questions.

18 CHAIRPERSON MILLER: Okay. Any
19 others? Board questions? Any questions on
20 Board questions?

21 MS. WIRT: No.

22 CHAIRPERSON MILLER: No. Okay.

1 Thank you very much.

2 MS. ELSASSER: Thank you.

3 (Whereupon, witness was excused.)

4 MS. WIRT: I call Nancy McCall.

5 CHAIRPERSON MILLER: Who are you
6 calling?

7 MS. WIRT: Nancy McCall.

8 CHAIRPERSON MILLER: Okay.

9 Whereupon,

10 NANCY McCALL

11 was called as a witness by Counsel for the
12 Protestant, and having been first duly sworn,
13 assumed the witness stand and was examined and
14 testified as follows:

15 CHAIRPERSON MILLER: All right.

16 Thank you.

17 DIRECT EXAMINATION

18 MS. McCALL: For the record, my
19 name is Nancy McCall. I would like to say
20 good afternoon or maybe good evening to you.

21 I live at 219 3rd Street, N.E., a
22 block and a half from 308 Massachusetts Avenue

1 and I have lived there since 1985 and
2 mercifully moved in after the Man in the Green
3 Hat had just closed. One of the most popular
4 bars on Capitol Hill. So 308 Massachusetts
5 has served both as a very rambunctious bar,
6 probably the most successful establishment
7 that has been there in a very long time, as
8 well as two restaurants, one being the White
9 Tiger and the other being the Bangkok Orchid.

10 Both were quite successful at the
11 very beginning of their tenures, but then they
12 both faded off. So we really have experienced
13 many years with not a lot of foot traffic,
14 noise around or really a large cliental.

15 If you would permit me with a
16 little literary reference, "A rose by any
17 other name would smell as sweet." A famous
18 line from William Shakespeare's Romeo &
19 Juliet. And taking literary license, a
20 nightclub is a nightclub by any other name.

21 We simply do not know what is
22 going to be going into 301 Massachusetts

1 Avenue and probably preparing for an objection
2 from the counsel, we do know that Michael
3 Romeo is a principal. And according to the
4 michaelromeogroup.com, the Michael Romeo Group
5 is Washington, D.C.'s premier nightclub group
6 with five establishments: Lotus, Dry Martini,
7 Tattoo Bar, Midtown and until surrendering its
8 liquor license, Fur, for
9 michaelromeogroup.com.

10 Nightclubs have no place in a
11 residential neighborhood. We are a
12 neighborhood where most residents head off to
13 bed about the time that the current
14 restaurants on the 300 Block of Massachusetts
15 Avenue close. They close at 10:30 on week
16 nights and 11:00 on weekends.

17 All of the restaurants on the 300
18 Block of Massachusetts Avenue are allowed to
19 serve alcohol until 11:00 on week nights and
20 12:00 on weekends, but they close before they
21 are required to, because that is the nature of
22 our neighborhood. That is the nature of the

1 restaurants.

2 People in our neighborhood do not
3 go out for dinner, even small plates at
4 midnight, 1:00 in the morning, 2:00 in the
5 morning, 3:00. There is no business model
6 that has -- of a restaurant. Now there is
7 Union Pub that is quite successful and busy
8 and 201 down on D Street that stay open later,
9 but I would certainly not classify them as
10 restaurants.

11 We are also a neighborhood where
12 most residents rise within several hours of
13 the requested closing hours at 301
14 Massachusetts Avenue. We often get up at 4:00
15 or 5:00 in the morning to hit the gym, walk
16 our dogs, get ready for work or take our --
17 get our kids ready for school. It's an early-
18 rising, early-to-bed neighborhood.

19 When do we sleep if the Romeo &
20 Juliet restaurant is similar to the Michael
21 Romeo Group's other establishments? A Yelp
22 review of the current four Michael Romeo Group

1 establishments give a noise rating of loud or
2 very loud.

3 The application before you
4 requests serving alcohol until 2:00 a.m. or
5 3:00 a.m. for interior seating and with the
6 hours of midnight or 1:00 a.m. for the
7 exterior. How safe will we feel walking in
8 our neighborhood late at night or very early
9 in the morning if the environment around Romeo
10 & Juliet restaurant becomes similar to the
11 Michael Romeo Group's other establishment,
12 Fur?

13 We have been told that Romeo &
14 Juliet will serve small plates along with
15 alcohol. Is it a restaurant or is it a
16 nightclub? The request before you suggests a
17 nightclub, if one looks at on-line reviews of
18 the Michael Romeo Group's business model for
19 their current establishments.

20 I cite four that provide clear
21 evidence that the proposed "restaurant" will
22 not be appropriate for our neighborhood and

1 will cause disturbance to the peace, order and
2 quiet to our residential neighborhood when the
3 nightclub crowd arrives at 10:00 p.m.

4 Citing LM of Washington, DC,
5 November 14, 2008, one star rating of Lotus on
6 Yelp. "My poor marks for Lotus are mostly for
7 its role as a restaurant, but I would also go
8 ahead and not recommend it as a club.

9 Obnoxious music, lighting while most of the
10 patrons are still in the middle of dinner and
11 unpleasant service when we were waiting for
12 our check, because Lotus was about to turn
13 into a club and someone had bought our table
14 for the night."

15 TripAdvisor had one review of
16 Lotus with the heading, No Longer a
17 Restaurant, with a short brief review "It is
18 now a liquor store. I remember it was once,
19 at some point, but no longer."

20 Paul on DCSocialite.com, August
21 28, 2009, Tattoo.

22 MR. KLINE: I'm going to object to

1 recitation of anonymous postings on various
2 websites getting read into the record. I
3 don't believe it's relevant to this
4 proceeding.

5 MS. McCALL: May I -- would you
6 indulge me for one last one that references
7 Dirty Martini? You might want to hear it.

8 CHAIRPERSON MILLER: Okay. We
9 heard Dirty Martini discussed. All right.

10 MS. McCALL: The last one.

11 CHAIRPERSON MILLER: Where is
12 the --

13 (Simultaneous speaking.)

14 MR. KLINE: Wait, wait, wait. I
15 put in an objection and I would like to have
16 it ruled on.

17 CHAIRPERSON MILLER: Okay. No,
18 with the source of this, what you are about to
19 read --

20 MS. McCALL: It's in the Yelp
21 reviews --

22 CHAIRPERSON MILLER: -- is

1 actually -- what?

2 MS. McCALL: -- of impartial --
3 I'm citing the people who are no bearing to
4 this hearing.

5 MR. KLINE: How do we know?

6 CHAIRPERSON MILLER: What people?
7 What are you citing?

8 MS. McCALL: I'm citing the names
9 of the people of the -- and the dates that
10 they have posted reviews.

11 CHAIRPERSON MILLER: Reviews on
12 what?

13 MS. McCALL: On Yelp.

14 CHAIRPERSON MILLER: Of?

15 MS. McCALL: It gives -- it
16 directly addresses the nature of these
17 restaurants.

18 CHAIRPERSON MILLER: Okay. I--

19 MS. McCALL: And I think it
20 directly speaks --

21 CHAIRPERSON MILLER: Okay. Look,
22 okay, fine. I am in agreement with the Board.

1 Okay. I think. We are not going to accept
2 it. They are not available to be cross-
3 examined. And Dirty Martini's business model,
4 I'm pretty sure from what I heard, is
5 different from what this restaurant is going
6 to be.

