

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA  
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
3 ALCOHOLIC BEVERAGE CONTROL BOARD

4 - - - - -X

5 IN THE MATTER OF: :  
6 Bardo, LLC., t/a Bardo :  
7 25 Potomac Avenue S.E. : Case #15-PRO-00114  
8 License #100646 : Protest Hearing  
9 Retailer DT :  
10 ANC 6D :  
11 Application for a new :  
12 License :

13 - - - - - X

14 Wednesday, February 10,  
15 2016

16  
17 Whereupon, the above-referenced matter  
18 came on for hearing at the Alcoholic Beverage  
19 Control Board, Reeves Center, 2000 14th Street,  
20 N.W., Suite 400S, Washington, D.C. 20009.

21  
22

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 NICK ALBERTI

6 RUTHANNE MILLER

7 JAMES SHORT

8 MIKE SILVERSTEIN

9

10 Office of the Attorney General:

11 MARTHA JENKINS

12 ABRA:

13 DANETTE WALKER

14 LaVERNE FLETCHER

15

16 ALSO PRESENT:

17 BILL STEWART,

18 Owner

19 CORALINE FARLEE,

20 ANC 6D

21

22

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

2 CHAIRPERSON ANDERSON: And we'll call our  
3 hearing for this afternoon. The case is on our  
4 Protest Hearing Calendar. Case No. 15-PRO-00114,  
5 Bardo. Will the parties please, when you get up  
6 here can you please identify yourself for the  
7 record, please. And also there's a sign-in sheet  
8 on the -- we have a sign-in sheet. So please  
9 sign your name in please, so. Yes.

10 No, on each side there is a -- yeah. So.  
11 Yeah.

12 MR. STEWART: Well, my name is Bill  
13 Stewart. I'm from Bardo. I'm the owner.

14 CHAIRPERSON ANDERSON: Okay.

15 MR. STEWART: Applicant.

16 CHAIRPERSON ANDERSON: You said, Bill?  
17 I'm sorry.

18 MR. STEWART: Bill Stewart.

19 CHAIRPERSON ANDERSON: Bill Stewart.  
20 Okay. Thanks.

21 MS. FARLEE: Coralie Farlee, representing  
22 ANC 6D. I'm Chair of the ABC Committee.

1 CHAIRPERSON ANDERSON: Ms. Farlee, right?

2 MS. FARLEE: Farlee.

3 CHAIRPERSON ANDERSON: All right. We're  
4 here for a protest hearing. And just give me one  
5 -- all right. We're here for a protest hearing.  
6 And one of the things that I want to get  
7 clarification here on exactly what are the  
8 issues. So once we go through the hearing we  
9 will know specifically what agreements that they  
10 are and what agreements that there are not. And  
11 so therefore if there are agreement on certain  
12 issues then we don't need to litigate those  
13 issues. And if there are issues that are  
14 outstanding then we can litigate those issues.

15 In reviewing the information that was  
16 provided by the applicant, the applicant stated  
17 that the only outstanding issue to him at least,  
18 were the hours. The protestant stated that the  
19 Board should not issue a license unless certain  
20 conditions that were listed in the PIF were a  
21 part of the board order.

22 And so what I want to do as a preliminary

1 matter, I want to go through the issues that were  
2 listed in the PIF for the protestant. You have a  
3 copy of those documents, sir?

4 MR. STEWART: I do.

5 CHAIRPERSON ANDERSON: And so I want to  
6 find out what issues is it that there are not  
7 agreement on and --

8 MS. FARLEE: Well, could I say  
9 something --

10 CHAIRPERSON ANDERSON: Yes, ma'am.

11 MS. FARLEE: -- in advance? I was hoping  
12 to make an opening statement.

13 CHAIRPERSON ANDERSON: Yeah, I'm going to  
14 have you -- I'm going to do that.

15 MS. FARLEE: Okay. Well, those issues  
16 are kind of remaining for what we were trying to  
17 work on and hoping for a cooperative agreement.  
18 But I'm going to say, and I'll say it now, that  
19 the issues are more basic than just what we could  
20 get in an agreement. We're going to say -- our  
21 bottom line is going to say, this is not an  
22 appropriate plan for this site. The business

1 plan is just not appropriate. And similar to the  
2 decision that the ABC Board reached in 2013.

3 We've negotiated a little bit around the  
4 edges, but essentially it's the same plan and the  
5 same problems.

6 CHAIRPERSON ANDERSON: So as far as the  
7 protestant is concerned, it's not an issue of  
8 hours, it's an issue of the entire --

9 MS. FARLEE: Much more than that.

10 CHAIRPERSON ANDERSON: -- application.

11 MS. FARLEE: Yes.

12 CHAIRPERSON ANDERSON: Okay.

13 MS. FARLEE: Thank you.

14 CHAIRPERSON ANDERSON: Then what I was  
15 about to say, there's no need for me to go  
16 through it that way, then. So we'll have a full  
17 hearing and then we'll have -- we'll hear  
18 testimony on all the issues. I thought that  
19 there was some agreement between the parties, but  
20 I guess I stand corrected. All right.

21 All right. The process is that we'll  
22 have an opening statement by the applicant, then

1 followed by an opening statement by the  
2 protestant. Then the Board will call its  
3 witness. Once the Board calls its witness -- I  
4 mean, of course during this period each side are  
5 free to ask questions. We'd start with the  
6 applicant, would ask questions of the Board. The  
7 Board will ask questions of its witnesses. Then  
8 once the Board asks questions of its witness the  
9 applicant will have an opportunity -- applicant  
10 first will have an opportunity to question the  
11 Board's witness. Then the protestant will have  
12 an opportunity to ask questions of the Board's  
13 witness. And then the applicant will present its  
14 case. And once the -- so once the applicant  
15 presents its case the applicant will do direct  
16 examination of its witnesses. The protestant  
17 will have an opportunity to cross-examine the  
18 witnesses and the Board will also ask questions.

19 The applicant will then have an  
20 opportunity to ask redirect questions. And the  
21 questions that the redirect should be questions  
22 limited to the questions that the Board asks. So

1 it shouldn't be -- if the person didn't ask a  
2 question, I'm not going to allow you to ask a  
3 question that was not based on redirect.

4           And then they will do that. Then the  
5 protestant will present its case in chief and  
6 we'll go back through the same process.

7           Each party is -- the format that we'll  
8 have before, that each party has 90 minutes to  
9 present its case. But I think that our goal here  
10 is to get to the issues that are germane. I  
11 think you guys have -- this has gone through  
12 several -- this has been going on for a minute  
13 from what I was told. And so folks know what the  
14 issues are. So we need to be germane to peace,  
15 order, and quiet, which is the reason the  
16 protest. Address those issues and hopefully  
17 we'll --

18           MS. FARLEE: And pedestrian safety and  
19 traffic.

20           CHAIRPERSON ANDERSON: I'm sorry?

21           MS. FARLEE: And pedestrian safety and  
22 traffic.

1 CHAIRPERSON ANDERSON: As the regulations  
2 state. Yeah. I'm not saving but -- and so  
3 therefor will have the hearing and we'll try to  
4 do this as expeditiously as possible.

5 If there is an issue with witnesses  
6 probably the only thing I -- yeah. If there are  
7 issues with witnesses please let us know, if you  
8 have issues with witnesses. Yes, ma'am.

9 MS. FARLEE: Two things. I have a  
10 substitute witness. Frank Gambino is not here.  
11 In his place will be Jonathan Stahl, S-T-A-H-L.

12 CHAIRPERSON ANDERSON: Hold on, one --  
13 let me find where that is here. List of  
14 witnesses. I'm trying to find out where that is.  
15 Hold on.

16 And did you discuss it -- did you discuss  
17 that with Mr. Stewart?

18 MS. FARLEE: No, I haven't. Is that  
19 acceptable to you?

20 MR. STEWART: What is it, now?

21 MS. FARLEE: Jonathan Stahl will replace  
22 -- with Frank Gambino, representing the National.

1 He's another different Vice President.

2 MR. STEWART: I don't know, do I address  
3 the Board as the Board, or --

4 CHAIRPERSON ANDERSON: We address --  
5 yeah.

6 MR. STEWART: Okay. I have an objection  
7 to the Nationals coming in and testimony. They  
8 are, you know, they are allowed to give testimony  
9 or protest this because they are an abutting  
10 property owner. But they have not gone through  
11 any kind of ABRA approved things like the ANC  
12 did. They did not submit a notice. They didn't  
13 submit evidence. They didn't submit anything.  
14 Somehow they're piggy backing in on ANC to  
15 testify here.

16 MS. FARLEE: They are my witness. Uh-  
17 huh. They are my witness.

18 CHAIRPERSON ANDERSON: But she can call  
19 witnesses that she believes is relevant. The  
20 issue that -- who was the person who was supposed  
21 to have testified?

22 MS. FARLEE: Frank Gambino.

1 CHAIRPERSON ANDERSON: And who is Mr.  
2 Gambino?

3 MS. FARLEE: He's one of the Vice  
4 Presidents of Ballpark Operations. The  
5 substitute has the same title, another different  
6 Vice President.

7 CHAIRPERSON ANDERSON: All right. That's  
8 fine.

9 MR. STEWART: I mean, they have every  
10 right to come in and protest this application  
11 under the ABRA rules as an abutting property  
12 owner, but they haven't gone through any of the  
13 ABRA steps to do that.

14 Well, they're going to come in here and  
15 protest what I'm doing, then they haven't sent me  
16 discovery, you know, a list of what they're going  
17 to talk about, anything.

18 MS. FARLEE: They are not --

19 CHAIRPERSON ANDERSON: Well --

20 MS. FARLEE: -- listed. They're  
21 witnesses on my -- our behalf, representing  
22 the --

1           MR. STEWART: They're protesting this  
2 application.

3           MR. SILVERSTEIN: Sir.

4           CHAIRPERSON ANDERSON: Hold up, hold up,  
5 Mr. Silverstein. All right. The issue that's on  
6 the table, that's the issue that's on the table  
7 is just a witness list. I can't tell a person if  
8 they believe that they are a relevant witness for  
9 their case, they're going to ask questions and  
10 they will answer, the Nationals, they're not a  
11 party. So they don't have equal footing as the  
12 ANC because they are not a party.

13          MR. STEWART: Okay.

14          CHAIRPERSON ANDERSON: So, but she can  
15 call a witness. She can ask them the questions  
16 and you have the opportunity to cross-examine and  
17 bring out whatever point you need to during the  
18 cross-examination. So from that perspective the  
19 witness can be.

20                 Based on the fact that I think that it's  
21 the title -- it's appear that she's substituting  
22 one Vice President for another Vice President.

1 MS. FARLEE: Correct.

2 CHAIRPERSON ANDERSON: And I think in  
3 this particular case that the substitution can be  
4 allowable because it's not a surprise. If it was  
5 -- that's one of the reasons why I asked what was  
6 the title of the person. And if it the person  
7 was listed as Vice President and we're having an  
8 owner or some other person who is not in that  
9 capacity, then you could say that it's a  
10 surprise, I didn't expect that that person to  
11 testify. But I assume you knew that someone from  
12 -- in a Vice President capacity from the National  
13 would be here to testify. Is that correct, sir?

14 MR. STEWART: It was on her list. That's  
15 correct.

16 CHAIRPERSON ANDERSON: All right. So you  
17 were aware of that. So the substitution is fine.  
18 I don't have a problem with that. But again,  
19 during cross-examination you will have every  
20 opportunity to raise all these issues and you can  
21 ask them why they did not do that. But --

22 MR. STEWART: Okay.

1           CHAIRPERSON ANDERSON:  -- they are not a  
2 party to -- they were not granted standing as a  
3 party to --

4           MR. STEWART:  Okay.

5           CHAIRPERSON ANDERSON:  -- this matter.  
6 So therefore they're just a witness.

7           MR. STEWART:  Okay.  I understand.

8           CHAIRPERSON ANDERSON:  Now, one of the  
9 things that you can say, or ask for, is that all  
10 the folks who are going to testified today, if  
11 you want you can ask that they not remain in the  
12 room.  That would be your witness and her  
13 witnesses, that they would have to stay outside  
14 to not listen to the testimony.  So you have --  
15 you can raise it as an issue to say that you want  
16 that the witnesses to be sequestered.

17          MR. STEWART:  That's fine.

18          CHAIRPERSON ANDERSON:  Which fine?  Which  
19 one?  They can stay in the room?

20          MR. STEWART:  Oh, they can stay.  That's  
21 fine.  I just want to establish that, you know,  
22 they have -- you know, they have no status, as

1 you said.

2 CHAIRPERSON ANDERSON: Right, they have  
3 no status as --

4 MR. STEWART: All right. That's fine.

5 CHAIRPERSON ANDERSON: -- they have no  
6 separate status. They can only speak based on  
7 when she calls them as a witness and they're  
8 subjected to cross-examination as any other  
9 witness that's here today.

10 MR. STEWART: Okay.

11 CHAIRPERSON ANDERSON: Okay? So.

12 MS. FARLEE: My second comment about  
13 witnesses, my fourth -- my last witness is not  
14 here yet. She has a work crisis. She's an  
15 attorney in the Veteran's Administration.

16 CHAIRPERSON ANDERSON: Well, we have lots  
17 of time because --

18 MS. FARLEE: And she'll be here later.

19 CHAIRPERSON ANDERSON: I mean, we have  
20 lots of time because your case -- his case, he  
21 presents his case first, and so if that's an  
22 issue, once you are ready to present your case

1 you can call that person last and --

2 MS. FARLEE: She's last anyway.

3 CHAIRPERSON ANDERSON: -- we'll figure  
4 out whether or not -- we'll figure out what we're  
5 going to do if that --

6 MS. FARLEE: Thank you.

7 CHAIRPERSON ANDERSON: -- if that becomes  
8 an issue.

9 Are there any other preliminary matters  
10 that needs to be discussed before --

11 MS. FARLEE: Just to clarify. The  
12 witnesses don't have to leave the room. They can  
13 be present the whole time?

14 CHAIRPERSON ANDERSON: Right. He doesn't  
15 have -- you don't have a problem with that.

16 MR. STEWART: Fine.

17 MS. FARLEE: All right.

18 CHAIRPERSON ANDERSON: So they can stay.  
19 Hearing no other preliminary matters then we can  
20 take the opening statement by Ms. --

21 MS. FARLEE: I do have one other thing.

22 CHAIRPERSON ANDERSON: Yes, ma'am.

1 MS. FARLEE: I have the framework for the  
2 order proceeding. I want to make certain that I  
3 can ask questions of the ABRA investigator.

4 CHAIRPERSON ANDERSON: No, I did state --  
5 I stated that --

6 MS. FARLEE: That's fine.

7 CHAIRPERSON ANDERSON: -- this is -- but  
8 this is the order that it's going to occur.

9 MS. FARLEE: It's not just a submission  
10 of the report.

11 CHAIRPERSON ANDERSON: No. He's going to  
12 testify to his report.

13 MS. FARLEE: Right.

14 CHAIRPERSON ANDERSON: The Board will ask  
15 questions, if the Board has any questions.

16 MS. FARLEE: Okay.

17 CHAIRPERSON ANDERSON: Then as the  
18 applicant, Mr. Stewart has the first right to ask  
19 questions. So he'll ask first. And once Mr.  
20 Stewart has asked questions, then you, Ms.  
21 Farlee, then you have an opportunity to ask  
22 questions. Okay? All right.

1           Mr. Stewart, do you have an opening  
2 statement that you need to make, sir?

3           MR. STEWART: Yeah, I printed out a  
4 larger copy. I gave one to Coralie and I want to  
5 distribute it to the rest of you guys. [Speaking  
6 off microphone.]

7           So basically, we started this application  
8 off back in February of last year. And there was  
9 a fact finding hearing, which Mr. Anderson wasn't  
10 here for but most everybody else was. And  
11 Commander Brown showed up, and the ANC and such.  
12 And after that I realized, you know, that people  
13 had many concerns. You know, and most of them  
14 are legitimate.

15           So I met with the ANC numerous times. I  
16 met with the Alcohol Subcommittee twice. I met  
17 with different people on the ANC, like Meredith  
18 and Andy and such, and they were very helpful.  
19 They gave me lots of info. Actually the security  
20 plan came from what Andy gave me.

21           And what I've tried to do over the last  
22 year, it's been a long time, is condense

1 everything down to make everybody happy. Okay?  
2 And so hopefully I've done that. I feel -- this  
3 is all news to me what she was saying about how  
4 they disagree with everything because the  
5 cooperative agreement they gave me just last  
6 month that they voted on, you know, mirrors my  
7 application as now, except for the time.  
8 Everything else -- if I sign that agreement, you  
9 know, two minutes from now the only thing that  
10 would be different from my application would be  
11 the time. They want 11:00 p.m., I want 2:00 a.m.

12 Bull Pen was at 1:30 a.m. So, I want to  
13 be -- Also Blue Jacket and Justin's are also 2:00  
14 a.m. So I don't think that's too outrageous.

15 And I'll just give you -- I'll give my  
16 case later. I'll just give you a quick rundown  
17 of the --

18 CHAIRPERSON ANDERSON: No, that's what  
19 your opening statement -- your opening statement  
20 is you're going to tell me what you're going to  
21 prove, and so you just give me a roadmap of what  
22 is it that you intend to prove and the witnesses

1 that you're going to call.

2 MR. STEWART: Okay. Basically the things  
3 we've done that the ANC asked for, this is from  
4 the ANC Cooperative Agreement. It says, "We have  
5 eliminated the request for the entertainment  
6 endorsement," which I know ABRA has big concerns  
7 about entertainment. Once that's gone that you  
8 guys are much happier. We limited the number of  
9 patrons at one time to 750, down from 2,000,  
10 because the Bull Pen was 2,000. We don't want to  
11 be like the Bull Pen. So these guys said 750.  
12 We said, okay, that's not unreasonable, we'll do  
13 that.

14 Moved the main entrance closer to F  
15 Street Southeast, away from South Capitol Street.  
16 ANC requested that, and that was actually a very  
17 good point they brought up because that corner is  
18 dangerous. So we moved it about 200 feet down.  
19 So that when people come out, you know, they can  
20 get into Uber, they can get on their bicycles,  
21 you know, get in taxis, whatever. So that was a  
22 good point they brought up. So we did that.

1           Omit plans for Kayak Landing, I mean,  
2   that was easy. We didn't really want that  
3   anyway.

4           Eliminate the request for a distillery  
5   and the serving of spirits. They asked for that,  
6   I was like, fine. My main business is beer. We  
7   were thinking about doing distilling. You know,  
8   I can axe that off no problem.

9           Change the license from CT to DT. That  
10  goes along with not having spirits. Just selling  
11  beer and wine, so that's fine.

12          Indicate security personnel will be  
13  trained in ABRA approved courses. I went farther  
14  than that after meeting with Commander Brown, and  
15  it's in the security plan, all the things he  
16  wanted.

17          Develop a comprehensive security plan  
18  that police requirements, Title 25, approved by  
19  ABRA Board. We did that also.

20          So these are quite substantial changes.  
21  At least in my mind, from what it was before.  
22  And like I said, the cooperative agreement that's

1 on the table right now, if I signed it two  
2 minutes from now, the only thing that would be  
3 different would be the time. It would be 11:00  
4 p.m. instead of 2:00 a.m., like we're asking for.

5 So in my mind that's really the only  
6 thing that we're talking about here. You know,  
7 because the Cooperative Agreement that they have  
8 and what I'm asking the Board for, the only  
9 difference is 11:00 p.m. and 2:00 a.m. And, you  
10 know, in my mind if the Board says, well, 11:00  
11 p.m., you know. I'll go, all right, the Board  
12 says same as the Bull Pen, 1:30 a.m., I'll say  
13 okay. If you say 2:00 a.m. like Justin's and  
14 Blue Jacket, I'll say okay. And really that's  
15 the only thing I'm asking the ABRA Board to  
16 decide.

17 CHAIRPERSON ANDERSON: Do you have any --  
18 how many witnesses are you going to --

19 MR. STEWART: I did have a witness but  
20 he's not coming.

21 CHAIRPERSON ANDERSON: Okay. All right.

22 MR. STEWART: So it's just me.

1           CHAIRPERSON ANDERSON: Okay. That's  
2 fine. Do you wish to make an opening statement,  
3 Ms. Farlee?

4           MS. FARLEE: Yes, I started to say, yes  
5 we worked on a cooperative agreement, but I  
6 reviewed the ABC Board decision in 2013 and it's  
7 obvious that the business plan is not different  
8 from that; not significantly different from that.  
9 It's still a problem for pedestrian safety,  
10 traffic control particularly, at National's games  
11 and other events at the ballpark. And we'll show  
12 that again.

13           During the hearing, when it was called  
14 Dos Ventures (phonetic), Commander Hickson  
15 testified at that time. Subsequently Commander  
16 Brown submitted a protest letter in April of  
17 2014. [Speaking off of microphone.]

18           Commander Brown was at the April 2015  
19 fact finding hearing that Mr. Stewart [Speaking  
20 off of microphone] then would any fix to this  
21 application solve the problem for you so that you  
22 could support it. And his response then was --

1 MR. STEWART: Isn't that hearsay?

2 CHAIRPERSON ANDERSON: Well, when  
3 she's --

4 MS. FARLEE: This isn't testimony.

5 CHAIRPERSON ANDERSON: Well, this is not  
6 testimony, and she has --

7 MS. FARLEE: I'm quoting from his  
8 testimony.

9 CHAIRPERSON ANDERSON: -- given her --  
10 well, but this is an opening statement and  
11 opening statement is not evidence. I'm just  
12 taking, at least in my view, and as I said  
13 before, I wasn't here for the other hearing. So  
14 an opening statement is that the individual is  
15 telling me what their case is about and what  
16 they're going to prove. So I'm not -- unless  
17 there's testimony or evidence to prove whatever  
18 was -- what that's been represented here. That's  
19 what it is. It's just statements. It's not  
20 anything --

21 MS. FARLEE: This is on the record.

22 CHAIRPERSON ANDERSON: But I'm just

1 saying, that's how -- and maybe it's because I'm  
2 a lawyer and you guys are not lawyers, which is  
3 what an opening statement is. And what I'll do  
4 is that we try not to interrupt each other when  
5 they do their opening statement.

6 MR. STEWART: All right.

7 CHAIRPERSON ANDERSON: We, you know, as I  
8 said, lawyers always try to interrupt other  
9 people, but we try to -- because I said before,  
10 an opening statement is just you're telling me  
11 what your overview of the case is and what you  
12 intend to prove. It's not evidence, it's just --  
13 the evidence is once the document comes in and we  
14 have direct testimony from the folks stating what  
15 they are.

16 Now if there is a previous board order  
17 that states this then ABRA will -- I will take  
18 notice to say that we have had a previous hearing  
19 and we have made certain findings. And so those  
20 are factual. But the rest of it is just  
21 conversation. Yes, ma'am.

22 MS. FARLEE: To continue, at that

1 hearing, April 2015, Commander Brown answered,  
2 no, none of these fixes, fences, et cetera, would  
3 be such that he could support it as long as  
4 alcohol is served on the site.

5 Continuing -- so that's two commanders,  
6 1D commanders who have opposed this. The first  
7 round, Cathy Lanier also opposed it. We weren't  
8 in touch with her this time.

9 Now recently, in the past year, we've  
10 been responding to three different applications  
11 from Mr. Stewart called, Trading as Bardo, then  
12 Bardo Riverside, and now Bardo Big River. So  
13 this has evolved over the last two or three  
14 years. But I repeat, the current proposal and  
15 use for the property is not significantly  
16 different from the initial Dos Ventures  
17 application. Yes, some attendance counts are  
18 down, parking may change, and things like that.  
19 But it's still the same use of the site. Same  
20 business plan.

21 CHAIRPERSON ANDERSON: Can you move the  
22 mic closer to you? I think some board members

1 are having trouble --

2 MS. FARLEE: Okay. Sorry.

3 CHAIRPERSON ANDERSON: -- some issues in  
4 hearing you. Yeah.

5 MS. FARLEE: There are two residential  
6 units nearby, within 800 feet on South Capitol  
7 Street. One that's coming online to be occupied  
8 this summer, immediately adjacent. I believe  
9 it's my Exhibit 1. Second page of my Exhibit 1,  
10 which shows immediately where that apartment  
11 building will be -- with 305 units will become  
12 occupied in -- beginning July and the third  
13 quarter.

14 The claim in the applicant's application  
15 that the proposed use of the property will make  
16 property values go up, no. Will provide an  
17 amenity for the neighborhood. No. Will make the  
18 area safer by making more foot traffic and  
19 humans. No, absolutely not.

20 We will indicate that the -- also  
21 indicate that the applicant is not a good actor  
22 in the Bladensburg Road area, an operation -- a

1 license that he also manages. And operating this  
2 establishment almost identical to the one  
3 proposed for 25 Potomac Avenue, and your ABRA  
4 investigator has graciously provided photographs  
5 of that site; exhibits from that site which we  
6 can reference. Particularly his Exhibits 12 and  
7 13. And I've also provided Exhibit 5, which  
8 shows complaints in that area.

9           However, that has a capacity for only 65  
10 people compared to 750 or 2,000 that we're  
11 talking about here. They are both open air, but  
12 there's still management problems. There is a no  
13 manager on duty offense currently on record now  
14 for hearing -- by the ABC Board in March. And  
15 another offense.

16           So the occupancy capacity of 65, which is  
17 not managed well. So we wonder how -- we  
18 consider that the management of this much larger  
19 place is not feasible. So in conclusion we hope  
20 we will provide testimony to convince you that  
21 this is not an appropriate use of this site.  
22 It's been quoted by Mr. Stewart, and this is

1 hearsay, that Commander Brown said having his  
2 site there would solve a problem for the 1D  
3 commander as a place for patrons for the ballpark  
4 to go before they can board the subway, since the  
5 subway can handle only 1,000 people at a -- or  
6 one train at a time. There is many other  
7 thousands hanging around the neighborhood, and  
8 this is a place for them to go meanwhile. We  
9 want to dispute that, that this is not a solution  
10 to that problem. There are several other  
11 establishments, ANC -- I'm sorry, ABC licensed  
12 establishments in the neighborhood that patrons  
13 of the ballpark can go to between the ballpark  
14 and the subway if they can't go home immediately.

15 I think that's a sense of my opening  
16 statement. We just hope that you will deny this  
17 again, and then I did suggest some various things  
18 to be included if you approve it, but with  
19 conditions.

20 CHAIRPERSON ANDERSON: So your testimony  
21 -- what your goal is that you're asking the Board  
22 to deny the application.

1 MS. FARLEE: Because it is quite similar,  
2 substantially similar to the original Dos  
3 Ventures.

4 CHAIRPERSON ANDERSON: But if the Board  
5 agrees to grant the license, you are asking that  
6 certain -- the conditions that are in your PIF,  
7 which is --

8 MS. FARLEE: Yeah, at least those. Yes.

9 CHAIRPERSON ANDERSON: You're asking that  
10 -- you're asking that if ABRA decides to grant to  
11 the licensing, there is a full permit enclosure  
12 to ensure safe -- security and personal safety.  
13 Mr. Stewart, and I'm asking this question, I'm  
14 not saying the Board is going to agree to it, but  
15 just in case the Board decides to grant a  
16 license, you would be in agreement that there is  
17 a full permit enclosure to ensure security and  
18 pedestrian safety?

19 MR. STEWART: Yes, on that map it's  
20 marked, new six-foot-high fence.

21 CHAIRPERSON ANDERSON: So, just --

22 MR. STEWART: Yes, I agree.

1           CHAIRPERSON ANDERSON: Right. And so  
2 you'd also agree to a secure interior enclosure  
3 and a children's play area?

4           MR. STEWART: Yes, sir.

5           CHAIRPERSON ANDERSON: That there is a  
6 comprehensive security plan as in Title 25 to  
7 ensure compliance with ABRA law.

8           MR. STEWART: Yes, sir, that's fine.

9           CHAIRPERSON ANDERSON: That there would  
10 be improved pedestrian barriers across Potomac  
11 Avenue Southeast between the Nationals and 25  
12 Potomac Avenue.

13          MR. STEWART: I don't control that.  
14 That's DDOT, but the concept is great.

15          CHAIRPERSON ANDERSON: I guess they are  
16 saying to which the applicant contributes money  
17 for an analysis and erection of the barriers.

18          MR. STEWART: That's so far out of my  
19 league. I have no idea how to make that happen.  
20 And the lady, Ms. Fletcher, said that you know,  
21 that was not in ABRA purview anyway.

22          CHAIRPERSON ANDERSON: Okay.

1 MR. STEWART: So I mean, if I could make  
2 it happen, I would. But --

3 CHAIRPERSON ANDERSON: All right. Well,  
4 that's not something that you could -- that's not  
5 something that ABRA could agree to order anyway.  
6 And I guess full noise compliance. I guess the  
7 noise compliance regulations.

8 MR. STEWART: I will be in full  
9 compliance with the D.C. Noise Code. No problem  
10 with that.

11 CHAIRPERSON ANDERSON: And that the other  
12 issue -- as far as you're concerned it's the  
13 hours because --

14 MR. STEWART: Yes, sir.

15 CHAIRPERSON ANDERSON: -- you are in  
16 agreement with the rest of whatever else is --

17 MR. STEWART: I think it's fine.

18 CHAIRPERSON ANDERSON: All right. So --

19 MR. STEWART: Everything they've asked up  
20 to this point has been fine. The stuff I listed  
21 before on this stuff, I find it easier just to do  
22 it. You know, like the health inspector comes

1 in, says, you need a three compartment sink  
2 there. I just go get a sink and put it there.  
3 It's easier than arguing with them. So I just  
4 put the sink there and next time he shows up I  
5 say, there's the sink, and then we open.

6 CHAIRPERSON ANDERSON: All right. Well,  
7 I would just want the record to reflect that if  
8 the board does agree to provide you a license  
9 that we will consider what's in the -- this is  
10 the provision that I just mentioned and since you  
11 have agreed to them, that the Board probably  
12 would make those as conditions., if the Board  
13 decided to do that. I just want to make sure  
14 that both parties are on the record to say that  
15 their --

16 MS. FARLEE: You can certainly add other  
17 conditions. I'm not opposed to --

18 CHAIRPERSON ANDERSON: No, I know. But  
19 I'm just saying, at a minimum that --

20 MS. FARLEE: At a minimum.

21 CHAIRPERSON ANDERSON: -- the ANC is  
22 stating that this should be in the order and the

1 applicant is stating that they are in agreement  
2 to an order with these preconditions.