7 So you can't read that into the
8 record.

9 MS. McCALL: Okay. But I do have
10 to say that the reviews on Yelp for Dirty
11 Martini is consistent with Lotus and Tattoo.
12 And that our fear is that in --

13 MR. KLINE: Move to strike on the
14 grounds of relevance. We had an objection
15 that was sustained.

16 CHAIRPERSON MILLER: Right.

17 MR. KLINE: I'm not going to sit
18 here and let it come in the back door.

19 CHAIRPERSON MILLER: It's
20 overruled. She didn't read the review. She
21 just talks from her own.

22 MEMBER ALBERTI: No, no, no.

1 MR. KLINE: No, she is going to--

2 MS. McCALL: I'm going to tell you
3 about that fantastic food there.

4 CHAIRPERSON MILLER: She is
5 finished.

6 MEMBER ALBERTI: No.

7 CHAIRPERSON MILLER: Let's just go
8 ahead. Are you finished with that?

9 MEMBER ALBERTI: Madam Chair? Are
10 we striking from the record the --

11 MS. McCALL: No.

12 MEMBER ALBERTI: Reviews that were
13 read or are we going to let those stand in the
14 record?

15 MS. McCALL: I think it speaks
16 directly to whether or not --

17 CHAIRPERSON MILLER: We're going
18 to ask the court reporter to read back what we
19 are going to strike, is that what you want?
20 Is that what you want to do?

21 MR. KLINE: I would --

22 CHAIRPERSON MILLER: Because at

1 this point, I'm not --

2 MR. KLINE: -- like the Board to
3 rule for the record that the recitations of
4 Yelp reviews is inappropriate and should be
5 stricken from the record and not considered by
6 the Board.

7 CHAIRPERSON MILLER: Inappropriate
8 because?

9 MR. KLINE: We don't know who the
10 source is. We don't know who posted them. We
11 have no opportunity to cross-examine.

12 CHAIRPERSON MILLER: Right.

13 MR. KLINE: No indicia of
14 reliability. It's like anonymous comments in
15 the newspaper.

16 CHAIRPERSON MILLER: Um-hum.

17 MR. KLINE: I mean, what -- there
18 is no probative value there.

19 CHAIRPERSON MILLER: Okay. But in
20 order to strike from the record, the court
21 reporter is going to have to read back maybe
22 what we are striking, because I understand

1 that I will strike as unreliable hearsay that
2 the -- what she quoted from the website.

3 But I don't know what that is, at
4 this point. We are kind of far along.

5 MR. KLINE: That's up to you. I
6 mean, that's up to the Board. I mean, it
7 seems to me if the Board -- if the Chair and
8 the Board agrees and you just rule that the
9 Yelp comments are deemed stricken and will not
10 be considered, that that's sufficient. That
11 should do it.

12 CHAIRPERSON MILLER: Okay. All
13 right.

14 MS. McCALL: To conclude --

15 CHAIRPERSON MILLER: To conclude,
16 okay.

17 MS. McCALL: I beg that you do not
18 subject us, yourselves and the Metropolitan
19 Police Department to the likely avalanche of
20 complaints that will occur if you allow what
21 we believe to be a nightclub to open in our
22 neighborhood. Make them prove that they can

1 be successful, a successful restaurant with
2 the restaurant hours serving alcohol that are
3 norm in our neighborhood.

4 We very much welcome a restaurant.
5 We do not welcome a nightclub.

6 CHAIRPERSON MILLER: Okay. Ms.
7 Wirt, do you have any other questions for your
8 witness? Mr. Kline, any cross?

9 CROSS-EXAMINATION

10 MR. KLINE: Ms. McCall, have you
11 been in nightclubs in the District of
12 Columbia?

13 MS. McCALL: How do you describe
14 nightclubs? Which ones?

15 MR. KLINE: Your term. You
16 introduced the term as part of your testimony.

17 MS. McCALL: Um-hum.

18 MR. KLINE: In your eyes, what is
19 a nightclub?

20 MS. McCALL: In my eyes, a
21 nightclub is a place where they serve
22 primarily alcohol, music by DJs. The current

1 ones today they are pretty hip. You're not
2 going there for dinner. You are going there to
3 party and drink. And when I was younger, I
4 went into some establishments probably that
5 were nightclubs, because I certainly didn't go
6 there for dinner.

7 MR. KLINE: So one of the
8 important elements of a nightclub is
9 entertainment in the form of --

10 MS. McCALL: Not entertainment.
11 It could be --

12 MR. KLINE: -- whoa, whoa.

13 MS. McCALL: -- music.

14 MR. KLINE: Whoa, whoa. We need--

15 MS. McCALL: Music.

16 MR. KLINE: -- for you --

17 MS. McCALL: Um-hum.

18 MR. KLINE: -- to listen to my
19 question.

20 MS. McCALL: Okay.

21 MR. KLINE: If you would, please.

22 MS. McCALL: Yes.

1 MR. KLINE: So that I can finish
2 it, so that --

3 MS. McCALL: Excuse me.

4 MR. KLINE: -- we can get your
5 answer. Thank you. So music would be
6 entertainment, music by a DJ most
7 specifically, correct?

8 MS. McCALL: It depends if you are
9 asking me about the legal definition of an
10 entertainment, whatever that thing is that you
11 say you haven't applied for.

12 Now, I find entertainment to be
13 listening to The Sound of Music --

14 MR. KLINE: So you hear --

15 MS. McCALL: -- on television.

16 MR. KLINE: -- The Sound of Music
17 in lots of nightclubs in the District of
18 Columbia?

19 MS. McCALL: I do in my home.

20 MR. KLINE: But not at nightclubs,
21 correct?

22 MS. McCALL: I have not heard The

1 Sound of Music in nightclubs.

2 MR. KLINE: And you wouldn't
3 expect to hear The Sound of Music in
4 nightclubs, would you?

5 MS. McCALL: It depends. Maybe if
6 I went to Austria.

7 MR. KLINE: I'm trying to put some
8 meat --

9 MS. McCALL: I'm not sure what
10 question you are asking me.

11 MR. KLINE: Well, maybe -- you
12 alleged that this establishment will be
13 operated as a nightclub.

14 MS. McCALL: Yes.

15 MR. KLINE: Those are your words.

16 MS. McCALL: Yes.

17 MR. KLINE: I'm trying to
18 understand --

19 MS. McCALL: Okay.

20 MR. KLINE: -- other than the
21 seeming guilt by association, which has led
22 you to this conclusion --

1 MS. McCALL: Um-hum.

2 MR. KLINE: -- what it is that
3 leads you to the conclusion that this
4 establishment, which spent a great deal of
5 time presenting a witness testifying as to
6 what the food would be --

7 MS. McCALL: Um-hum.

8 MR. KLINE: -- is going to be
9 operated as a nightclub. That's what I'm
10 asking you.

11 MS. McCALL: Okay. If I look at
12 the models of the other clubs and what I know
13 of --

14 MR. KLINE: Forget the other
15 clubs.

16 MS. McCALL: Okay.

17 MR. KLINE: I'm talking about this
18 application, this establishment that has been
19 applied for at this location.

20 MS. McCALL: Um-hum.

21 MR. KLINE: That's what I'm asking
22 you about. So is it your testimony that what

1 leads you to this conclusion is the other
2 establishments that are operated by Mr. Romeo?