3 MS. FARLEE: Okay.

4 CHAIRPERSON ANDERSON: All right. I just  
5 want the record to reflect that. Okay. Thank  
6 you. All right.

7 The Board will now call its first  
8 witness, and we will call Investigator Suero.

9 INVESTIGATOR SUERO, SWORN

10 THE WITNESS: I do.

11 CHAIRPERSON ANDERSON: Thank you. You  
12 may have a seat.

13 THE WITNESS: Thank you.

14 DIRECT EXAMINATION

15 BY CHAIRPERSON ANDERSON:

16 Q Just a question. Did you prepare a report  
17 for this case, sir?

18 A Yes, sir, I did.

19 CHAIRPERSON ANDERSON: And do both  
20 parties have a copy of --

21 MS. FARLEE: Yes.

22 CHAIRPERSON ANDERSON: Yes. One thing

1 I'll ask before we start, if you have cell phones  
2 could you please put it -- no, you can use your  
3 cell phone. Just make sure that it's on silent  
4 so we don't hear it ring. But I can't tell you  
5 you can't use your cell phones. But this is not  
6 the real court of law where we'll tell you that  
7 it has to be put away. But please put it on  
8 silence. The judges will tell you to put it  
9 away. If you have it then they'll take your cell  
10 phone away from you.

11 BY CHAIRPERSON ANDERSON:

12 Q All right. Go ahead, sir. Tell me, what  
13 is it you were able to find regarding this  
14 applicant?

15 A Thank you, sir. I was recently assigned  
16 the protest investigation of a new retailer class  
17 DT Tavern License for Bardo, LLC., trading as  
18 Bardo Big River, to be located at 25 Potomac  
19 Avenue Southeast.

20 Mr. William Stewart and Mr. Andrew Stewart  
21 submitted an application for that license to ABRA  
22 on October the 1st of 2015. The license

1 application for Bardo Big River is being  
2 protested by the ANC 6D.

3 The protest issues that I was advised of are  
4 as follows; adverse impact on peace, order, and  
5 quite, to include noise and litter, adverse  
6 impact on residential parking, vehicular, and  
7 pedestrian safety.

8 On Friday, January the 29th of this year at  
9 11:15 a.m. I telephonically interviewed Mr.  
10 William Stewart regarding this application. Mr.  
11 Stewart advised that the proposed Class DT  
12 Tavern, Bardo Big River at 25 Potomac Avenue  
13 Northwest will have a brew pub and a summer  
14 garden endorsement, with a total capacity of 750.  
15 There will be four large shipping containers  
16 which will be used as follows.

17 Two shipping containers will be used for  
18 restrooms, one container will house coolers for  
19 the beer, one container will house all necessary  
20 cleaning equipment and cleaning supplies.

21 Mr. Stewart also advised that he and the ANC  
22 have had some talks and mediation regarding this

1 application for the new tavern license. Mr.  
2 Stewart advised that as a result of those talks  
3 he has made some change to his initial ABRA  
4 application for the tavern license. The changes  
5 include reducing the total capacity for the  
6 summer garden to 750 from the original 2,000,  
7 removing his request for an entertainment  
8 endorsement, agreeing to install a six-foot-high  
9 chain link fence around the property, agree to  
10 provide a traffic officer to assist patrons  
11 crossing the street from the Nationals Park to  
12 Bardo Big River, and agreeing to utilize a  
13 reimbursable detail and special police officers  
14 to provide security for the venue.

15 Mr. Stewart advised that ANC 6D would like  
16 his proposed hours of operation to be limited to  
17 closing by 11:00 p.m. Mr. Stewart also applied  
18 for a closing time of 2:00 a.m. for Sunday  
19 through Thursday, and a closing time of 3:00 a.m.  
20 on Fridays and Saturdays.

21 Mr. Stewart advised that an apartment  
22 building is being constructed next to his

1 property and that there will be public parking on  
2 that property that will provide between 280 and  
3 300 parking spaces.

4 Mr. Stewart further advised that he believes  
5 that the 11:00 p.m. closing time suggested by the  
6 ANC is not a reasonable for the location.

7 Mr. Stewart proposed to include a children's  
8 area within Bardo Big River which would consist  
9 of two sand boxes. Mr. Stewart advised that he  
10 owns Bardo, ABRA License 090430, located at 1200,  
11 1216 Bladensburg Road Northeast which is an  
12 outdoor beer garden, and that Bardo Big River  
13 will be a similar operation on a larger scale.

14 Mr. Stewart further advised that he has  
15 spoken with Commander Brown of the Metropolitan  
16 Police Department and suggested that he employ  
17 security personnel -- who suggested that employ  
18 security personnel with special police commission  
19 that would allow them to make arrests if  
20 necessary. Commander Brown also suggested that  
21 Mr. Stewart utilize a two-man RDO as part of a  
22 security plan, and that Mr. Stewart provide

1 personnel to assist patrons who would be crossing  
2 the street from National Park to the proposed  
3 outdoor beer garden that would be located  
4 directly across the street.

5 Mr. Stewart also advised that he has made  
6 arrangements with certain food trucks to provide  
7 food, eating options for the patrons.

8 On Friday, January the 29th, 2016 at 12:50  
9 p.m., I telephonically interviewed Commissioner  
10 Dr. Coralie Farlee of ANC 6D. Commissioner  
11 Farlee advised that there have been talks  
12 concluding mediation between the applicant and  
13 ANC 6D regarding the proposed new tavern  
14 application at 25 Potomac Avenue Southeast.

15 Commissioner Farlee advised that ANC 6D has  
16 some concerns regarding the proposed business.  
17 Some of those concerns are as follows: an  
18 increase in noise due to proposed amount of  
19 patrons at this outdoor venue, increased  
20 pedestrian traffic, increased vehicular traffic,  
21 lack of sufficient parking, safety issues of  
22 pedestrians crossing Potomac Avenue Southeast

1 from National's Park to the proposed outdoor beer  
2 garden, the applicant's plan to have children at  
3 the location, security issues that include the  
4 number of security staff to be used, issues  
5 regarding crowd control, and the proposed hours  
6 of operation which ANC 6D believes are not  
7 reasonable for that venue.

8 Commissioner Farlee further advised that this  
9 applicant also owns Bardo, which is located on  
10 Bladensburg Road Northeast, which is also an  
11 outdoor beer garden. Commissioner Farlee also  
12 advised that there is a 306 units apartment  
13 complex being constructed on that property and  
14 that there will be a negative impact on the  
15 future residents as it relates to noise and  
16 parking.

17 The apartment building is scheduled to open  
18 on July of 2016. Commissioner Farlee also  
19 advised that there is an unsigned proposed  
20 settlement agreement in place. Commissioner  
21 Farlee further advised that due to some  
22 continuing disagreements, the parties have been

1 unable to come to a final agreement regarding the  
2 proposed outdoor beer garden/tavern.

3 Commissioner Farlee also advised that she will be  
4 meeting with MPD to express ANC 6D's concerns  
5 regarding the proposed outdoor beer garden, and  
6 as they relate to crowd control, pedestrian  
7 safety, and general security for a venue with a  
8 proposed capacity of 750.

9 As part of the protest investigation,  
10 normally investigator provide a zoning map to  
11 show the Board what the zone will be where this  
12 proposed location is to be. In this particular  
13 case there was no zoning map available, so I  
14 personally contacted by phone, Mr. Matthew Holden  
15 of the D.C. Office of Zoning, who advised that  
16 this zone is currently a -- this location is  
17 currently a PUD, a planned unit development site,  
18 and would be zoned as C-3-C .

19 According to the District of Columbia GIS,  
20 Geographic Information Systems, there are four  
21 ABC licensed establishments that are located all  
22 within 1,200 feet of the proposed location at 25

1 Potomac Avenue Southeast. Friendly Food Market  
2 on Half Street, Zincfeild Secrets (phonetic),  
3 also on Half Street, Shawman Liquors, South  
4 Capitol Street Southwest, Top 26, 1500 block of  
5 7th Street, is also in that area.

6 Characteristics of the premises, Bardo Big  
7 River will be located at 25 Potomac Avenue  
8 Southeast, the unit block of Potomac Avenue  
9 Southeast, mainly comprised with the Nationals  
10 park facility as well as also commercial  
11 establishments.

12 The location of this proposed property is  
13 right at the intersection of Potomac Avenue  
14 Southeast and South Capitol Street. It's a large  
15 property. I believe the applicant advised that  
16 it was 100,000 square feet, and that 80,000  
17 square feet was what he would be using for his  
18 proposed business.

19 There is no building planned for this  
20 location. This is an outdoor beer garden. It  
21 will have a brew pub, so he will be crafting beer  
22 on site. Mr. Stewart, when I asked him about the

1 location, was clear that they would be using the  
2 large shipping containers for restrooms, for  
3 cleaning supplies, and for his coolers, but that  
4 there would be no building constructed on the  
5 site.

6 Due to the short amount of time that I have  
7 had this protest investigation, only managed to  
8 have four dates as part of the monitoring visits  
9 that we normally do for these protest  
10 investigations. Because of the time frame each  
11 time that I visited Bardo Big River's site,  
12 Nationals Park was closed, it was during cold  
13 weather where there was no one out, really. So  
14 there was not much traffic, very little if any  
15 pedestrian traffic, and I don't have a lot to  
16 offer in reference to what that location would be  
17 like when the Nationals actually are in session.

18 There is some public transportation nearby.  
19 There are bus stops at South Capitol Street and M  
20 Street, M Street and Half Streets for the A2 --  
21 A42, I'm sorry, A46, A48-P6, and the V1 bus  
22 lines, and the Navy Yard Ballpark station has two

1 actually, access points. One is at M Street  
2 Southeast, and the other at Half Street Southeast  
3 and New Jersey Avenue.

4 During the monitoring of 25 Potomac Avenue, I  
5 did not observe any issues referenced to  
6 pedestrian safety or vehicular issues or parking  
7 because as I said, there's really no one in that  
8 area that particular time due to weather and the  
9 fact that the Nationals Ballpark was closed.

10 I requested, from the Metropolitan Police  
11 Department, any calls for service for that  
12 location and we found none. The place is not  
13 open as yet, so there are no issues as it relates  
14 to police calls for service at that location.

15 I have included in my exhibits a rendering,  
16 Exhibit No. 3, an artist's rendering of the  
17 proposed location that was provided by Mr.  
18 Stewart. And it shows the area where there  
19 appears to be a considerable number of bench type  
20 tables with benches for seating, and it shows the  
21 area that would be used for patrons. And I  
22 believe a children's area. This would be the

1 river here. This would be where the apartment  
2 complex is going to be. And then South Capitol  
3 Street and Potomac Avenue Southwest. And that  
4 is, again, Exhibit No. 3 in my report.

5 I've also included some photographs of the  
6 proposed site. Unfortunately, quality is not as  
7 good as I'd like. Exhibit No. -- Exhibits Nos. 4  
8 and 5 will show you the proposed site where you  
9 see a lot of construction type vehicles. Exhibit  
10 No. 4, actually, in the background are the -- the  
11 shipping containers are in the back. It's hard  
12 to see with this picture. But if yours is better  
13 than -- I have Exhibit 4, does actually show the  
14 shipping containers in the back of this property.

15 Behind, to the rear of the property you'll  
16 see the bridge coming up South Capitol Street  
17 going towards Maryland, that's the bridge that  
18 it's located at.

19 While conducting the protest investigation I  
20 learned that -- and speaking with Mr. Stewart,  
21 that he owns Bardo, located at -- on Bladensburg  
22 Road Northeast. And I've included some

1 photographs of his property on Bladensburg Road  
2 Northeast. They begin with Exhibits No. 10.  
3 You'll see that equipment for crafting beer is  
4 very obviously on the property.

5 As part of that investigation I sought to  
6 find if there was any prior issues at that  
7 particular location on Bladensburg Road and in  
8 looking at the history for Bardo at Bladensburg  
9 Road, License No. 090430, it turns out that on  
10 June the 30th of last year there was a no ABC  
11 matter charged against that licensee. And there  
12 was a prior issue in 2014 in reference to a  
13 posted license.

14 If you look at Exhibit No. 12 it also will  
15 show what appears to be a bench, a table and  
16 bench, and some more of the brewing equipment on  
17 the property of Bardo located on Bladensburg Road  
18 Northeast.

19 I want to say something in reference to  
20 parking for this venue. There is very limited  
21 parking in the area of Potomac Avenue, 1st  
22 Street, you know there is Half Street. There is

1 some pay to park. There's very little metered  
2 parking. There's some small amounts of metered  
3 parking on M Street near South Capitol Street.  
4 There is a paid parking lot located across South  
5 Capitol Street, and it's actually Potomac Avenue  
6 Southwest now, and there is a parking -- public  
7 parking garage there. It's outdoor parking.  
8 It's not really garage. It's a lot behind a  
9 concrete factory.

10 There is a Colonial parking garage located on  
11 Half Street near Half Street and M Street for the  
12 public to use. The Yards, which is located on  
13 1st Street Southeast also has three public  
14 parking lots available. There's a lot of  
15 construction occurring in the area of 1st street  
16 and M Street Southeast. And I don't know how  
17 much of the parking is actually impacted by the  
18 amount of construction that's currently in place  
19 now.

20 That's all.

21 CHAIRPERSON ANDERSON: Do we have any  
22 questions by the Board Members? Yes, Mr. Short.

1 MR. SHORT: You mentioned the parking lot  
2 -- excuse me. Good afternoon.

3 THE WITNESS: Good afternoon, sir.

4 MR. SHORT: [Speaking off microphone.]

5 THE WITNESS: Thank you very much.

6 MR. SHORT: [Speaking off microphone.]

7 You mentioned parking, and you say that you were  
8 -- you did your report on parking, there was no  
9 activity in that area at that time?

10 THE WITNESS: It was just -- I began this  
11 protest investigation January the 29th, and so --

12 MR. SHORT: Okay.

13 THE WITNESS: Yes, exactly. So due to  
14 the weather situations and those type things, and  
15 the fact that there are no games going on  
16 currently now, it's almost a barren area.  
17 There's not much going on at all.

18 MR. SHORT: Right now.

19 THE WITNESS: So right now you can -- you  
20 know, during that time you can park anywhere you  
21 want pretty much, but.

22 MR. SHORT: Well, there's not been too

1 many outdoor activities.

2 THE WITNESS: Not too many.

3 MR. SHORT: In January. So mostly the  
4 activities probably would take place during the  
5 baseball season or better weather seasons.

6 THE WITNESS: Of course, sir.  
7 Absolutely.

8 MR. SHORT: Have you ever been in that  
9 area during that period of time?

10 THE WITNESS: Once or twice.

11 MR. SHORT: And what would be the parking  
12 situation during a baseball game?

13 THE WITNESS: Hard to find and good luck.

14 MR. SHORT: So any other businesses in  
15 that area would further congest that area, is  
16 that correct, in your opinion?

17 THE WITNESS: Absolutely. Yes, sir.

18 MR. SHORT: So if a business didn't have  
19 its own parking, had to depend on public parking,  
20 give me an analysis of that.

21 THE WITNESS: I would say in an area  
22 where already parking is at best limited during

1 these type of events, to add a need for more  
2 parking, unless you provided that parking  
3 somehow, or guaranteed that parking somehow, I  
4 think there's going to be a problem.

5 MR. SHORT: And also when you showed the  
6 exhibits of the layout of this proposed  
7 establishment, there is new construction going on  
8 and those are going to be --

9 THE WITNESS: That will be an apartment,  
10 a 306-unit apartment building and I believe  
11 parking. But I believe that parking is  
12 associated with the apartment building. So I do  
13 not know if any of that parking will actually be  
14 available to the public in general.

15 MR. SHORT: Well, I believe, if my memory  
16 serves me correctly, for them to have a 360 unit  
17 building anywhere in the city zoning would  
18 require them to have a fixed parking for those  
19 persons.

20 THE WITNESS: That's my understanding.

21 MR. SHORT: Okay. So we're talking about  
22 parking and that seems to be a very great issue.

1           Also, I'd like to ask about pedestrian  
2 safety during baseball games. How is the  
3 pedestrian safety during those period of times?

4           THE WITNESS: Well, so first of all the  
5 property at 25 Potomac Avenue Southeast is  
6 directly across from Nationals Park. So if you  
7 come out down the steps, it's right across from  
8 you. There is no controlled pedestrian  
9 crosswalk. You can -- there's a crosswalk, but  
10 there's no lights, you just -- you know, good  
11 luck getting across. So you increase the amount  
12 of people, you increase the, I would say the  
13 condition of some of those people, it could be  
14 dangerous.

15           MR. SHORT: Okay. Well, my last question  
16 would be, dealing with peace, order, and quiet,  
17 this proposed business, would that peace, order  
18 and quiet be affected negatively or positively,  
19 in your opinion, should this license be granted?

20           THE WITNESS: Whenever you have an  
21 outdoor space with a lot of people and without  
22 the benefit of something to mitigate sound,

1 you're going to create some issues in reference  
2 to peace, order, and quiet.

3 MR. SHORT: Thank you very much. That's  
4 all I have at this time, Mr. Chair.

5 CHAIRPERSON ANDERSON: Any other board  
6 members with questions? Yes, Ms. Miller.

7 MS. MILLER: Good afternoon, Mr. Suero.

8 THE WITNESS: Good afternoon, Ms. Miller.

9 MS. MILLER: First I just want to follow  
10 up on what you said about the noise, when it's  
11 outside, how it's going to be a problem unless  
12 you have something to mitigate it.

13 THE WITNESS: Yes, ma'am.

14 MS. MILLER: Is there anything in this  
15 plan that you're aware of that would mitigate the  
16 noise?

17 THE WITNESS: No, ma'am.

18 MS. MILLER: Okay. Can you tell me, are  
19 you familiar with Dos Ventures' plan?

20 THE WITNESS: I looked at it briefly.

21 MS. MILLER: Okay. So maybe not that  
22 much?

1 THE WITNESS: No, ma'am, I'm not.

2 MS. MILLER: My question is whether some  
3 of the issues that were in that one have been  
4 addressed for the plan, if you're familiar with  
5 that or not.

6 THE WITNESS: What I've seen of that  
7 other plan is that they wanted a stage and  
8 entertainment and I don't know that it's  
9 fundamentally different from this. I believe  
10 it's the same location. Again, when you have a  
11 large amount of people in open space there are  
12 going to be some sound issues.

13 MS. MILLER: Are you familiar with the  
14 noise that was generated from the Bull Pen?

15 THE WITNESS: It can be loud.

16 MS. MILLER: I mean, how that would  
17 compare to this place?

18 THE WITNESS: I don't have a way to  
19 measure it because this place is not --

20 MS. MILLER: Open yet.

21 THE WITNESS: -- open yet.

22 MS. MILLER: Right. Okay. With respect

1 to the future development of the PUD planned for  
2 this area, so is this -- I mean, I can ask the  
3 applicant this, but my understanding is this is a  
4 temporary situation so that if we're talking  
5 about impact on future residents, this operation  
6 won't be there when the future residents are  
7 there? Or am I mistaken that this will be there  
8 in conjunction with the future residents?

9 THE WITNESS: My understanding is the  
10 apartment building is scheduled to open this  
11 July.

12 MS. MILLER: Uh-huh.

13 THE WITNESS: So that residents, I'm  
14 presuming at some point after that point, will be  
15 moving in. So those residents will be impacted  
16 by any type of business basically next door.

17 MS. MILLER: Okay. And is there  
18 something else that's going to take this place?

19 THE WITNESS: My understanding this will  
20 be an apartment complex.

21 MS. MILLER: Thank you.

22 THE WITNESS: The parking, a parking lot

1 of some kind, and then Mr. Stewart's proposed  
2 business if he gets it.

3 As a matter of fact, I understand the  
4 name of the apartment is Dock 79 at Riverfront  
5 Southeast, I believe is what it's called.

6 MS. MILLER: Okay. I have one other  
7 question about parking. We have in our record, I  
8 guess a draft cooperative agreement. And  
9 paragraph number 5 talks about parking  
10 arrangements. And it talked about parking for  
11 266 vehicles in an area of 80,000 square feet  
12 adjacent to the establishment. It says, will be  
13 directly accessed from the main area of the  
14 establishment.

15 Were you considering those spaces when  
16 you were talking about the parking spaces?

17 THE WITNESS: The information that I was  
18 provided was that a parking lot of some kind was  
19 being constructed on that site that would provide  
20 spaces of a total number of between 280 and 360.

21 MS. MILLER: Okay.

22 THE WITNESS: And that's all I was given

1 in reference to that particular site. And my  
2 belief is that that is part of the apartment.  
3 That is about the -- it will be open.

4 MS. MILLER: Also, I understood you to  
5 say you certainly have concerns about noise  
6 because it's open, right? Do you have concerns  
7 about safety?

8 THE WITNESS: Whenever you get a large  
9 group of people you're ready to mix that with  
10 alcohol consumption, you put it near a street  
11 where you might have to get across to the other  
12 side to get to where you need to be, there are  
13 some concerns about safety, absolutely.

14 MS. MILLER: Okay. I guess my last  
15 question is, and we haven't heard the applicant's  
16 case yet, we only heard, you know, the opening  
17 statement and then the written submissions. But  
18 it sounded like the applicant was trying to  
19 address whatever concerns people had. So if  
20 there was a concern about like the kitchen sink  
21 or something he said, so he provided a kitchen  
22 sink. I guess, are you familiar with whatever

1 security arrangements he took in response to the  
2 concerns that the community had?

3 THE WITNESS: In my conversation with Mr.  
4 Stewart he advised me that his conversation with  
5 an MPD Commander, who had made some suggestions  
6 to him, he advised that he was agreeable to make  
7 those changes and those requests that the MPD  
8 Commander had made of him.

9 MS. MILLER: Okay. All right. Thank  
10 you.

11 THE WITNESS: You're very welcome.

12 CHAIRPERSON ANDERSON: Mr. Silverstein.

13 MR. SILVERSTEIN: Thank you, Mr. Suero,  
14 Investigator.

15 The capacity asked for here is 700. How  
16 big is the Bull Pen in comparison? What will  
17 that hold?

18 THE WITNESS: Oh, gosh, I couldn't tell  
19 you the exact size. I think it holds more than  
20 750, though. But I don't know the exact number.

21 MR. SILVERSTEIN: Okay. No further  
22 questions.

1 CHAIRPERSON ANDERSON: Yes, Mr. Alberti.

2 MR. ALBERTI: Mr. Suero, I'm going to go  
3 over some ground you've already covered but I  
4 just want to make sure I understand.

5 So we have 360 unit --

6 THE WITNESS: Three hundred and six.  
7 Three hundred and six.

8 MR. ALBERTI: Three hundred and six.

9 THE WITNESS: Yes.

10 MR. ALBERTI: So, new construction  
11 residencies.

12 THE WITNESS: Yes.

13 MR. ALBERTI: In development. So I'm not  
14 sure, can you tell me again where that building  
15 is going to be? Now, just to help you out, the  
16 unit block of Potomac Avenue Southeast, to the  
17 east is 1st Street Southeast.

18 THE WITNESS: Right.

19 MR. ALBERTI: And to the west is South  
20 Capitol Street.

21 THE WITNESS: Exactly.

22 MR. STEWART: I hate to cut in, but it's

1 right on the map, it says new building, to the  
2 left.

3 MR. ALBERTI: Mr. Stewart, I'm asking the  
4 investigator, please.

5 MR. STEWART: Sorry.

6 MR. ALBERTI: All right. So, and the  
7 parcel there we're talking about, or part of the  
8 parcel that we're talking about, is just south of  
9 Potomac Avenue Southeast, right? Between 1st  
10 Street and --

11 THE WITNESS: Yes, sir.

12 MR. ALBERTI: -- South Capitol. Now  
13 where on that -- is the new construction on that  
14 parcel of land?

15 THE WITNESS: Right. So --

16 MR. ALBERTI: And which portion of that  
17 parcel of land is it?

18 THE WITNESS: So it carries the same  
19 address, actually. And so if you go to where the  
20 construction zone is, it's construction site  
21 that's now encompassed by a fence, a chain link  
22 fence. You would find, to the left of it, the

1 construction for the building lot that's  
2 coming --

3 MR. ALBERTI: To the left as I'm facing  
4 the street.

5 THE WITNESS: As I'm facing it, right.

6 MR. ALBERTI: As I'm facing south?

7 THE WITNESS: Yeah, right. Nationals  
8 Park is behind me, and so 25 Potomac South is  
9 right here.

10 MR. ALBERTI: Right.

11 THE WITNESS: And if I go into the gated  
12 area, to my left is the construction of the  
13 building, the parking lot. To the right would be  
14 the gentleman's proposed property. Closest to  
15 South Capitol Street.

16 MR. ALBERTI: Okay. So is it fair to say  
17 that the new construction is taking a portion of  
18 that parcel, sort of the northeast portion of  
19 that parcel?

20 THE WITNESS: Right. My understanding is  
21 it's a six-acre lot parcel of land. And Mr.  
22 Stewart has 100,000 square feet closest to South

1 Capitol Street.

2 MR. ALBERTI: Okay. You don't -- you  
3 couldn't help me out in terms of what that  
4 translates into acreage, could you?

5 That's all right. I'll get that from  
6 somebody else.

7 THE WITNESS: Yeah. Okay.

8 MR. ALBERTI: That's all right. I was  
9 just testing you. All right, so --

10 THE WITNESS: My math.

11 MR. ALBERTI: So we have those, and  
12 they're going to be occupied mid-summer.

13 So tell me about this parking lot. Is it  
14 above ground or surface parking for the new  
15 construction? What's it like?

16 THE WITNESS: I think this is going to be  
17 an above ground parking, my understanding.

18 MR. ALBERTI: It's a parking garage?

19 THE WITNESS: Yeah, I think so. Yeah.

20 MR. ALBERTI: All right. And you don't  
21 know what the arrangement of that parking garage  
22 is --

1 THE WITNESS: I have no idea.

2 MR. ALBERTI: -- vis-à-vis the residence.

3 Okay. All right.

4 Now going to the directly west from where  
5 the licensee is proposing to locate, across South  
6 Capitol Street, what is that neighborhood zoned?  
7 Do you know?

8 THE WITNESS: I'm going to -- I don't  
9 know for certain, but I'm going to say commercial  
10 because there's a concrete factory right there at  
11 the corner, across from -- once you cross South  
12 Capitol, to the Southwest side of Potomac Avenue,  
13 there's a construction company there. And right  
14 behind that there's a public parking lot.

15 MR. ALBERTI: Okay. So are there any  
16 residents? I have Half Street, I have 1st  
17 Street, I have 2nd Street. Is there any -- and  
18 south of P Street. Is there, between P and R and  
19 in that area, are there any residents?

20 THE WITNESS: There's residents, you  
21 know, when you get to a little bit past that.  
22 You can go, and when you go across South Capitol

1 and you hit Half Street again and to the right of  
2 all of it and further back, there's residents in  
3 there, yes.

4 MR. ALBERTI: To the west of Half Street?

5 THE WITNESS: Exactly.

6 MR. ALBERTI: Okay. Is it -- and I'm a  
7 little familiar with that area. Is it sort of  
8 row home --

9 THE WITNESS: Right.

10 MR. ALBERTI: -- blocks of residents in  
11 that sort of west of Half Street?

12 THE WITNESS: Yes, sir.

13 MR. ALBERTI: All right. I have no  
14 further questions. Thank you.

15 THE WITNESS: You're welcome, sir.

16 CHAIRPERSON ANDERSON: Mr. Stewart, do  
17 you have any questions for --

18 MR. STEWART: Oh, yeah. Just a couple.

19 CROSS-EXAMINATION

20 BY MR. STEWART:

21 Q You said there's four licensees within  
22 1,200 feet, right?

1           A     Right.  That's the information provided  
2     to us.

3           Q     Okay.  Does that include the ballpark,  
4     because they have an alcohol license too?  I  
5     don't know how they define it, but they're within  
6     1,200 feet.

7           A     They are.  Obviously they're a lot closer  
8     than 1,200 feet.  Right.  So this is I think  
9     maybe because of the type of their license it  
10    didn't come up when I was provided the map, but  
11    obviously they do have an alcohol license.

12          Q     Okay.  Yeah, I just wanted to clarify  
13    that.

14                CHAIRPERSON ANDERSON:  I think I'll let  
15    the record reflect that we don't have  
16    jurisdiction over the ballpark, so that's why  
17    they're not included.  We don't grant them a  
18    license.

19                MR. STEWART:  Oh, really?  I didn't know  
20    that.  Okay.  That's news to me.

21                CHAIRPERSON ANDERSON:  I just wanted the  
22    record to reflect that, yes.

1 MR. STEWART: Okay.

2 BY MR. STEWART:

3 Q The parking lot, I guess there's a little  
4 confusion. They have my lot, which is bordered  
5 by South Capitol Street bridge, right? On the  
6 other side of that is a parking lot that we're  
7 talking about.

8 MR. ALBERTI: Mr. Stewart, and I'm trying  
9 to be helpful here, when you say on the other  
10 side --

11 MR. STEWART: To the west side.

12 MR. ALBERTI: -- what does that mean? Be  
13 a little more specific for the record.

14 MR. STEWART: Okay.

15 BY MR. STEWART:

16 Q Okay, the southwest side of South Capitol  
17 Street is the parking lot I'm talking about that  
18 has 266 spots. And on your map --

19 MR. ALBERTI: Question him.

20 MR. STEWART: Oh, okay. Sorry.

21 BY MR. STEWART:

22 Q So did you go to that lot?

1           A     Are you talking about the lot that's  
2 behind the concrete factory?

3           Q     It's the parking lot between South  
4 Capitol Street and the concrete factory.

5           A     That's the one, right.

6           Q     Okay. So it's just surface parking,  
7 right?

8           A     Yeah, it's just --

9           Q     And there's a building there where the  
10 guy collects money.

11          A     There is a building there. Right.

12          Q     And all that.

13          A     Yes.

14          Q     Okay. All right. That's good. Just  
15 establishing that.

16                Let me see. The other thing was on the game  
17 days did you look at the TOPP plan, T-O-P-P plan,  
18 for the ballpark?

19          A     I don't know to what you are referring  
20 to.

21          Q     Okay. There is a DDOT TOPP plan and they  
22 have two people, crossing guards basically, that

1 are stationed out there during the ball games.  
2 One is at the crosswalk and one is like halfway  
3 down, basically in front of where our entrance  
4 will be. But you didn't -- I didn't send you  
5 that, did I?

6 A You did not.

7 Q Okay. My mistake.

8 A And Nationals Park is currently closed.

9 Q Right. That's true too. And I guess --  
10 oh, the other thing is, so we have our location,  
11 and then you have the new building going up, Dock  
12 79.

13 A Right.

14 Q So that's about 200 feet away, right?

15 A Approximately.

16 Q Okay. And then the other residences  
17 you're talking about are probably 800 feet away  
18 or so, right?

19 A You mean the Yard is further down? That  
20 what you're talking about?

21 Q Yeah, so the closest residents are Dock  
22 79 at 200 feet and then the other people at about

1 800 feet, right? Approximately?