3 MS. McCALL: No.

4 MR. KLINE: Is that all it is?

5 MS. McCALL: No. It is the hours
6 that are being requested. If you look at our
7 neighborhood, the norm for restaurants is they
8 close at 10:30 and 11:00 at night.

9 MR. KLINE: And it's your
10 testimony that all the restaurants in your
11 neighborhood close and are limited to those
12 hours?

13 MS. McCALL: The three on the 300
14 Block of Massachusetts Avenue. Okay. I'm not
15 sure about the pizza place, but I think it's
16 pretty much the same one.

17 MR. KLINE: And what are the other
18 two?

19 MS. McCALL: Then there is the
20 Union Pub, which I do not consider a
21 restaurant. I consider it a bar, a pub. They
22 stay open later. And 201 is a lounge which I

1 would consider similar to a nightclub.

2 MR. KLINE: So if Union Pub has a
3 CR License, which is a restaurant license, you
4 get to classify it as something other than a
5 restaurant?

6 MS. McCALL: No, but I have to
7 endure the noise and the traffic that it can
8 bring to our neighborhood.

9 MR. KLINE: Okay. So these labels
10 aren't terribly meaningful, are they?

11 MS. McCALL: Well, they are
12 meaningful if they are misused.

13 MR. KLINE: All right. Let's turn
14 back to the other establishments in your
15 neighborhood. You have testified that they
16 all are limited to 11:00 and 12:00, correct?

17 MS. McCALL: They close at 10:30
18 and 11:00, according to their own signs.

19 MR. KLINE: But they may have
20 hours later than that, correct?

21 MS. McCALL: They do not. They
22 close.

1 MR. KLINE: And they are all
2 limited to those hours?

3 MS. McCALL: Yes.

4 MR. KLINE: Bistro Cacao, is that
5 in your neighborhood?

6 MS. McCALL: Yes, it is.

7 MR. KLINE: And your testimony is
8 they are limited to those hours as well,
9 correct?

10 MS. McCALL: Yes. I went and
11 looked at their website and those are the
12 hours of operation.

13 MR. KLINE: Okay. But you haven't
14 looked at their license, have you?

15 MS. McCALL: No. Their license is
16 probably for 11:00 and 12:00.

17 MR. KLINE: Okay. So if I told
18 you that it was -- the Board's records
19 reflected that it was 12:00 midnight and 1:00
20 a.m.

21 MS. McCALL: I would be surprised.
22 But they don't stay open until then.

1 MR. KLINE: All right. And you
2 heard testimony that this establishment, if it
3 didn't have business until later hours,
4 wouldn't stay open those later hours either,
5 didn't you?

6 MS. McCALL: I heard that today,
7 yes.

8 MR. KLINE: Okay.

9 MS. McCALL: But that's not what I
10 based my testimony on, because that wasn't
11 what is in front of the Board.

12 MR. KLINE: So your testimony was
13 not based on anything that you heard about
14 this particular establishment, but was based
15 on what you gleaned from websites and what you
16 assumed about the operations of this
17 establishment, wasn't it?

18 MS. McCALL: We have heard
19 virtually nothing coming forward from this
20 group about what will be there.

21 MR. KLINE: Did you attend any of
22 the three ANC meetings that these gentlemen

1 attended and made presentations concerning the
2 operations of this business?

3 MS. McCALL: I personally did not
4 make attendance. I was out of town, but I
5 spoke with my neighbors and asked them to
6 relay and I spoke with our ANC Commissioner as
7 well.

8 MR. KLINE: I have no further
9 questions. Thank you.

10 CHAIRPERSON MILLER: Any Board
11 questions? Mr. Jones?

12 MEMBER JONES: Thank you, Madam
13 Chair. Outside of the -- well, excuse me. If
14 the hours were limited, you wouldn't have any
15 issues whatsoever with Mr. Michael Rehman
16 operating a restaurant in your neighborhood?

17 MS. McCALL: If it is a
18 restaurant. And my concern is that for the
19 reviews I was not allowed to put in, they were
20 consistently to say after a certain point in
21 time, 10:00, there was bottle service only,
22 that the restaurant became a nightclub, that

1 is my concern. Will it stay a restaurant
2 through all hours of operation or will it
3 morph into a nightclub where people are
4 drinking excessively and then spilling out
5 into the neighborhood.

6 And I'm not a teetotaler, so I'm
7 not, you know, opposed to this drinking, it's
8 only at midnight, you know. But I am
9 concerned about if there is a huge volume of
10 people coming in at 10:00 at night, coming
11 into the neighborhood just as we are beginning
12 to go to sleep and really get quiet and then
13 they are staying there until 12:00, 1:00.
14 That's not a dinner crowd.

15 MEMBER JONES: Understood.

16 MS. McCALL: It's very different
17 groups.

18 MEMBER JONES: Understood. But I
19 think part of your testimony was that we, as
20 the Board, you asked us to make them prove --

21 MS. McCALL: Um-hum.

22 MEMBER JONES: -- that they can

1 successfully operate --

2 MS. McCALL: Um-hum.

3 MEMBER JONES: -- as a restaurant.

4 The mechanism for proof, I guess that you are
5 asking us to consider, is the limitation of
6 the hours to what the operating hours of other
7 restaurants are, but not necessarily the
8 approved hours of what other restaurants are.

9 In other words, you are asking us
10 to place a limitation on this establishment,
11 based on -- purely based on the fact that it
12 is a Mr. Michael Rehman and his associated
13 affiliation with other establishments in the
14 District of Columbia as opposed to what is
15 being provided to us as the assertion to the
16 nature of the operations.

17 MS. McCALL: I --

18 MEMBER JONES: If it was somebody
19 other than Michael Rehman, would you have a
20 concern that this would be a restaurant? I
21 guess is the bottom line question.

22 MS. McCALL: I don't know.

1 Depending on who it was, but I would like to
2 clarify. I think it would be appropriate and
3 I do think it would be discriminatory to ask
4 him to have lower hours than what are allowed
5 to the other restaurants.

6 It was my understanding the other
7 restaurants operated -- has licenses for 11:00
8 or 12:00, but I think what is appropriate or
9 for the norm in that neighborhood for the
10 licenses that they are allowed, it would be
11 appropriate to prove that it is a restaurant.

12 They certainly don't have licenses
13 until 3:00 a.m. Does that make sense?

14 MEMBER JONES: To some degree. So
15 would you be open to, not that I'm even
16 possibly considering this as a viable option,
17 but just trying to get a feel for where you
18 are and where you stand in this landscape. If
19 for example there was some limitation put on
20 the establishment where they would be limited
21 to those hours that you desire for six months
22 and then after that six months, they would be

1 allowed full operating hours, if they
2 demonstrated some level of performance that is
3 deemed to be acceptable, i.e., noise was low,
4 there is no evidence of it operating as a
5 nightclub or whatever the case may be after
6 that six month period. Would you then be
7 accepting of them operating and having full
8 hours?

9 MS. McCALL: Full restaurant
10 hours?

11 MEMBER JONES: Yes, full
12 restaurant. Well, full hours.

13 MS. McCALL: Full restaurant
14 hours.

15 MEMBER JONES: Full hours. There
16 is no class -- there is no category of
17 restaurant hours versus nightclub hours.
18 Whereas, you are approved to sell alcohol to
19 the legal limit. So that's why I say there is
20 no -- that's what I'm trying to understand.