2 A Immediately adjacent to the property, is  
3 that what you're asking me?

4 Q Yeah. I'm just talking about, we have  
5 our location where people are drinking, and then  
6 residents we're impacting. So the Dock 79 is  
7 about 200 feet and then the other residents are  
8 about 800 feet.

9 A Now, these measurements are not something  
10 that I have provided. This is an estimation that  
11 you're giving.

12 Q Oh, okay. Well, could you give us an  
13 estimation then?

14 A My point is, since the building is not  
15 finished yet I don't know if it's actually 200  
16 feet or less than 200 feet.

17 Q Oh, okay.

18 A That's what I'm saying.

19 Q All right. How about the residents that  
20 are outside from, like across Potomac Avenue,  
21 across South Capitol Street and all that?  
22 Approximately how far away are they?

1           A     Well, across -- I mean, Potomac Avenue  
2 where your property is at, 25 Potomac Avenue is  
3 right almost at the intersection of Potomac  
4 Avenue and South Capitol Street, and if you cross  
5 over South Capitol Street into the Southwest side  
6 you get to Half Street which is on your right.  
7 There's residences not that far away.

8           Q     Okay. So about a block or two away.

9           A     Approximately.

10          Q     Okay. I think that's it. So, but just  
11 concerned, you say, whenever you have people  
12 drinking and walking out in the street there's  
13 going to be concerns about safety, right? You  
14 were saying that?

15          A     Absolutely.

16          Q     But doesn't that apply to every alcohol  
17 license issued in D.C.?

18          A     However, we are -- although that is  
19 correct we are talking about an area where there  
20 will be a lot of people trying to maybe to get  
21 from one side to the other, and a thoroughfare  
22 that would be quite busy during those times.

1 When the Nationals Park is open.

2 Q You're talking about (indiscernible).

3 A Right.

4 Q Okay. And do you understand Potomac Ave.  
5 is closed during the Nationals games, to traffic?  
6 Only buses are allowed to come in and out.

7 A You have a lot of people traffic. Even  
8 buses, that's vehicular traffic.

9 Q Okay. All right.

10 MR. STEWART: All right. I think that's  
11 all the questions I have for you. Thanks.

12 CHAIRPERSON ANDERSON: Ms. Farlee.

13 MS. FARLEE: Thank you.

14 BY MS. FARLEE:

15 Q First, Investigator Suero, I wanted to  
16 correct -- you referred to me as a commissioner,  
17 and I'm not and I never represent myself as that.  
18 I'm just Chair of the ABC Committee.

19 A I see.

20 Q So I want to correct your --

21 A It was just a paper that I received that  
22 made it seem that you were one of the

1 commissioners.

2 Q No.

3 A Thank you for correcting me.

4 Q Thank you. I also want to ask you, on  
5 your page 2 of your report, on the line beginning  
6 with the word -- three quarters of the way down,  
7 that full paragraph. The line that starts with  
8 the word, "complex." Under beer garden, and then  
9 complex is the next beginning word there.

10 A First paragraph or second paragraph?

11 Q Second paragraph.

12 A And how many lines down? I'm sorry.

13 Q Ten, 12. The line starting with the  
14 word, "complex."

15 A Oh, it should be just the unit apartment  
16 building.

17 Q No, no, I wanted to refer to that  
18 sentence.

19 A Okay.

20 Q Dr. Farlee also advised that there is a  
21 360-unit apartment complex being constructed on  
22 that part, property.

1 A On that property. Correct.

2 Q But my question is, that phrase,  
3 sentence --

4 A Uh-huh.

5 Q -- immediately follows your reference to  
6 the Bladensburg Northeast property license.

7 A That would be a --

8 Q So I wanted to clarify the word, "that."  
9 What did you intend to say?

10 A I'm not quite sure.

11 Q Constructed on "that" property.

12 A Oh.

13 Q My question is, didn't you mean to say  
14 the Bardo proposed property rather than the  
15 Bladensburg property?

16 A No, I don't believe I mentioned  
17 Bladensburg property on that line. I'm still  
18 talking about --

19 Q No, in the sentence before you did. The  
20 sentence before is talking about Bladensburg  
21 Road, which has an outdoor complex.

22 A Oh, yeah. Right. I'm just actually

1 relating to things that you advised me of.

2 Q Right.

3 A And then --

4 Q Okay. Well, can we agree --

5 A And I'm explaining that the proposed  
6 property is similar in nature to the one that  
7 exists --

8 Q On Bladensburg.

9 A -- on Bladensburg Road, yeah.

10 Q Okay.

11 CHAIRPERSON ANDERSON: I think she's  
12 trying for you to clarify what property, what  
13 you're referencing in that paragraph. Were you  
14 referencing the Bladensburg location or the new  
15 Bardo location? I think she just asked you for  
16 clarification.

17 THE WITNESS: I see that. The apartment  
18 complex is on the property at 25 Potomac Avenue  
19 Southeast. Is that what you wanted me to  
20 clarify?

21 MS. FARLEE: Yes. The word, "that" to me  
22 was --

1 THE WITNESS: Oh, okay.

2 MS. FARLEE: -- not clear.

3 BY MS. FARLEE:

4 Q So you're talking about the --

5 A Proposed location.

6 Q -- adjacent to the 20 --

7 A Yes, ma'am.

8 Q -- Potomac Avenue Southeast.

9 A That's correct.

10 Q Thank you. Okay. On your list of nearby  
11 establishments, I'm not clear why Tap 26 is on  
12 the list. It appears to be in Northwest.

13 A It's actually -- no, just that's a  
14 typographical. My apologies. It's actually in  
15 Southeast. Or, yes.

16 Q Where?

17 A Or Southwest, I'm sorry. P Street.  
18 That's just one of those spots.

19 Q E Street?

20 A P; P as in Paul.

21 Q P.

22 A Yeah.

1 Q And the name of Tap 26?

2 A Yes, ma'am.

3 Q I question that. I don't know that --

4 A Okay.

5 Q -- license. But I also asked, the circle  
6 that you drew a few pages later on --

7 A You're referring to the map?

8 Q The oral -- oval map. Yeah. Your  
9 Exhibit 16.

10 A Just to be clear, those are not maps that  
11 are created by me.

12 Q Okay.

13 A They are created by someone else and --

14 Q For Exhibit --

15 A -- provided to me.

16 Q Let's say Exhibit 15.

17 A Let me get to that exhibit.

18 Q Okay.

19 A All right.

20 Q And as I said in my opening statement,  
21 and I guess I have to phrase this as a question.  
22 Isn't it not true that there are other alcohol

1 ABRA licensed establishments in this neighborhood  
2 near where in where your circle is drawn? There  
3 is the new Buffalo Wild Wings. There is the  
4 South is already on the picture, and Abla 301  
5 (phonetic) is on your Exhibit 15, I guess it is.

6 So in my opening statement I said there are  
7 other places for people to go other than this  
8 proposed 25 Potomac Avenue. Is that correct?

9 A Right.

10 Q And there may be others that I haven't --

11 A There may be.

12 Q -- yet identified. But between leaving  
13 the Nationals Ballpark and heading towards either  
14 the buses or the subway.

15 A And there may be some that are outside  
16 the 1,200 foot circle of course.

17 Q That's right.

18 A Yes.

19 Q That are convenient --

20 A Yes.

21 Q -- to go, other than this --

22 A Of course. Yes.

1 Q -- proposed establishment.

2 A But for the purposes of this  
3 investigation we only go with 1,200 feet.

4 Q Okay.

5 A Right.

6 Q Thank you.

7 A You're welcome.

8 Q You've already acknowledged the date and  
9 time of your visit is not typical.

10 A That's correct.

11 Q Of a ballgame day or --

12 A That's correct.

13 Q -- spring, summer, or fall times. Thank  
14 you.

15 A You're welcome.

16 Q You did mention there's no control of  
17 crosswalks in the area.

18 A Right.

19 Q Correct?

20 A That's correct.

21 Q So I think that's a very important issue  
22 in this situation when in my Exhibit 2, I

1 believe, there are just very fragile plastic rods  
2 in the middle of the street.

3 A That's what they have on Potomac Avenue.

4 Q Right? Very, very fragile plastic rods  
5 in the middle of the street and no --

6 A They're designed so if a car hits them  
7 they won't do any damage or cause --

8 Q Yeah.

9 A -- worse --

10 Q But it's no protection for pedestrians.

11 A That's correct.

12 Q Do you agree?

13 A I do.

14 Q Thank you. And you did mention there  
15 were two items on the ABRA investigative history.  
16 One of your exhibits shows only one, the posted  
17 notices. But --

18 A No, no. Let me correct that. That's why  
19 I didn't bring it up. The posted notices is  
20 relative to --

21 Q But --

22 A -- the proposed location at Bardo Big

1 River. When a person applies for an alcohol  
2 license part of that process, they have to  
3 provide placards notifying the public in general  
4 that they have applied for an alcohol license.

5 So that particular exhibit is reference to  
6 that.

7 Q No, that was --

8 A That was not about -- there's a separate  
9 exhibit for Bardo on Bladensburg Road Northeast.  
10 They're two separate things.

11 Q Yeah. And that had two -- okay, you're  
12 right. Exhibit 9, you had two items on that  
13 investigative history. Thank you.

14 A You're welcome.

15 Q I hope this isn't out of bounds, but did  
16 you happen to read my presentation, my  
17 submission?

18 CHAIRPERSON ANDERSON: No.

19 MS. FARLEE: It is out of bounds. Okay.  
20 Thank you.

21 BY MS. FARLEE:

22 Q You've acknowledged, I believe it's

1 correct, this is not an industrial area.  
2 Elsewhere in the presentations some people  
3 reference this as an industrial area. But you  
4 cite it as a C --

5 A C-3-C.

6 Q C-3-C.

7 A That's determined by the D.C. Office of  
8 Zoning.

9 Q Right.

10 A And not by me.

11 Q So to claim that it's an industrial area  
12 is not correct. Is that correct? It's not an  
13 industrial area.

14 A Not in my mind, it's not an industrial  
15 area, no.

16 Q Not according to D.C. Government.

17 A Probably true.

18 Q Thank you.

19 A Yes, ma'am.

20 Q Okay. Thank you.

21 A You're very welcome.

22 MS. FARLEE: Those are my questions.

1           CHAIRPERSON ANDERSON: All right. Do we  
2 have any board questions based on the questions  
3 that were asked?

4           Hearing none, all right. You're excused.  
5 Thank you for your testimony, sir.

6           THE WITNESS: Thank you.

7           CHAIRPERSON ANDERSON: The Board has no  
8 further witnesses. Mr. Stewart, you can present  
9 your case-in-chief.

10          MR. STEWART: Okay. I don't have any  
11 witnesses, but I will go through my case.

12          MR. ALBERTI: He needs to be under oath.

13          CHAIRPERSON ANDERSON: All right. All  
14 right. I'll swear you in. And I mean, I guess,  
15 unfortunately --

16                   BILL STEWART, SWORN

17          MR. STEWART: So as I said before, we met  
18 with the ANC numerous times and Commander Brown  
19 and MPR is the landlord, and Florida Rock,  
20 various people.

21           And the agreement, or the first license I  
22 submitted to the Board back in February, we just

1 axed that one and resubmitted a new application  
2 because it was such a large change from the  
3 original application, which was 2,000 seats, et  
4 cetera. So the new application was submitted in  
5 October; showed all the amendments that everybody  
6 wished me to make.

7 So to go just quickly down those again,  
8 750 people, no entertainment, move the main  
9 entrance away from 1st Street, get rid of the  
10 distillery, change the license class to go along  
11 with that, and the security plan upgrades, which  
12 again the ANC contributed a lot to that one.

13 The ANC filing that you went over, that  
14 they say if ABRA decides to grant the licenses,  
15 the license, request the Board order at a  
16 minimum. Again, everything you listed I agreed  
17 to, that's within my control. I'm not DDOT so.

18 One note I wanted to bring up about the  
19 ANC was that I met with Coralie and Katherine on  
20 their committee twice, and various people, and  
21 the Alcohol Subcommittee for the ANC voted to not  
22 protest this license. They voted four to three

1 not to protest this. And they told the main ANC  
2 this and they decided to protest it anyway. I  
3 mean, I consider like they're -- you know, the  
4 work they did and the way they crafted it, you  
5 know, but the main ANC did not go along with  
6 that. They went against what the Subcommittee  
7 said after they did a lot of work. I would  
8 compliment them on what they did.

9           When I met with Commander Brown he had --  
10 you can tell the guy has been around a long time  
11 because he had some very good points that never  
12 even crossed my mind. One is, his problem with  
13 the ballpark is not so much the ballpark, but  
14 when the ballpark lets out. He has all these  
15 people come down, and 30,000 people come out, and  
16 you know, a lot of people drive. Other people  
17 take Uber, whatever. But he has around eight or  
18 9,000 people that wait on the Metro, to get on  
19 the Metro. The Metro cycles through. So it  
20 takes a whole hour for these people to get cycled  
21 through the Metro and out of there.

22           And these people cause problems. They're

1 in the public space. And it would be better if  
2 these people were not in the public space for  
3 this hour from the time, you know, the ball game  
4 ends to the time the Metro finally clears  
5 everybody out. Okay?

6 So when the ANC wanted us to stop at  
7 11:00 p.m., you know, the main thing I thought  
8 of, all these people from Bardo, 750 people from  
9 Bardo are going to get dumped on to the street,  
10 along with all those people from the ballpark,  
11 because that's right about the time the ball  
12 games end. So that's adding to the Commander's  
13 problem. He's going to have 700 more people on  
14 the street to clog up the Metro. And not all 700  
15 are getting on the Metro, but you know, two,  
16 three, 400, whatever. It's adding to his  
17 problems. That's why even an hour later, at  
18 midnight, would be better for the Commander's  
19 police force, not having to deal with these  
20 people in the street.

21 There's really no real easy solution to  
22 this problem that I can do. I mean, there's

1 30,000 people that come on the street, Metro  
2 doesn't work fast enough. You know. I mean,  
3 there's other ways for people to get out of the  
4 public space into private space, but that's not  
5 in my control either. You know.

6           So that's one of the reasons why I didn't  
7 want to agree to 11:00 p.m. on the game days. So  
8 as I said, all the other things that the police  
9 commander requested, I put into the security  
10 plan. Such as, he wanted to install a gate for  
11 direct access to the parking area. His problem  
12 was, if people walked out the front gate and  
13 around the corner and back into the parking lot,  
14 they have to cross South Capitol Street, the  
15 street. And he's perfectly right. That's dumb.

16           So I modified the plans for DCRA to put a  
17 gate through my property, straight into the  
18 parking lot so people do not have to walk into  
19 the public space and across South Capitol Street,  
20 street.

21           And he wanted, you know, pay for  
22 reimbursable detail, two officers within the

1 premises during busy times. That's a good idea.  
2 So I did that.

3 And he wants security guards trained, and  
4 security officer management branch certified,  
5 which I guess is an official term on their  
6 website. The guys have to go through this. I  
7 said, that's fine.

8 He said Bardo erect a six-foot-high  
9 permanent chain link fence all around all the  
10 property where people are drinking. And at our  
11 last meeting, like Mr. Alberti brought up a fact  
12 like, how are you going to patrol 100,000 feet in  
13 this dog park, people drinking. He's right. So  
14 we cut it down to one third of that and we just  
15 put a fence down the middle. Everybody who as  
16 the dog park cannot drink. Everybody at the food  
17 trucks can't drink. You know, people walking  
18 down the sidewalk can't drink. You know,  
19 everybody who can drink, we contained it so if  
20 you're standing on top of the bar, which we have  
21 an 18-foot-high area right by the bar, you can  
22 see everybody and what's going on from there.

1           So my brother said the same thing as Mr.  
2 Alberti. You know, I can't -- I'd have to get a  
3 segue to go all the way up and down there.  
4 That's ridiculous. So we changed that. I had  
5 like five people saying the same thing, then I'm  
6 like okay, then they're right.

7           Have a traffic officer out in front of  
8 Bardo on the busy days to prevent jay walking.  
9 The Nationals TOPPs plan has a traffic officer on  
10 the corner there, South Capitol Street, and  
11 Potomac Avenue, either one or two of them during  
12 the games to do that. And we're going to add a  
13 security -- a traffic officer in front of our  
14 gate to make sure people behave themselves.  
15 Okay. Potomac Avenue is closed during the ball  
16 games and only lets the buses come in. So one  
17 buss comes in, dumps people. Next bus comes in.  
18 It's very controlled. It's not like a bunch of  
19 drunk guys, you know, in their SUVs going back  
20 and forth like many other places around the  
21 ballpark.

22           So with that, the fact that it's closed

1 to traffic and also having a traffic officer paid  
2 by Bardo, and having two traffic officers paid by  
3 the Nationals, I think that it's a good start and  
4 I think that it will keep people in line.

5 Commander also wanted to have SPOs with  
6 arrest powers employed by Bardo for security.  
7 And I said fine. You know, that makes sense.  
8 The SPOs will perform the actual arrests as  
9 opposed to calling MPD and having their time  
10 taken up by coming and arresting drunk people.  
11 So the SPOs will arrest them and take them over  
12 to the station. So that was fine too.

13 And the bicycle, automobile, taxis,  
14 Ubers, will all keep patrons from wandering in  
15 the public space. So basically the public space  
16 will only be occupied by people walking down  
17 around the National stadium up to the subway  
18 Metro, and they won't be near residences. And I  
19 guess there will be random people who don't like  
20 parking in our parking lot and park somewhere  
21 else. But hopefully there won't be too many of  
22 those.

1           Currently at our location on Bladensburg  
2 Road, we don't get very many people driving  
3 anyway. Seems like everybody is on Uber now, or  
4 bicycles. And we're going to be on the bike  
5 trail too, so that's -- we're also having 300  
6 bicycle parking spots. So we are targeting  
7 bicycle people more than anything else.

8           And in general that area, I think your  
9 investigator was right, there's not a whole lot  
10 going on down there, even in the good weather if  
11 there's no ball game. So I don't think we're  
12 really concerned much about the general time when  
13 there's no ball game. But when there is a ball  
14 game, that's when the problems will happen. So  
15 that's what we were targeting mainly, and that's  
16 what our main concern is, at Bardo, in this  
17 location.

18           Because the Trinidad location, basically  
19 it's doubling the size and you know, we haven't  
20 had a lick of problem in Trinidad in two years,  
21 which is shocking. We hadn't had any kind of  
22 like violations, police arrests, or anything. I

1 don't know why, because Trinidad is a very  
2 sketchy area, but we've had good luck.

3           And I just want to bring up the fact that  
4 we've been talking with the ANC about this, and  
5 they've signed at least two agreements with the  
6 Bull Pen. First one is for 12:30 at night, and  
7 the second one is for 1:30 a.m. for the Bull Pen,  
8 with entertainment. ANC agreed to that. And I  
9 think there was one before that that I couldn't  
10 catch on the records. But at least I've seen  
11 two. And it just struck me as, you know, we're  
12 not having entertainment. Why can't we have the  
13 same hours. But they seem to be stuck on 11:00  
14 p.m., and I just think 11:00 p.m. is a bad idea  
15 because when the ballpark lets out and you're  
16 shoving 750 more people into the mix I just don't  
17 think that's a good idea. Even 12:00, even  
18 midnight is better.

19           So and if the ABRA goes by the guidelines  
20 of the licensees, history of previous violations,  
21 we've been operating 25 years in Virginia and  
22 D.C., and we have minor violations for 25 years.

1 You know, we never had a license suspended.  
2 We've had just minor stuff over the last 25  
3 years. That's a long run. You know. I mean,  
4 you could look up something like Datcha  
5 (phonetic), and those guys have just been  
6 egregiously abusing the law. And they've only  
7 been around for a year. You know, I mean,  
8 they've got like 30 violations in one year.  
9 We've got like three or four in 25. So we are  
10 not like Datcha.

11 I know you guys see a lot of bad stuff up  
12 here too because I've seen it, you know.  
13 Stabbings, everything else. You know, McFaddens.  
14 You know. But -- and I just want to bring up the  
15 noise thing.

16 Well, it says in the ABRA guidelines,  
17 "The proximity of the establishment to  
18 residences." Okay. The closest ones are 200  
19 feet away, and that's Dock 57. And the landlord  
20 for Dock 57 is MRP, and my landlord is MRP also.  
21 So obviously these guys at MRP are making sure  
22 that I'm not going to bother their tenants.

1 Okay? Plus, the tenants that move in to that  
2 Dock 57 have to sign an agreement saying  
3 basically -- I think it's called urban living or  
4 something. And it's like there's noise. And  
5 they're not mainly concerned with Bardo noise.  
6 They're concerned with the ballpark, people  
7 hitting homeruns and going woo, at 10:00 at night  
8 and waking people up. You cannot complain if you  
9 move into Dock 57, about noise.

10 You know, and it's specifically targeted  
11 to the ballpark, you know, because I guess people  
12 are going to move in there that don't like  
13 baseball, and they don't want them calling up and  
14 complaining. So in the urban living agreement  
15 they can't complain about noise.

16 So the next closest one is about 800 feet  
17 away to us. That's the closest residence. And  
18 basically I just printed out a quick thing for  
19 you know, sound pressure and decibels from the  
20 internet. I don't know if you can pass them up  
21 there. Do I give it to this lady here?

22 CHAIRPERSON ANDERSON: No, you give it

1 to --

2 MR. ALBERTI: Does he want to submit them  
3 as evidence?

4 CHAIRPERSON ANDERSON: No, what is that  
5 to your --

6 [Discussion off the record.]

7 MR. STEWART: As you can see, like if  
8 you're shooting off a rifle it's 134 decibels,  
9 and you get 800 feet away and it's only 78  
10 decibels. So even if we had a target range down  
11 there, 800 feet away from people, by the time it  
12 got to their house it would be the same noise  
13 level as a Metro bus going by their house.

14 So sound mitigation is distance for us.  
15 We are 200 feet just from Potomac Ave., from the  
16 map you can see. We're on the river. We've got  
17 a good 200 feet just to hit Potomac Ave., 800  
18 feet past there. So I don't think noise will be  
19 a problem.

20 And, you know, if we've been in Trinidad  
21 for two years and ABRA has come by numerous times  
22 and measured the sound level and never given us a

1 violation. Along with DCRA and everybody else.  
2 We have met the noise requirements of D.C. in  
3 Trinidad. And the neighbors are close there.  
4 You know, they are literally right next door.  
5 Eight, 10 feet away. This location will be 200  
6 to 800 feet away from people. So we have a, you  
7 know, two-and-a-half-year record of not violating  
8 the noise ordinance. So we have that, you  
9 know --

10 CHAIRPERSON ANDERSON: Remember, you  
11 still -- you're going to have an opportunity to  
12 give a closing statement.

13 MR. STEWART: Oh, okay.

14 CHAIRPERSON ANDERSON: To wrap up  
15 everything. So now you're presenting your case.

16 MR. STEWART: Oh, okay. I guess I am  
17 going to the conclusion.

18 CHAIRPERSON ANDERSON: You still have  
19 that opportunity after you've heard everything to  
20 still give an opening statement.

21 MR. STEWART: Okay. All right. Well,  
22 then, I guess I'm done.

1 CHAIRPERSON ANDERSON: No, well I didn't  
2 -- I wasn't telling you to --

3 MR. STEWART: No, you're right because I  
4 wrote conclusion. I'm running right into it  
5 right now.

6 CHAIRPERSON ANDERSON: Okay. All right.  
7 All right.

8 MR. STEWART: I should just stop.

9 CHAIRPERSON ANDERSON: All right. Okay.  
10 Well, I'm glad. Well, you know, I guess I was  
11 reading your mind so I'm glad that I got -- I  
12 asked the question at the time you got to the  
13 point that you're done with your presentation.  
14 But you still have more time. The process now is  
15 that Ms. Farlee can ask questions based on the  
16 presentation that was just made.

17 CROSS-EXAMINATION

18 BY MS. FARLEE:

19 Q I have several things to ask. First I'd  
20 like to go through your map.

21 A Okay.

22 Q And ask a few questions about my notes on

1 the original map, which is hard to read, right?

2 A Yes, that's correct. It is. The larger  
3 one is easier to read.

4 Q All right. Okay. First of all, can you  
5 tell me where your entrance gates are proposed to  
6 be?

7 A At the very top.

8 Q Top of what? The green line?

9 A No, this -- the shaded area right here is  
10 the pathway.

11 Q Yes.

12 A Going down.

13 Q Yes.

14 A So this is Potomac Ave., they're going to  
15 have to walk down here. This is where they're  
16 going to be.

17 Q This is the first entrance gate.

18 A Right.

19 Q All right.

20 MR. ALBERTI: Mr. Stewart, that doesn't  
21 help me.

22 MS. FARLEE: Right.

1 MR. ALBERTI: I have no idea.

2 MS. FARLEE: Yes.

3 MR. ALBERTI: So you need to do a  
4 description. No, no, no, no you need to verbally  
5 describe where it is on the map.

6 CHAIRPERSON ANDERSON: Well, let --

7 MR. ALBERTI: Before --

8 CHAIRPERSON ANDERSON: That's great.

9 MR. ALBERTI: When I look at the  
10 transcript to make my decision it's not going to  
11 help me.

12 CHAIRPERSON ANDERSON: All right. Hold  
13 on. All right. Just hold on a minute. Okay? I  
14 want the record to reflect that -- and I'm going  
15 to ask you a question, but later. Which one of  
16 your exhibits is it that we're talking about?  
17 Exhibit what in the documents that you had  
18 disclosed?

19 THE WITNESS: I have to look at my list.  
20 It's the map one. I'm not sure.

21 CHAIRPERSON ANDERSON: I know, but I can  
22 deal with that. So you have -- hold on a minute.

1 You have the one that's labeled site map?

2 MR. STEWART: Yes, sir.

3 CHAIRPERSON ANDERSON: All right. So  
4 that's in the applicant's exhibit. It's Exhibit  
5 1, which is site map. And the applicant today  
6 has provided us a larger image of Exhibit 1, and  
7 so therefor we will substitute that.

8 So, Ms. Farlee, you are referencing  
9 Exhibit 1. So you can ask the question again and  
10 then we --

11 MS. FARLEE: It has a one; one and a  
12 circle at the bottom. Is that the same thing  
13 you're looking at?

14 CHAIRPERSON ANDERSON: Yes. I have the  
15 same one, yeah. Which is a -- yes.

16 MS. FARLEE: All right. Thank you.

17 CHAIRPERSON ANDERSON: Go ahead, ask him.

18 BY MS. FARLEE:

19 Q Okay. Now, where is the exit? Entrance,  
20 please?

21 A If you start at Potomac Ave, the very  
22 top, the left shaded line.

1 Q The intersection of the --

2 A Yeah, if you follow that --

3 Q -- horizontal and the --

4 A -- shaded line down --

5 CHAIRPERSON ANDERSON: Hold on, just let  
6 her finish the question. I know you're trying to  
7 be helpful, and that's fine. But I think that  
8 since someone is transcribing this so you have to  
9 have one person speak. So.

10 BY MS. FARLEE:

11 Q The intersection of the vertical line  
12 that comes down from Potomac Avenue.

13 A Yes, ma'am.

14 Q To the horizontal line.

15 A Yes, ma'am.

16 Q Okay.

17 A That's the main gate.

18 Q All right. So that's where arm bands and  
19 ID checks will be --

20 A Correct.

21 Q -- provided?

22 A Yes, that's true.

1 Q Okay. Now where is the parking that  
2 you're talking about across the street?

3 A The shaded line to your far left.

4 Q My far left.

5 A Right there. That's the parking lot.  
6 And where that blue line is, is the gate.

7 Q But where is South Capitol Street on  
8 this?

9 A South Capitol Street, see where it says  
10 South Capitol Street bridge?

11 Q Bridge abutment, right.

12 A That is South Capitol Street.

13 Q Okay. So how do people get from your  
14 parking lot, which is on the Southwest side, to  
15 your site?

16 A You go under the bridge.

17 Q Okay.

18 A So you don't have to go into public  
19 space.

20 Q Okay. So is there a second entrance  
21 there or where --

22 A Yes. That's true.

1 Q A second ID check?

2 A Yes.

3 Q A second arm band?

4 A Yes. That's all true.

5 Q Are there any other entrances?

6 A There is a fire exit, but it's not open  
7 during normal times, and that's the far right  
8 shaded line.

9 Q I don't -- far right shaded line? Where  
10 it says Y, dotted line, ABRA license dairy and no  
11 alcohol fine?

12 A Start at the top of Potomac Ave.

13 Q Yeah.

14 A You see that right line? That's the fire  
15 exit.

16 Q About halfway down, this green marked  
17 line. Fire exit.

18 A It's -- yeah.

19 Q It's only an exit.

20 A True. And that has an emergency bar on  
21 it with an alarm.

22 Q Okay.

1           A     That's not open all the time.  That's  
2 just for --

3           Q     Okay.

4           A     -- fire.  So I don't -- I never  
5 understood why the Fire Marshal wanted that,  
6 but --

7           Q     Yeah.

8           A     -- I just do what he says.

9           Q     So the parking area down on the left side  
10 of this, across South Capitol, is for something  
11 like 200 or something spaces.

12          A     True.

13          Q     Is that correct?  Two hundred and 99?

14          A     True.

15          Q     Or whatever.  Not on the site here.

16          A     True.

17          Q     Is that correct?

18          A     True.

19          Q     Okay.  So there's a tunnel under South  
20 Capitol.  Correct?

21          A     It's a bridge.

22          Q     Oh, it's a bridge.

1 A Yeah.

2 Q Wait a minute, bridge over South Capitol?

3 A South Capitol goes across the river.

4 Q Yeah.

5 A And then there's the bridge area where  
6 there's currently cranes parked there, but it  
7 will be a pathway for us.

8 Q Say it again? A bridge over South  
9 Capitol? Bridge?

10 A The South Capitol Street bridge goes  
11 across the river.

12 Q Yeah.

13 A Okay? Part of that area is open along  
14 the river. That's where we are. So you can go  
15 all the way down the river without -- by going  
16 under the South Capitol Street bridge.

17 Q Open on which side? On the Southeast  
18 side?

19 A Both sides, yeah. You can pass back and  
20 forth.

21 Q I see.

22 A Is this making sense?

1 Q It's not really clear how they don't  
2 tangle with Potomac -- with South Capitol Street  
3 traffic.

4 A Bridge goes up like this.

5 Q Uh-huh.

6 A And right here is our area. Right by the  
7 river. This is dirt, so we can go back and forth  
8 down the river on the dirt.

9 Q And under the bridge.

10 A Right. And that property under the  
11 bridge is [noise on microphone]. So.

12 Q All right.

13 A Well, for [noise on microphone].

14 Q So you refer to in your logistics and  
15 safety plan, you say, gate on the west side. Is  
16 that what we're talking about here? This is the  
17 gate on the west side.