21 MS. McCALL: Yes.

22 MEMBER JONES: Because it seems

1 like --

2 MS. McCALL: Well, you need to
3 help me --

4 MEMBER JONES: -- there is
5 disconnect in terminology.

6 MS. McCALL: -- a little bit with
7 this.

8 MEMBER JONES: Excuse me?

9 MS. McCALL: You need to help me a
10 little bit. It is my understanding that there
11 is a class of license that is 11:00 or 12:00.
12 11:00 and 12:00, but no. Okay. I have been
13 misled then on that. And so all restaurants
14 or establishments that get a CR License can
15 stay open until 3:00 in the morning?

16 MEMBER JONES: So I'm not going to
17 -- this is probably not the appropriate forum
18 to go into those types of --

19 MS. McCALL: Maybe we could just
20 leave it as --

21 MEMBER JONES: -- things. But I
22 just want to understand --

1 MS. McCALL: We want it to be
2 demonstrated that it is going to be a
3 restaurant and not be turned into a nightclub.
4 And I think by restricting hours at the
5 beginning to prove that it is a viable
6 restaurant, would give us great -- give me
7 great comfort.

8 MEMBER JONES: Okay. So that is a
9 scenario that you would entertain. What is
10 that threshold? How many months, years would
11 it take for it to be proved to you -- be proof
12 to you, excuse me? I'm just speaking to you.

13 MS. McCALL: Oh. Is it a year?

14 MEMBER JONES: A year? Okay.

15 Thank you. Thank you, Madam Chair.

16 CHAIRPERSON MILLER: Okay. Mr.
17 Silverstein?

18 MEMBER SILVERSTEIN: Thank you.
19 Welcome, Ms. McCall. I miss the Man in the
20 Green Hat as well. The Man in the Green Hat
21 was the person who provided liquor to Members
22 of Congress.

1 MS. McCALL: He was a bootlegger.

2 MEMBER SILVERSTEIN: He was their
3 plasma man, as my dear friend, Carter Manasco,
4 used to call him.

5 What is the -- where exactly do
6 you live in comparison?

7 MS. McCALL: I live a block and a
8 half south on 3rd Street from 301.

9 MEMBER SILVERSTEIN: What's the
10 latest that any establishment near you or
11 between you and Romeo & Juliet is open? I
12 know you don't know their licenses, but what
13 is the --

14 MS. McCALL: There are none. It's
15 all residential. With the exception that
16 there is a lobbying club across the street,
17 but they are only open during the day.

18 MEMBER SILVERSTEIN: What is the
19 latest anything is open in your immediate
20 area?

21 MS. McCALL: The three restaurants
22 in the 300 Block of Maryland Avenue close at

1 10:30 and 11:00. The restaurant behind on D
2 Street, a small Italian restaurant, they
3 usually are closed by like 10:30 as well. And
4 then there is the pizza place which I don't go
5 to, but I assume they probably close down by
6 10:30 or 11:00.

7 Then Union Pub and 201 stay open
8 much later, but I tend not to go --

9 MEMBER SILVERSTEIN: How much
10 later?

11 MS. McCALL: I think they stay --
12 I don't really know, but I think it is like
13 1:00 or 2:00 in the morning.

14 MEMBER SILVERSTEIN: And is there
15 anything on Mass Ave.?

16 MEMBER ALBERTI: Union Pub is on
17 Mass Ave.

18 MEMBER SILVERSTEIN: Union Pub is
19 on Mass Ave. Okay.

20 MS. McCALL: They are on D Street.

21 MEMBER SILVERSTEIN: Okay.

22 MS. McCALL: Have I been saying

1 Maryland Avenue? I should be saying Mass Ave.
2 If so, please, correct the record. Yes, Mass
3 Ave. where 301 is.

4 MEMBER SILVERSTEIN: Okay.

5 MS. McCALL: There are three
6 restaurants on the other side of the street
7 and then there is one directly behind on D
8 Street, a small Italian restaurant. Then on
9 the opposite side of Mass Avenue, N.W.,
10 corner, there is the pizza place, Armand's.

11 And then on D Street, which sets
12 back from Mass Ave., there is --it's around
13 the corner, it's Union Pub and 201 Lounge.

14 MEMBER SILVERSTEIN: Okay. No
15 further questions. Thank you.

16 CHAIRPERSON MILLER: Okay.
17 Others? Let's see, I guess I just wanted to
18 say to you that I appreciate your concern that
19 there not be a nightclub in your neighborhood.
20 And also that you are probably not all that
21 well-versed in the ABRA Regulations and Laws,
22 which are fairly difficult.

1 And so I can see that because of
2 the late hours, they have applied for, what
3 Mr. Jones was calling, the full hours that are
4 allowed by alcohol premises/establishments to
5 sell to a certain hour. So they started
6 applying for -- well, you know, let's apply
7 for everything we can get, right?

8 But they are not applying for a
9 nightclub license. They are not applying for
10 entertainment endorsement, which means they
11 can't have entertainment and they can't do --
12 and they can't have nude dancing and they
13 can't have a lot of these other things that
14 would be of concern.

15 So that's why we were just zeroing
16 in on the hours. You know, I think that
17 that's what is of concern. You know, what
18 kind of noise would you get from just people
19 eating outside on the patio and things like
20 that.

21 And so I hope that makes things a
22 little bit clearer for you.

1 MS. McCALL: It does. Thank you
2 for that clarification.

3 CHAIRPERSON MILLER: Okay. So I
4 want to ask you this as you have been in the
5 neighborhood a long time and you have had
6 restaurants there before.

7 MS. McCALL: Um-hum.

8 CHAIRPERSON MILLER: But maybe
9 their hours were only until 11:00, I don't
10 know. But did you have any problems, you
11 know, when the restaurant closed with noise
12 from people coming into the neighborhood or
13 not really?

14 MS. McCALL: Well, not really
15 because of the nature of the two restaurants
16 that were there, Bangkok Orchid, a Thai
17 restaurant. I mean it appeal -- and then
18 White Tiger, it really didn't appeal to a
19 young crowd.

20 CHAIRPERSON MILLER: Um-hum.

21 MS. McCALL: And necessarily the
22 Hill staffers that will definitely then walk

1 through the neighborhood when the weather is
2 nice and they are out on the patio, that's
3 when you would get a lot more noise, because
4 just sitting outside drinking --

5 CHAIRPERSON MILLER: Right.

6 MS. McCALL: -- and munching on
7 something appeals very much to the Hill
8 staffers. And then they all permeate through
9 the neighborhoods very, very loud.

10 And I mean, I would like to see a
11 successful restaurant, but it's a dual-edged
12 sword for the neighborhood.

13 CHAIRPERSON MILLER: Right.

14 MS. McCALL: Because that outdoor
15 patio is fun to sit on. It is enjoyable, but
16 it can seat a lot of people and then if you
17 appeal to the Hill staffers with these tapas
18 and drinks and drink specials, they are all
19 going to come walking through the
20 neighborhood. And it is tolerable at 10:00 at
21 night, as Betsy said, even until 11:00, but
22 it's 1:00 and 2:00 in the morning.

1 CHAIRPERSON MILLER: Right. So
2 what is your tolerance hour? It's not 1:00 or
3 2:00?

4 MS. McCALL: No. I mean, I'm
5 embarrassed to tell you how early I go to bed.

6 CHAIRPERSON MILLER: Well --

7 MS. McCALL: I try to sleep by
8 9:00 or 10:00.

9 CHAIRPERSON MILLER: Okay.

10 MS. McCALL: Because I get up at
11 4:00 in the morning.

12 CHAIRPERSON MILLER: Okay. So you
13 go to sleep at 9:00 or 10:00.

14 MS. McCALL: Um-hum.

15 CHAIRPERSON MILLER: Were you
16 bothered by the noise of the previous
17 restaurant?

18 MS. McCALL: There was nobody
19 there.

20 CHAIRPERSON MILLER: How about
21 when they were open?

22 MS. McCALL: There just wasn't a

1 lot of business.

2 CHAIRPERSON MILLER: Okay.

3 MS. McCALL: Yes, you know, it's a
4 very different, I think, dream, business
5 dream. I mean, you don't want to set up a
6 restaurant with the amount of business that
7 Bangkok Orchid and I think the White Tiger
8 ultimately ended up having. There just wasn't
9 the crowd. And then they closed --

10 CHAIRPERSON MILLER: All right.

11 MS. McCALL: -- at 10:30.

12 CHAIRPERSON MILLER: Okay. So is
13 it basically that you would just like them to
14 close by 11:00 or something like that on
15 weekdays? Do you have a later hour on
16 weekends?

17 MS. McCALL: It's all right a
18 little bit later on the weekends.

19 CHAIRPERSON MILLER: Okay.

20 MS. McCALL: I'm not a Grinch.

21 CHAIRPERSON MILLER: All right.

22 Anything else? Thank you very much.

1 MS. McCALL: Okay. Thank you.

2 (Whereupon, witness was excused.)

3 MS. WIRT: I call Becky Halkias.

4 My last witness.

5 MS. HALKIAS: Hello.

6 CHAIRPERSON MILLER: I want to
7 swear you in.

8 MS. HALKIAS: Oh, sorry.

9 Whereupon,

10 BECKY HALKIAS

11 was called as a witness by Counsel for the
12 Protestant, and having been first duly sworn,
13 assumed the witness stand and was examined and
14 testified as follows:

15 CHAIRPERSON MILLER: Okay. What's
16 your name again?

17 MS. HALKIAS: My name is Becky
18 Halkias.

19 CHAIRPERSON MILLER: Okay.

20 DIRECT EXAMINATION

21 MS. HALKIAS: I live at 317 C
22 Street, N.E. I did investigate the safety of

1 where I was going to be living before I bought
2 my house. And I attended every one of the ANC
3 meetings. And I think, that for your
4 information, this is the third iteration of
5 what was going to be in this place.

6 And there has been a lot of hide
7 the ball between the developer and the
8 neighborhood. And initially when this first
9 started, the developer said, you know, well,
10 you know, maybe we can work something out and
11 so I reached out to him and said I'm happy to
12 get the neighbors together and maybe we can
13 work something out.

14 And when I called him to follow-
15 up, he said well, you know, are the neighbors
16 going to be willing to go with something that
17 is, you know, something, you know, on the
18 street and I said, you know, I don't really
19 think so. And he said well, then forget it.
20 There is no reason for a meeting.

21 So the skepticism and kind of the
22 ill-will that you feel coming out is not

1 directed at Mr. Rehman and the current group
2 per se only. It is because we have been
3 through a lot of hide the ball.

4 And we learned -- and thank you
5 for your patience and your questioning,
6 because today we learned more about what is
7 going to be in the restaurant. The
8 application doesn't really have the detail
9 that we heard today. I mean, we just heard
10 about them looking at the menu. They talked
11 about a tapas menu, but, you know, at any of
12 the ANC meetings, we didn't hear about well,
13 what does that mean.

14 The concern that I have, I'm a
15 single woman. I live by myself. I live right
16 across the street from the Page Dorm and from
17 the daycare center and that's not by accident.
18 I felt comfortable buying there because I knew
19 there was going to be a police -- a Capitol
20 Police Officer sitting there.

21 And by the way, I did talk to the
22 Sergeant of Arms Office and they were not

1 aware that this was happening.

2 And I am concerned about
3 regardless of whether you have different hours
4 on the inside or the outside, I am concerned
5 about people who have -- you know, I used to
6 drink. I can't do it now because I have
7 gastritis. So you know, I'm not against it,
8 but I am concerned about people coming out who
9 have had too much to drink, which everybody
10 does, and they are going to be parking in
11 front of my house a block down.

12 And they are going to be noisy.
13 And as Mr. Fiesta testified, they get into
14 altercations when they come from the 201 Club
15 when they are coming later at night. Parking
16 is challenging on our street. It is
17 challenging during the day because they have--
18 we have the House -- we have the Senate Office
19 Building. We have the Capitol and from
20 lunchtime on, we have all the restaurants on
21 Massachusetts Avenue where people are parking.

22 I am not comfortable. I am sorry.

1 I am not comfortable if I can't find a parking
2 place on my street. Yes, we did talk about
3 their being a valet service, but my experience
4 on Capitol Hill is if people can get a parking
5 space in front of my house on the blocks in
6 the immediate vicinity, they take them.

7 And once things -- the restaurants
8 close, then the spaces get more open. That
9 has been my experience in our neighborhood.
10 Our neighborhood is a historic neighborhood
11 where we, the homeowners, have to abide by
12 special covenants. We can't change our
13 lights. We can't paint things in different
14 colors. That's why everybody is up in arms
15 about changes to what is going to happen.

16 And talking about, you know, the
17 cafe doors or whatever, we learned at one of
18 the ANC meetings, those doors have to be open
19 from May to October. And that's going to be
20 noise. Not for me, for the people that are
21 across the street and adjacent.

22 And as for a special class or

1 whatever, we are not a Commercial District.
2 We are a Residential District. I work in a
3 commercial area downtown an there is a very
4 popular restaurant that I love to go to, but
5 when that place gets filled, like I hope your
6 establishment gets filled, you can hear
7 everybody outside. And they have glass. They
8 have done everything they can.

9 They have drapes, but when
10 people's voices get loud and people drink and
11 you get louder, those voices carry into the
12 street. So -- and we had talked. Sir, you
13 had said you needed 17 extra seats at one of
14 the ANC meetings to make a go for it. So we
15 did talk about additional seats at one of the
16 ANC meetings.

17 There were not anything on the --
18 again, the application was empty in terms of
19 who is going to do what. So I appreciated the
20 discussion about what is going to happen. I
21 would like you and I would appreciate if in
22 your considerations, I do Tax Law, I do Health

1 Care Law, and when I'm asked about -- when you
2 asked the question about well, if you have to
3 close at 10:00 or 12:00 or midnight or 2:00,
4 how does that impact your operations?

5 Well, if they don't have a menu
6 and he hasn't run the numbers, I have to give
7 numbers to prove what I say. I would ask you
8 to ask for numbers, you know, in making such
9 a decision. I can't say -- I can't get away
10 with saying oh, that is really terrible if you
11 don't let me stay open until 2:00, because
12 that will really impact my business.

13 Well, where is the numbers? I
14 asked you that as a resident, because that
15 impacts my safety and that impacts my peace,
16 because I can hear people walking underneath
17 my windows. I can hear the pages when they
18 are having a good time and they are walking
19 underneath my windows going to their dorms.
20 I can hear them.

21 So I care if people are walking
22 under my windows and speaking loudly or if

1 like Mr. Fiesta said, they are having an
2 altercation or whatever. So those are reasons
3 that, you know, I care about that stuff and i
4 ask you to, you know, think about that.