18 A That's true.

19 Q Is that correct? Okay. Now on page 2,  
20 number 4 in your logistics and safety plan you  
21 say, mount their bikes and ride down the bike  
22 trail without having to go on a public street.

1 How does that work?

2 A If you're going east. MRP -- well,  
3 Paradigm is building that river frontage right  
4 now, and it should be done in the next couple  
5 months. So you can ride your bike straight up  
6 the river.

7 Q But if they're in your site --

8 A Right.

9 Q -- how do they mount their bikes and go  
10 to this trail?

11 A You're just --

12 Q Without going on the public street?

13 A You're just going to go directly east  
14 from my site, in front of the new construction.

15 Q East, to Potomac Avenue?

16 A No, no. You go in front of that  
17 building. See it says, new building under  
18 construction?

19 Q Yes.

20 A You're going to go just below that  
21 building there's going to be a river front. You  
22 can go up that way. Under construction right

1 now.

2 Q But they would exit what, through this  
3 exit. If they're bikers in your place they'll go  
4 out your --

5 A They would --

6 Q -- exit.

7 A They would go out the front gate.

8 Q Front gate. Okay. And go around here?

9 A Right.

10 MR. ALBERTI: I'm going to have to  
11 object. You know, after today we're going to be  
12 moving on to other things. I'm going to have to  
13 come back and review the transcript while I make  
14 my decision. I'm not going to know what anything  
15 you guys are talking about.

16 Now if that's okay with you --

17 MS. FARLEE: How can we --

18 MR. ALBERTI: -- that's fine with me.

19 But just be mindful that you are both doing this  
20 in such a way that it not going to help me for  
21 either of you.

22 MR. STEWART: Yes, sir. I understand.

1 MS. FARLEE: All right.

2 BY MS. FARLEE:

3 Q Say this again. How will the bikers get  
4 to the trail without having to go on a public  
5 street?

6 A They will go out the front gate that they  
7 came in, and they would turn right and go  
8 directly in front of the new building, where it  
9 says new building under construction. They can  
10 go straight up the river from there.

11 Q Page 3 of your security -- safety plan,  
12 you said Trinidad trouble free with zero police  
13 calls in two and a half years. I think we'll  
14 dispute that when we hear from Commander Contee  
15 in a few minutes. There have been some calls for  
16 service.

17 In page 4 you say, no batting cages, throwing  
18 games, but on the site plan here it used to say  
19 corn hole bean bag toss, complete area.

20 A That's the same as you have in Trinidad.

21 Q Yeah, but how does that -- how is that  
22 consistent with no batting cages or throwing

1 games? I thought a corn whatever is a throwing  
2 game, and a bean bag is a throwing game.

3 A I meant like when they do baseball  
4 pitching and they measure the speed of the ball  
5 going.

6 Q I see.

7 A And everybody competes against each other  
8 to see who can throw the fastest.

9 Q I see. And a corn hole was not a  
10 throwing game?

11 A No. You don't throw corn holes at each  
12 other.

13 Q Okay. You talk about an on-site, on page  
14 4, on-site trained management team. When you  
15 have a citation for no manager on duty at  
16 Bladensburg, how is this going to be different?  
17 How will you staff your management team so that  
18 you don't have a citation for no management? How  
19 will they be compliant with ABRA requirements?  
20 That's --

21 A I'm sorry. Where are we now?

22 Q On page 4 of your --

1 A Right.

2 Q -- Bardo logistics and safety plan, you  
3 say you will have an on-site trained management  
4 team.

5 A Right.

6 Q And ask, who will that be and how will  
7 you manage that?

8 A I thought I listed all of it. Didn't I  
9 put Andrew Stewart, Ethan Brennan, Bill Stewart,  
10 and Mike Lanman? I think five.

11 Q Where is the 18-foot-high tower within  
12 the premises, and what's the purpose of that?

13 A It will be two --

14 Q Is that on your diagram here?

15 A It will be two shipping containers, one  
16 on top of another, and that's 18 feet.

17 Q Where is that?

18 A It's right in the center. Right by the  
19 bar.

20 Q And what's the purpose of the tower?

21 A So that the manager can go up on top of  
22 the two shipping containers and look around and

1 make sure nobody is misbehaving.

2 Q Also on page 7 of your Bardo Logistics  
3 and Safety Plan, you say Bardo has designed a  
4 venue for a capacity of 2,000 people.

5 A You must have an --

6 Q You have the anticipation that game day  
7 crowds will achieve this number.

8 A You must have an old copy.

9 Q I gave what was submitted in your  
10 application.

11 A So what page are we on here?

12 Q Page 7.

13 CHAIRPERSON ANDERSON: And, for the  
14 record, we're talking about the --

15 MS. FARLEE: Bardo application, which --

16 THE WITNESS: Is that under crowd  
17 control? Oh, I see it. Yep, you're right. That  
18 should be 750. Yep, that's a typo from the old  
19 days. So you can cross that off and write 750.  
20 My mistake.

21 BY MS. FARLEE:

22 Q Also on page 7 it says, "Point of entry

1 at South Capitol bridge embankment. Entry will  
2 require proof of age at point of sale. I thought  
3 you were going to have proof of age at point of  
4 entry.

5 A In there it says we have proof of age and  
6 all we can do, we're going to have one at the  
7 gate and also the servers can card people. And  
8 also the roaming security people can check their  
9 IDs and see if they actually match up with their  
10 bracelets. Three separate checks.

11 Q But it does say at 20 foot high South  
12 Capitol Bridge Street embankment, entry will  
13 require proof of age at point of sale. That's at  
14 the Capitol -- South Capitol Street bridge  
15 embankment, the middle of --

16 A Yeah, I see what you're saying.

17 Q -- page 7. But point of sale rather than  
18 the point of entry.

19 A I think that's a typo. I think you're  
20 right. It should say point of entry.

21 Q So which do you mean? So just again on  
22 page 7, you say there are signs to designated

1 sporting areas, but you have no batting cages, no  
2 throwing games. So.

3 A All right. Where are looking?

4 Q Page 7, further on down.

5 A It says signs?

6 Q Under signs. Signs will point you to  
7 designated sporting areas, but then you said in  
8 another place, no batting areas, no throwing  
9 games.

10 A I think my brother meant, pointing to the  
11 stadium.

12 Q Designated sporting area is the National  
13 Stadium?

14 A I think that's what he meant, but I'm not  
15 sure. That's sort of vague, isn't it?

16 Q It is.

17 A You can cross it off if you want.

18 Q Well, I'm just trying to demonstrate that  
19 there is confusion and some inconsistency.

20 A Well, yeah. Fair enough.

21 Q Explain again page 8, the front gate of  
22 Bardo empties out 200 feet from the corner of

1 Potomac Avenue and South Capitol Street?

2 A Right.

3 MR. ALBERTI: Ms. Farlee, it would be  
4 helpful to me if you would reference a section  
5 because my pages aren't numbered.

6 MS. FARLEE: Well, it's under -- you  
7 know, the alcohol control plan is --

8 MR. ALBERTI: I see Section 7, alcohol  
9 and control plan. Is that the section you're in?

10 MS. FARLEE: It's above -- it's above  
11 that. I'm sorry. Under pedestrian traffic  
12 management.

13 MR. ALBERTI: Thank you.

14 BY MS. FARLEE:

15 Q Front gate of Bardo empties out 200 feet  
16 from the corner of Potomac Avenue and South  
17 Capitol Street. Where is that? 200 feet from  
18 the corner.

19 A On your map, you go to the top where it  
20 says Potomac Avenue.

21 Q Yes.

22 A Okay. You see where the path is, right?

1 Q Yes.

2 A Go left, when you come out of that path  
3 you're going to walk about 200 feet to hit the  
4 South Capitol Street bridge.

5 Q Well, first you hit Potomac Avenue.

6 A Right. And then you turn --

7 Q And then a left, so.

8 A Turn left, you walk that 200 feet and  
9 you'll hit South Capitol Street. So that's what  
10 I mean, it's 200 feet from the South Capitol  
11 Street. Yeah, it's 200 feet from Potomac Ave.  
12 and South Capitol Street.

13 Q And your plan depends on food trucks.  
14 How do you guarantee that there will be, up into  
15 the alleys, you don't --

16 A Well, food is not required by the ABRA  
17 license, but people like food. So that's why we  
18 would have food trucks. And in general when you  
19 have a lot of people there the food trucks just,  
20 they call you and they just want to show up  
21 because they make money. And we have food trucks  
22 that come to Trinidad and we'd get the same

1 people, and other people probably, to come. It's  
2 a very common thing now.

3 Q Not require food?

4 A No, these food trucks bring food.

5 Q Uh-huh.

6 A It's very trendy.

7 Q So there's no parking that you're  
8 providing on the area of this map on about east  
9 side. Is that correct?

10 A The parking, where it says new building  
11 under construction --

12 Q Right.

13 A -- that's Dock 57.

14 Q Seventy-nine, I think it is.

15 A Oh, right, Dock 79. And all their  
16 parking for that is in an underground lot. It's  
17 approximately four stories now, parking there for  
18 the 300 residents.

19 Q Okay.

20 A So you're correct in saying all the  
21 parking to the east of us is reserved for those  
22 residents. Parking to the west is the open

1 parking lot that the investigator was referring  
2 to. And the gate opens directly into that  
3 surface parking lot.

4 Q Okay.

5 A Is that clear?

6 Q Yeah.

7 A Okay.

8 Q I want to comment, although this isn't a  
9 question. Maybe I'll have --

10 A It would have to be --

11 Q -- another opportunity.

12 A All right.

13 MS. FARLEE: I think that's -- those are  
14 my questions. Thank you.

15 CHAIRPERSON ANDERSON: I want to ask you  
16 a question, Mr. Stewart. The purpose of a  
17 protest hearing is the appropriateness of the  
18 license that you are -- I'm sorry, the  
19 appropriateness of the business that you want for  
20 this area. Can you tell us why that you believe  
21 that the license that you're asking for is  
22 appropriate for the area?

1           MR. STEWART: Well, I mean, as the  
2 investigator said, the area is pretty bleak right  
3 now. There's not much going on down there.  
4 There is a concrete plant. If we don't have  
5 this, you know, Bardo Beer Garden on the River,  
6 it will just revert back to the parking lot for  
7 the construction company when they do phase two,  
8 which is another building they're putting up next  
9 year.

10           So I mean, in general I think it's better  
11 to have people there by the river front, you  
12 know, enjoying themselves, enjoying the river.  
13 It's very nice down there. You get a nice breeze  
14 all the time in the summer time so it doesn't get  
15 too hot, as opposed to having a construction  
16 parking lot. I think that's an upgrade for the  
17 neighborhood.

18           CHAIRPERSON ANDERSON: Well, but no,  
19 that's not the question I asked you. I asked you  
20 why it's appropriate, not why is it good. Why is  
21 it appropriate.

22           MR. STEWART: Oh, appropriate. Well, I

1 think it matches with Blue Jacket and Gordon  
2 Biersch and Justin's, and those other kind of  
3 places that are upscale, yuppie places that  
4 charge money -- charge more money than they  
5 should for, you know, beer and food. And I think  
6 that's the way the neighborhood is going right  
7 now.

8           So I mean, you could argue that maybe  
9 having the Bull Pen there would be better, but I  
10 don't think anybody sitting in this room thinks  
11 the Bull Pen, having the Bull Pen there would be  
12 better. You know, because the Bull Pen is  
13 closing up now and those 2,000 people that used  
14 to drink, you know, beer on an asphalt parking  
15 lot in the hot sun have to go somewhere else.  
16 So, you know, as a matter of fact that's more  
17 people on the street for Commander Brown to deal  
18 with now that they don't have the Bull Pen to sit  
19 in and probably on the street.

20           So I'm sort of having a hard time when  
21 you say appropriate. I think it matches the  
22 fabric of the new neighborhood, if that's what

1 you mean. I think that like it matches Blue  
2 Jacket, Gordon Biersch, who are both, you know,  
3 brew pubs like we will be. There's someplace  
4 called District Winery going to be coming in  
5 there a block away that's going to make their own  
6 wine. So that will be four places, and I don't  
7 know about distilleries going in there or not,  
8 but that's four places that make alcohol in just  
9 in that, you know, four or five block area.

10 I think that's a good thing for the  
11 neighborhood because, I mean, Ivy City has that  
12 going on right now and it seems to be helping  
13 them. You know, more people on the street  
14 walking around, less crime. More people, you  
15 know, employing the Anacostia Riverfront. I  
16 think that's a good thing.

17 I think that if it just stayed the way it  
18 was, it would be -- it's not as good just being a  
19 construction parking lot, as being a place for  
20 people to sit by the river.

21 CHAIRPERSON ANDERSON: All right.

22 MR. STEWART: And a dog park too. Don't

1 leave out that for all of our dog friends.

2 CHAIRPERSON ANDERSON: All right. Do we  
3 have any questions from the Board? Go ahead, Ms.  
4 Miller. And, yeah, just want to remind the Board  
5 this is their second go-around so I just need you  
6 to limit your questions since we do have another  
7 case that -- a party, for her to present her case  
8 on the protestant. Go ahead, Ms. Miller.

9 MS. MILLER: Well, Mr. Stewart, would you  
10 clarify for me the relationship between this  
11 property and the PUD. Is it part of the PUD or  
12 is it next door to the PUD or what?

13 MR. STEWART: The PUD goes from that new  
14 building that they're putting up all the way down  
15 through that parking lot that I was talking  
16 about, to South Capitol -- no, the street pass at  
17 -- yeah, it's South Capitol Street. So the PUD  
18 goes all the way down there. It's about six  
19 acres.

20 MS. MILLER: So this property is not part  
21 of it?

22 MR. STEWART: This property is part of

1 it.

2 MS. MILLER: It is part of it?

3 MR. STEWART: Yes.

4 MS. MILLER: So --

5 MR. STEWART: It goes from the new  
6 building all the way down the --

7 MS. MILLER: Okay.

8 MR. STEWART: Down the stream, the  
9 Anacostia River, until you get to where the  
10 police helicopters are. That's the end of it.  
11 The boundary of the police helicopter lot is the  
12 end of the lot. So it goes 800 feet along the  
13 river.

14 MS. MILLER: So your establishment is  
15 going to be allowed to exist until they're ready  
16 to develop that parcel?

17 MR. STEWART: They're going to let us  
18 stay there until D.C. tears down -- builds a new  
19 bridge, tears down the old bridge, and once the  
20 old bridge is gone that's where the new  
21 development is going.

22 MS. MILLER: Okay.

1 MR. STEWART: So basically we're an  
2 interim use, but it depends upon DDOT as to when  
3 they can finish their construction.

4 MS. MILLER: Okay. So you don't know for  
5 how long it's going to exist. Okay. And so you  
6 have the approval of the developer?

7 MR. STEWART: Right.

8 MS. MILLER: Okay. So I think we were  
9 talking about noise being one of the major issues  
10 in this case because it's an open space. And the  
11 investigator said there wasn't any way to  
12 mitigate it, basically. Would you agree that  
13 there's no way to mitigate the noise?

14 MR. STEWART: You mean as far as putting  
15 up barriers and such?

16 MS. MILLER: I don't know. I'm just  
17 putting out --

18 MR. STEWART: I'm not an acoustic expert.  
19 All I know is that what we used to mitigate noise  
20 is distance.

21 MS. MILLER: Is distance, okay.

22 MR. STEWART: Yeah.

1 MS. MILLER: So yeah, that's -- my  
2 question is if you have any basis of comparison.  
3 For instance, distance and number of people.  
4 Those are two variables I would think. So you're  
5 talking about, for instance, 750 people in an  
6 open space. And you had referenced Blue Jacket,  
7 Gordon Biersch, and Justin's as nearby  
8 establishments that were, I don't know, similar  
9 or whatever. They certainly sold alcohol. Do  
10 any of them have open spaces?