5 Jaleo in terms of its numbers, I
6 think that is apples and oranges. They are in
7 a Commercial District. We are in a Historic
8 District that is zoned for residential. And
9 that's where those people are going to be
10 parking.

11 Now, I don't know if -- I would
12 suspect that -- because my sticker that I get
13 for my car, I can park -- I have special
14 parking privilege by where the White Tiger is.
15 I suspect it is residentially zoned. I can't
16 tell you for sure, that is my assumption. And
17 I get special treatment. I don't know. I
18 can't tell you for sure.

19 Capitol Hill, the rest of the --
20 the other restaurants have a smaller footpath.

21 CHAIRPERSON MILLER: Smaller what?

22 MS. HALKIAS: They have a smaller

1 footpath in terms of their sizes. The most
2 successful is the Brasserie which had a very
3 small footpath. And as you have heard before,
4 people in our area just don't go out that late
5 at night.

6 So, you know, I had said this at
7 the last ANC meeting, I really urge you to
8 think seriously before you spend a lot of
9 money expanding your restaurant and putting a
10 lot of money into making it really big,
11 because that's just not what has been
12 successful, unless it is a big booze bar like
13 the Union Pub or the 201 Club, which I hope to
14 God you don't give them 2:00 a.m. hours again,
15 because, you know, you have already heard the
16 testimony and I don't want to be redundant
17 about what a nuisance it is to the
18 neighborhood.

19 And you know, let's call a spade a
20 spade. I mean, everybody has been dancing
21 around about it. I don't know you, Mr. Romeo.
22 All I know is what I read in the Washington

1 Post about, you know, the gang slaying that
2 was at the Fur Club.

3 MR. REHMAN: Yes, ma'am, that has
4 nothing to do with this club.

5 CHAIRPERSON MILLER: No, excuse
6 me.

7 MEMBER ALBERTI: No, please.

8 MR. REHMAN: No, it was in front
9 of --

10 CHAIRPERSON MILLER: No, no.

11 MEMBER ALBERTI: Sir.

12 CHAIRPERSON MILLER: You are out
13 of order. You are out of order.

14 MR. REHMAN: I thought she was
15 asking me something. Sorry.

16 CHAIRPERSON MILLER: No. She --

17 MR. REHMAN: She is pointing.

18 Fine. All right.

19 MS. HALKIAS: I'm testifying.

20 CHAIRPERSON MILLER: She is
21 testifying.

22 MR. REHMAN: Okay.

1 CHAIRPERSON MILLER: Testifying.

2 Let's not get into character assassinations
3 here.

4 MS. HALKIAS: No. But all I'm
5 saying is this says there is no violations of
6 anyone on this that signed this. I want to --
7 I ask you to look into that if that is
8 accurate for everybody that signed that. The
9 newspaper account indicated otherwise. I
10 don't know if that's true. I'm not making any
11 accusations.

12 I'm just saying that's why
13 everybody had a concern. Whether it is true
14 or not, I don't know. But I'm just saying
15 that that's why they had their concern. And,
16 you know, under the regulations, this was
17 supposed to be filled in so that we knew what
18 is going to be served, who is going to be
19 where.

20 Look under 25-400, they are
21 supposed to fully let us know so we had an
22 idea. And I think if we had more disclosure

1 and more openness, we would be in a better
2 place today.

3 So I thank you for the hearing and
4 I just ask you to help us know more about what
5 is going on and have there to be more
6 certainty, more facts before -- so that
7 everybody knows what is going on.

8 And when you were asking questions
9 about, you know, how would we feel more
10 comfortable, it's only with more facts and
11 more certainty can people feel more
12 comfortable because the rug has been pulled
13 out from under us, you know, from the other
14 iterations and much of this we are suffering
15 from the other iterations of what was going to
16 be there.

17 CHAIRPERSON MILLER: Thank you.
18 Ms. Wirt, do you have any questions?

19 MS. WIRT: No.

20 CHAIRPERSON MILLER: Mr. Kline?

21 CROSS-EXAMINATION

22 MR. KLINE: Ms. Halkias, am I

1 pronouncing that right?

2 MS. HALKIAS: Very good.

3 MR. KLINE: Ms. Halkias, you saw
4 the placards that went up on the outside of
5 the establishment advertising this ABC
6 application?

7 MS. HALKIAS: I did not.

8 MR. KLINE: You didn't. So how
9 did you learn about the application?

10 MS. HALKIAS: I learned about it
11 at the -- I learned about it either at one of
12 the ANC meetings or through word of mouth.
13 I'm not sure.

14 MR. KLINE: Okay.

15 MS. HALKIAS: I don't remember. I
16 can't tell you honestly.

17 MR. KLINE: All right. You didn't
18 reach out to the applicant to find out what it
19 was that they intended to do at the location,
20 did you?

21 MS. HALKIAS: Well, I went to all
22 the meetings and I read the application. I

1 think that's sufficient for me to do.

2 MR. KLINE: Okay. And what you
3 have been holding up purports to be the
4 application?

5 MS. HALKIAS: Yes, that's the
6 application that was on file and it is stamped
7 Alcohol Beverage Regulation Administration.

8 MR. KLINE: Okay. And you said
9 that parking in your neighborhood is very
10 challenging?

11 MS. HALKIAS: Yes.

12 MR. KLINE: Do you know of a
13 neighborhood in the District of Columbia where
14 parking is not challenging?

15 MS. HALKIAS: I know neighborhoods
16 where it is far less challenging than the one
17 I have.

18 MR. KLINE: Where there are
19 restaurants located of any kind at all?

20 MS. HALKIAS: Yes.

21 MR. KLINE: You do?

22 MS. HALKIAS: Um-hum.

1 MR. KLINE: Okay. And what would
2 those be?

3 MS. HALKIAS: I know that when you
4 are in -- I know that restaurants that are not
5 in the same vicinity of Capitol Hill where
6 there are three Senate Offices are not as
7 challenged as where we live.

8 MR. KLINE: So --

9 MS. HALKIAS: And don't have the
10 Senate Page Dorm and the Senate Daycare. They
11 are not as challenged as where we are.

12 MR. KLINE: So Capitol Hill --

13 MS. HALKIAS: Just pressure, just
14 pressure.

15 MR. KLINE: -- is special. Is
16 that what you are telling the Board?

17 MS. HALKIAS: I'm just talking
18 about the numbers.

19 MR. KLINE: Okay.

20 MS. HALKIAS: When you look at the
21 numbers of people who are all trying to vie
22 for a small number of spaces, it's just

1 numbers.

2 MR. KLINE: And that doesn't
3 define 14th Street? That doesn't define
4 Georgetown? That doesn't define Dupont
5 Circle?

6 MS. HALKIAS: Georgetown has --
7 no, they are different because Georgetown has
8 far more parking garages. We don't have one
9 where we live and we are confined to that
10 small space. So I think it distinguishes it.

11 MR. KLINE: Okay. Fair enough.
12 Now, you and your neighbors you testified
13 prior to -- you seemed to make a big deal
14 about this is Capitol Hill. This is
15 different. Your testimony referenced the
16 Historic District and the challenges that that
17 poses. Are you any different than Georgetown
18 with respect to those challenges?

19 MS. HALKIAS: I think our
20 neighborhood is different. It's smaller.
21 It's more enclosed. Georgetown is much
22 larger. Georgetown is a bigger commercial

1 area. Yeah, I think it is different.

2 MR. KLINE: And you are different
3 than Dupont Circle?

4 MS. HALKIAS: Yes.

5 MR. KLINE: Okay. So Capitol Hill
6 is special and unique unto itself?

7 MS. HALKIAS: Not Capitol Hill. I
8 said our neighborhood where we are. I'm not
9 saying Capitol Hill in general. I'm not
10 making a generalization. You have to -- I'm
11 saying our neighborhood where we are is
12 different. I'm not making a generalization
13 for Capitol Hill. I'm saying where we are on
14 Capitol Hill.

15 MR. KLINE: Okay. And you also
16 testified that people in your neighborhood
17 don't go out late at night, correct?

18 MS. HALKIAS: Generally, no.

19 MR. KLINE: Isn't that perhaps
20 because they don't have any place to go?

21 MS. HALKIAS: No. No, because if
22 they wanted to go out, there is other places

1 to go.

2 MR. KLINE: In other
3 neighborhoods, though, correct? You have
4 testified and your neighbors have testified
5 that all of these places have the same hours
6 and they all close early.

7 MS. HALKIAS: If they wanted to go
8 somewhere, they could get in their car and go
9 to Georgetown or whatever. But there is no
10 desire to. I mean, as you pointed out, sir,
11 that the liquor licenses for the other
12 restaurants, for example, Bistro Portico is
13 later. And if they had the foot traffic, they
14 would stay open later.

15 And if we wanted to go out later,
16 we would. And if you knew more about Capitol
17 Hill and where we are, you would know that
18 people don't go out that late where we are on
19 Capitol Hill.

20 MR. KLINE: But Union Pub is open
21 later, isn't it?

22 MS. HALKIAS: It's a bunch of

1 kids. And they are coming -- they are
2 imports. They are not from where we are.

3 MR. KLINE: None of them live in
4 your neighborhood?

5 MS. HALKIAS: No.

6 MR. KLINE: Everyone drives to
7 Union Pub that comes to Union Pub?

8 MS. HALKIAS: I think the kids --
9 I think a lot of those kids take the subway.

10 MR. KLINE: They take the subway
11 just to go to Union Pub?

12 MS. HALKIAS: I believe so. I
13 don't think a lot of those kids -- we don't
14 have -- I mean, there may be some of the kids,
15 but if you knew more about the neighborhood,
16 which I think would behoove your client, you
17 would realize that those kids are not the
18 neighborhood type.

19 MR. KLINE: I have no further
20 questions. Thank you.

21 CHAIRPERSON MILLER: Board
22 questions? I have a couple of questions. I

1 want to clarify. I think that you said that
2 noise doesn't bother you, just parking.

3 MS. HALKIAS: No, it does.

4 CHAIRPERSON MILLER: Is that
5 right?

6 MS. HALKIAS: Noise bothers me,
7 that's why I said that when the pages are
8 underneath my windows --

9 CHAIRPERSON MILLER: Noise of
10 people walking under your window.

11 MS. HALKIAS: And yelling and
12 whatever when they do that.

13 CHAIRPERSON MILLER: Right.

14 MS. HALKIAS: Um-hum.

15 CHAIRPERSON MILLER: Traffic from
16 the restaurant, but not in the restaurant.
17 You can't hear the noise from the patio,
18 correct?

19 MS. HALKIAS: No, no, no, no.

20 CHAIRPERSON MILLER: Okay. Based
21 on your experience with the previous
22 restaurants, right? You lived there when

1 those other restaurants were there?

2 MS. HALKIAS: Right.

3 CHAIRPERSON MILLER: Okay. So
4 your concern is parking, correct?

5 MS. HALKIAS: My concern is people
6 coming out and walk -- you know, if they are
7 parking -- I mean, if they are coming out
8 later and they would be parking on the street
9 by my house, it would be -- if they are noisy
10 under that or my safety, if they are taking up
11 the parking places and I have to go further
12 away.

13 CHAIRPERSON MILLER: Okay. So did
14 they take up parking spaces that you would
15 have liked to when the other restaurants were
16 there?

17 MS. HALKIAS: It is challenging
18 even now to get. You know, when I come home
19 at night at 7:00, I have to wait sometimes for
20 45 minutes to get a parking space in front of
21 my own house.

22 CHAIRPERSON MILLER: Right, at

1 7:00. So --

2 MS. HALKIAS: And at 10:00, it
3 could be equally challenging. But when the
4 restaurants are closed, you can see there is
5 openings.

6 CHAIRPERSON MILLER: Well, are you
7 opposed to a restaurant period or are you just
8 opposed to a restaurant with later hours?

9 MS. HALKIAS: I'm opposed to a
10 restaurant with later hours. I knew that
11 restaurants were there when, you know, I moved
12 in. And I like to have the -- I like to have
13 restaurants that I can walk to.

14 CHAIRPERSON MILLER: Okay. So
15 it's the late hours?

16 MS. HALKIAS: Yes.

17 CHAIRPERSON MILLER: Okay. All
18 right. Are there any questions on Board
19 questions?

20 MS. WIRT: No.

21 CHAIRPERSON MILLER: Thank you
22 very much.

1 (Whereupon, witness was excused.)

2 CHAIRPERSON MILLER: Do you have
3 any other witnesses?

4 MS. WIRT: No other witnesses.

5 CHAIRPERSON MILLER: You don't?
6 Okay. Do you have any other exhibits
7 preferably identified on the PIF that you want
8 to put in evidence?

9 MS. WIRT: I have an exhibit, but
10 it's not on the PIF, again, because I
11 misunderstood or it was misleading from what
12 I read in Ms. Anderson's letter and that is
13 the application itself, which was just
14 discussed. I got this copy late in the game
15 from an officer actually, MPD officer.

16 And he told me --

17 MEMBER SILVERSTEIN: Please speak
18 up a little louder. Okay?

19 MS. WIRT: I got this just
20 yesterday from an MPD police officer. It is
21 the Application Form No., of her license,
22 92684. It is stamped by ABRA on July, it

1 looks like July 3, 19 -- sorry, 2013.

2 Question No. 20, "The officers
3 asked me to read the question and refer to you
4 to check its accuracy."

5 MR. KLINE: Madam Chair, if Ms.
6 Wirt is going to testify, let's put her on the
7 stand and swear her in, so I can properly
8 cross-examine her.

9 CHAIRPERSON MILLER: I don't
10 understand what you are doing.

11 MS. WIRT: The officer asked me to
12 request that the Board check this application
13 No. 20., so I --

14 CHAIRPERSON MILLER: You are --

15 MEMBER ALBERTI: Are you making
16 that request, Ms. Wirt?

17 MS. WIRT: Well, he requested that
18 I do it.

19 MEMBER ALBERTI: Are you making
20 that request?

21 MS. WIRT: Yes, yes, on his
22 behalf.

1 MEMBER ALBERTI: Thank you. Thank
2 you.

3 CHAIRPERSON MILLER: Do we have
4 this document? Do we have this document?

5 MEMBER ALBERTI: Yes, it's in our
6 record. This is the application which is in
7 our records.

8 CHAIRPERSON MILLER: Do you have
9 it here?

10 MS. WIRT: It's in the record.

11 CHAIRPERSON MILLER: I just don't
12 know if she has the full application or a part
13 of an application.

14 MEMBER ALBERTI: I think she is
15 talking about this. She is talking about --
16 Madam Chair, I believe Ms. Wirt is referring
17 to this document, which I have, which is the
18 license and the answer to No. 20. Is that
19 correct, Ms. Wirt?

20 MS. WIRT: Yes.

21 MEMBER ALBERTI: Okay.

22 CHAIRPERSON MILLER: Okay. So you

1 are looking at -- are you looking at one page?

2 MS. WIRT: See, I think it's the
3 same page you have.

4 CHAIRPERSON MILLER: Yes, okay. I
5 want to make sure we're looking at the same
6 page. Okay.

7 MS. WIRT: I believe so.

8 CHAIRPERSON MILLER: All right.
9 This is in the record. We do have a copy of
10 the application in the record.

11 MS. WIRT: It's a request, that's
12 all.

13 CHAIRPERSON MILLER: So you are
14 asking that we look at No. 20?

15 MS. WIRT: No. 20, yes, that's the
16 one.

17 CHAIRPERSON MILLER: Okay. Does
18 that complete your case?

19 MS. WIRT: Yes.

20 CHAIRPERSON MILLER: Okay. Then
21 we are at closing.

22 MR. KLINE: Yes. Madam Chair,

1 very briefly. As I indicated at the outset,
2 although we seem to have meandered a bit with
3 all sorts of innuendo and other issues, we
4 think this is a pretty simple case.

5 This is an application for a
6 restaurant license without an entertainment
7 endorsement. And I think the Board certainly
8 is aware that it is pretty difficult to
9 operate a nightclub without an entertainment
10 endorsement.

11 The testimony of Mr. Ortiz was
12 pretty clear, I think, and detailed about what
13 the plans are to operate this restaurant down
14 to the style of food. He was even asked
15 detailed questions about how they would
16 service the number of people from the size of
17 the kitchen and I think he gave very clear
18 thoughtful answers to those questions, which
19 should tell the Board that this is intended to
20 be a restaurant. That's exactly what it is
21 intended to be.

22 Now, there has been much testimony

1 from persons in the neighborhood who say no
2 one is going to go there that late. Okay.
3 Then so be it. Then market forces will
4 determine as it is claimed market forces have
5 determined for the other establishments in the
6 neighborhood that they will close earlier.

7 But in terms of any compelling
8 evidence that this establishment as is planned
9 will have a negative effect on peace, order
10 and quiet, we think the record is bereft of
11 that. We think the applicant has made its
12 case in terms of what they intend to operate
13 there.

14 The applicant has agreed
15 voluntarily to curtail the hours that were
16 applied for and we would request slightly
17 different from what I said to you at the
18 outset of the hearing, not that the
19 application be granted as submitted, but that
20 the application be granted with the revised
21 hours that Mr. Ortiz indicated that the
22 ownership finds acceptable, because there

1 doesn't seem to be any compelling reason why
2 those hours should not be granted.

3 With respect to parking, we never
4 asked for a ruling on it. We would submit
5 it's not part of this case. It wasn't raised
6 as part of the protest letter that was filed
7 by the sole protestant in this case, the ANC.

8 If the Board does consider parking
9 an issue, as I indicated in one of our cross-
10 examination questions, it's an issue all over
11 the city. It's an issue with respect to every
12 business, every office and every residence in
13 this city and this establishment is no
14 different.

15 Under the circumstances, we would
16 request, respectfully, that you grant the
17 license as -- with the amendments that we
18 suggested during the proceeding. Thank you.

19 CHAIRPERSON MILLER: Thank you.
20 Ms. Wirt, do you have a closing?

21 MS. WIRT: Yes, I do.

22 CHAIRPERSON MILLER: Okay.

1 MS. WIRT: The concern of most of
2 my constituents today is a concern about the
3 draw of people from the outside coming into
4 our neighborhood. Our neighborhood is a quiet
5 neighborhood, not a bar strip. We ask ABRA to
6 deny these late hours, because if you grant
7 them, other restaurants on Massachusetts
8 Avenue could do the same and you will,
9 essentially, have turned our neighborhood into
10 a bar strip.

11 You will change the dynamic of the
12 quiet peaceful residential neighborhood, which
13 has been that way for more than 100 years.
14 And there is no reason to change our quality
15 of life, so that one establishment can profit.

16 We are long-term residents,
17 families with children who need to sleep at
18 night, so they can go to school and to go work
19 in the morning.

20 ABRA can either deny this liquor
21 license late hours or put restrictions on it
22 to ensure that it is palatable to the

1 community. I hope they do the latter and not
2 give the hours that they request.

3 I would like to leave the Board
4 with one equation. Liquor plus patrons
5 drinking late nights equals trouble and noise,
6 which subtracts from the peace, order and
7 quiet of the neighborhood. Thank you.

8 CHAIRPERSON MILLER: Okay. Thank
9 you. At this point, I'm going to close the
10 record. And just ask the parties if they wish
11 to file proposed findings of fact and
12 conclusions of law?

13 MR. KLINE: We will waive.

14 CHAIRPERSON MILLER: Okay. You
15 will waive also?

16 MS. WIRT: Yes.

17 CHAIRPERSON MILLER: Okay. Good.
18 All right. Okay. Then that completes this
19 case. We will be issuing an order within 60
20 days. And I'm going to just read the
21 instructions and take a vote on the Board's
22 consideration of this case in closed session.

1 As Chairperson of the Alcoholic
2 Beverage Control Board for the District of
3 Columbia and in accordance with DC Official
4 Code Section 2-574(b) of the Open Meetings
5 Act, I move that the ABC Board hold a closed
6 meeting either today or at our next meeting on
7 Case No. 13-PRO-00136, Romeo & Juliet pursuant
8 to Section 2-574(b)(4) of the Open Meetings
9 Act to seek legal advice from our counsel and
10 deliberate on this case for the reasons cited
11 in Section 2-574(b)(13) of the Open Meetings
12 Act.

13 Is there a second?

14 MEMBER BROOKS: Second.

15 CHAIRPERSON MILLER: Mr. Brooks
16 has seconded the motion. I'll now take a roll
17 call vote.

18 Mr. Brooks?

19 MEMBER BROOKS: I agree.

20 CHAIRPERSON MILLER: Mr. Alberti?

21 MEMBER ALBERTI: I agree.

22 CHAIRPERSON MILLER: Ms. Miller

1 agrees.

2 Mr. Silverstein?

3 MEMBER SILVERSTEIN: I agree.

4 CHAIRPERSON MILLER: Mr. Jones,
5 do you agree of going into closed session?

6 MEMBER JONES: I do.

7 CHAIRPERSON MILLER: Okay. Then
8 the motion has passed by a 5-0-0 vote.

9 And I hereby give notice that the
10 ABC Board will hold this closed meeting
11 pursuant to the Open Meetings Act in the ABC
12 Board conference room pursuant to Section 2-
13 574(b).

14 Okay. That concludes this case.
15 Thank you all very much.

16 MR. KLINE: Thank you.

17 MS. WIRT: When will we receive
18 the decision?

19 CHAIRPERSON MILLER: In about 60
20 days.

21 MS. WIRT: 60?

22 CHAIRPERSON MILLER: Written

1 order.

2 MEMBER ALBERTI: Within 60?

3 CHAIRPERSON MILLER: 60.

4 MEMBER JONES: 6-0.

5 MR. KLINE: Within 60 days.

6 Within 60 days.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: We are still
9 conducting business.

10 MR. REHMAN: Thank you. Have a
11 good week. All you guys, thanks a lot.

12 (Whereupon, the Protest Hearing in
13 the above-entitled matter was concluded at
14 6:01 p.m.)

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