11 MR. STEWART: Yeah, Blue Jacket has  
12 outdoor seating.

13 MS. MILLER: Outdoor seating, but --

14 MR. STEWART: And Gordon Biersch has  
15 outdoor seating.

16 MS. MILLER: Okay. And --

17 MR. STEWART: And I think Justin's does,  
18 but I'm not sure.

19 MS. MILLER: Now I would guess that the  
20 number would be much smaller though.

21 MR. STEWART: Yes, that's true.

22 MS. MILLER: And, okay, let's say the

1 number is smaller, but how about the distance to  
2 residences? Those establishments.

3 MR. STEWART: Blue Jacket to residences?

4 MS. MILLER: Yeah. Any of those for a  
5 basis of comparison. I mean --

6 MR. STEWART: Justin's is right by the --  
7 Justin's is here and residences are above. And  
8 Gordon Biersch, I'm not sure if there are offices  
9 above that or not, or if it's residences. I  
10 couldn't tell you on that one.

11 MS. MILLER: So Justin's has --

12 MR. STEWART: And Blue Jacket is like  
13 self -- it's free standing, and I think they're  
14 building residences or offices across the street,  
15 but I don't know.

16 MS. MILLER: So right now as far as a  
17 basis of comparison goes, Justin's, you said, has  
18 the residences right on top?

19 MR. STEWART: Right. That's my  
20 understanding.

21 MS. MILLER: It's a sidewalk café, or a  
22 summer garden, or what?

1 MR. STEWART: I'm not sure.

2 MS. MILLER: Okay.

3 MR. STEWART: About the -- no, it  
4 wouldn't be a summer garden because they don't  
5 own that land. I think it's D.C. land.

6 MS. MILLER: Okay. And how many people  
7 did you say, though?

8 MR. STEWART: At --

9 MS. MILLER: Justin's.

10 MR. STEWART: Justin's. I'm not good  
11 with that. Blue Jacket probably has 12 tables  
12 out there.

13 MS. MILLER: Okay.

14 MR. STEWART: Maybe 75 people.

15 MS. MILLER: And Blue Jacket has  
16 residences nearby?

17 MR. STEWART: I'm not sure.

18 MS. MILLER: Okay. How about, are you  
19 familiar with Datcha Garden (phonetic)?

20 MR. STEWART: Datcha, yeah.

21 MS. MILLER: Okay, do you --

22 MR. STEWART: Yeah, I'm familiar with

1 them.

2 MS. MILLER: Do you know how many people  
3 they had?

4 MR. STEWART: You mean legally or  
5 illegally?

6 MS. MILLER: Oh, well, both. I just want  
7 to get a feel for the noise comparison.

8 MR. STEWART: I think they had -- I think  
9 it was 90 legal but 250, they were cited for  
10 numerous times.

11 MS. MILLER: Okay. And how --

12 MR. STEWART: They also had music, is my  
13 understanding.

14 MS. MILLER: Okay. So that's another  
15 mitigating factor, you're not going to have  
16 music, right?

17 MR. STEWART: That's true.

18 MS. MILLER: Do you know how close Datcha  
19 is to residences?

20 MR. STEWART: I think they're about 20  
21 feet away.

22 MS. MILLER: Okay.

1 MR. STEWART: Residences were right next  
2 door.

3 MS. MILLER: So your residences are, the  
4 closest are 200 feet away?

5 MR. STEWART: The closest are Dock 79,  
6 which are 200 feet away.

7 MS. MILLER: Okay.

8 MR. STEWART: And also, they are signing  
9 an agreement they can't complain about noise.  
10 And the other ones are about 800 feet away.

11 MS. MILLER: And how about the ones that  
12 are going to be developed as part of the PUD?  
13 Are they going to be right next door?

14 MR. STEWART: They will be closer, but  
15 they will still be about 100 feet away.

16 MS. MILLER: Hundred feet. Okay.

17 MR. STEWART: And the same landlord, same  
18 urban living. So.

19 MS. MILLER: Okay. Do you have any  
20 concern about mixing bikes and alcohol? And has  
21 anybody else raised that?

22 MR. STEWART: We have rides that come to

1 Trinidad with 300 people, pretty regularly  
2 because we're one of the few places where they  
3 can actually park 300 bikes. Not comfortably,  
4 but they can do it. And people drink and then  
5 they leave, but we haven't had any problems as  
6 far as I know. I mean, we haven't had any calls.

7 The police commander used to have escorts  
8 show up for us and direct traffic and all the  
9 rest, the first couple times. But after a while  
10 they seem to have figured that there wasn't any  
11 problems so they have stopped doing that.

12 So you mean, drunk in public, wrecking  
13 their bicycles drunk. That kind of stuff?

14 MS. MILLER: No, I kind of meant drinking  
15 and driving. Drinking and biking, whether that  
16 was --

17 MR. STEWART: Drinking and biking.

18 MS. MILLER: Whether that was a concern.  
19 That's all.

20 MR. STEWART: We haven't had any problems  
21 so far.

22 MS. MILLER: Okay.

1 MR. STEWART: So.

2 MS. MILLER: I have one more question, I  
3 think, about the hours. I understood you to say  
4 that the 11:00 was an issue because of the -- oh,  
5 I have two questions. Because of the overlap  
6 with the ballpark entering out, and that would  
7 just create much more of a problem.

8 So I guess my question is, you said, you  
9 know, midnight is better and if at one point it  
10 sounded like -- and it's not clear, but that if  
11 hours were really the issue would you be willing  
12 just to go to midnight if that would solve this  
13 case?

14 MR. STEWART: You know, midnight, 1:30,  
15 same as the Bull Pen, 2:00, like Blue Jacket.  
16 You know, I'm not really going to like --  
17 whatever the Board thinks is good I'm going to go  
18 with.

19 MS. MILLER: Okay. I think this is my --  
20 two more questions. My question about the Bull  
21 Pen closing. Do you anticipate that you're going  
22 to get the business from the -- that the Bull Pen

1 had?

2 MR. STEWART: My brother and I have been  
3 discussing that a lot and we're so different,  
4 because first off we don't have Bud, Miller, or  
5 Coors, and that's all they had. So I don't know  
6 if people are going to walk in and say, you know,  
7 you don't have tall boys of Bud and walk out,  
8 because we get that a lot. Trust me.

9 MS. MILLER: Okay. Uh-huh.

10 MR. STEWART: So, and we don't have, you  
11 know, the pitching things, the batting cages. We  
12 don't have any asphalt. You know, I -- we're not  
13 going to have any bands.

14 MS. MILLER: Uh-huh. Okay.

15 MR. STEWART: So I don't really -- my  
16 brother thinks that they're just going to go into  
17 the ballpark and drink there. That's his  
18 opinion.

19 MS. MILLER: Okay.

20 MR. STEWART: And then we're going to get  
21 more like the Blue Jacket crowd.

22 MS. MILLER: Are you --

1 MR. STEWART: But I really couldn't tell  
2 you.

3 MS. MILLER: What time do you plan on  
4 opening?

5 MR. STEWART: You mean in the morning?

6 MS. MILLER: Uh-huh. Morning, afternoon,  
7 I don't know when you're opening.

8 MR. STEWART: I think during the summer  
9 it will be like 1:00 p.m.

10 MS. MILLER: Okay. Are you planning on  
11 going through the colder hours too? I mean  
12 colder days?

13 MR. STEWART: I think from my experiences  
14 we'll probably close like December 1st and open  
15 March 1st.

16 MS. MILLER: Okay.

17 MR. STEWART: I think that's just what  
18 makes sense as far as economic sense.

19 MS. MILLER: And I think finally, I  
20 thought I might have read something about a  
21 farmer's market also going on this site. Is that  
22 going to happen?

1           MR. STEWART: I put that out to the bid,  
2 you know, and they more or less said they've been  
3 running farmer's markets off and on and they're  
4 just really a pain. And so I was going to put it  
5 out if somebody else wanted to do it, that would  
6 be fine. I know the guys at Eastern Market have  
7 gotten squeezed because the -- when they tore  
8 down the junior high school it took up a lot of  
9 their space.

10           So basically I'd put it out for other  
11 people if they want to do it, but I'm not going  
12 to be in charge of that.

13           MS. MILLER: Okay. Thank you.

14           MR. STEWART: Okay.

15           CHAIRPERSON ANDERSON: Yes, Mr.  
16 Silverstein.

17           MR. SILVERSTEIN: Two very quick  
18 questions. What is the status of Bull Pen? When  
19 is it expected to close?

20           MR. STEWART: My understanding from what  
21 people told me is, it's closed. It's gone.

22           MR. SILVERSTEIN: It's gone? And what

1 was the --

2 MR. STEWART: You guys would know better  
3 if they --

4 MR. SILVERSTEIN: Are any of the other  
5 places there, the other food and whatever outdoor  
6 venues, are they all gone as well? Are any of  
7 those still around?

8 MR. STEWART: I think the only one was  
9 the Bull Pen. There's Bull Pen Fairgrounds.

10 MR. SILVERSTEIN: Okay. And what was  
11 their --

12 MR. STEWART: They had two separate --  
13 they had two separate ABC licenses, ABRA  
14 licenses. And I'm not sure if it was two chunks  
15 of dirt, or why it was.

16 MR. SILVERSTEIN: And do you know what  
17 their capacity was?

18 MR. STEWART: I think it was around 2,000  
19 total.

20 MR. SILVERSTEIN: Okay. No further  
21 questions. Go right --

22 CHAIRPERSON ANDERSON: Yes, Mr. Short.

1 Go ahead, Mr. Short.

2 MR. SHORT: Dealing with the -- you  
3 mentioned the Fire Marshal required you to put an  
4 emergency exit on your -- how many exits do you  
5 have before they required that?

6 MR. STEWART: I was going to have two,  
7 but they said I should have three.

8 MR. SHORT: Okay. Do you have any idea  
9 why they did that?

10 MR. STEWART: It's funny, I asked the  
11 same question. I said, we can't have a fire.

12 MR. SHORT: Okay. That's not a problem.

13 MR. STEWART: But he told me --

14 MR. SHORT: So I'm okay. Let me --  
15 somebody could come in with a bomb on them or  
16 something else, and people had to get out, you  
17 would need as many -- with 750 people you need  
18 more than three actually, but the Fire Marshal  
19 was being, whatever. But I'll get off of that.  
20 I leave that alone.

21 Noise on the water.

22 MR. STEWART: Okay.

1           MR. SHORT: Do you realize when the  
2 Redskins were playing at the Washington, D.C.  
3 Stadium and now at the National playing, people  
4 hear it five or six miles up the water because  
5 the sound travels over the top of water? Did you  
6 -- when you did your calculations for sound did  
7 you realize water has a difference than flat  
8 land?

9           MR. STEWART: Yeah, I haven't got a sound  
10 reading off of what the --

11           MR. SHORT: Now, that's not a problem.  
12 Not a problem. I'm just asking you, when you  
13 handed that information up to the Board do your  
14 calculations about how many square feet you're  
15 away from noise and how it affected, did you  
16 count the water? You're right on the water. Did  
17 that make a difference in your calculations?

18           MR. STEWART: You know, tell you the  
19 truth I was only facing inwards.

20           MR. SHORT: Okay. Good. That's good.

21           MR. STEWART: So it was the place close  
22 by.

1 MR. SHORT: I don't want to prolong that.

2 MR. STEWART: Yeah.

3 MR. SHORT: That means you did not  
4 calculate the water.

5 MR. STEWART: True.

6 MR. SHORT: Okay. Now --

7 MR. STEWART: I did not consider the  
8 other side of the water.

9 MR. SHORT: -- you said that the bicycles  
10 are going to be able to exit and ride right along  
11 the river, to what? Where are they going when  
12 you say they're going to ride east or west, or  
13 along the river? And I'll just say this to you,  
14 I know that area quite well. So I'm just trying  
15 to think, where are they going because an exit  
16 means, exit to a public way. So now you -- the  
17 bicycles going to exit, and where are they going?

18 MR. STEWART: Well, if they want to go  
19 south they'll go across the bridge to Anacostia  
20 River Trail, and if they want to go east they  
21 will go up through Yards Park.

22 MR. SHORT: The River Trail goes all the

1 way up the river to, to where?

2 MR. STEWART: Benning Road. But it will  
3 open to College Park soon.

4 MR. SHORT: Excuse me. You know there's  
5 a railroad trestle that comes across.

6 MR. ALBERTI: There's a bridge.

7 MR. SHORT: The bridge. So they have to  
8 turn off.

9 MR. ALBERTI: Mr. Short, there's a bridge  
10 that goes over it.

11 MR. SHORT: Okay. I got it. Okay, I got  
12 it. I'll just say this, a public way that is  
13 not. That's a bicycle trail. It's not a public  
14 way.

15 MR. STEWART: Okay.

16 MR. SHORT: Okay. But not a problem. So  
17 you're realizing that those bicycles mostly will  
18 probably have to go out the same way they came  
19 in, and that's for the people walking to the ball  
20 parks or whatever else. So they'll be adding to  
21 -- speaking about appropriateness, they'll be  
22 adding to the problem rather than helping the

1 problem.

2 MR. STEWART: Well, I mean, is it better  
3 for somebody to ride a bike leaving and going, or  
4 to get into Uber or get on Metro?

5 MR. SHORT: You're asking me questions.  
6 Can I answer that for you?

7 MR. STEWART: Okay.

8 MR. SHORT: No, it won't be good because  
9 if you're trying to go through 70,000 people, or  
10 80,000, 100,000 people walking one way and you're  
11 riding a bicycle another way, I don't think it's  
12 going to work out too well.

13 That's all I have, Mr. Chair. Thank you.

14 MR. STEWART: Fair enough.

15 CHAIRPERSON ANDERSON: Mr. Alberti.

16 MR. ALBERTI: Good afternoon, Mr.  
17 Stewart. I have several questions. I'm sort of  
18 going to start in kind of reverse order of what I  
19 intended, but -- because I'm just curious.

20 You mentioned at least probably a half a  
21 dozen times, this agreement that the people in  
22 the new residence will have. They'll have an

1 agreement not to complain about noise. Not to  
2 complain about noise to whom?

3 MR. STEWART: To the landlord.

4 MR. ALBERTI: Ah, but they can complain  
5 to ABRA about the noise, correct? They can  
6 complain to DCRA about the noise, correct?

7 MR. STEWART: Yeah, I guess that's a good  
8 point.

9 MR. ALBERTI: You don't know?

10 MR. STEWART: I'm not sure, yes, you're  
11 right.

12 MR. ALBERTI: All right. All right.

13 MR. STEWART: That's true.

14 MR. ALBERTI: Thank you. All right. The  
15 area here, I'm just curious about the area that's  
16 being licensed. Now I'm going to be very -- I  
17 want to be very clear here. You have a large  
18 area that you're proposing to use, all right?  
19 But you really are only asking for a license for  
20 a portion of that because it appears that the dog  
21 park, there's not going to be alcohol allowed.

22 MR. STEWART: True.

1 MR. ALBERTI: So are you going to be  
2 serving anything out there?

3 MR. STEWART: There's a six-foot-high  
4 fence between where people are drinking and that  
5 dog park.

6 MR. ALBERTI: Are you serving food out  
7 there?

8 MR. STEWART: I'm not going to be serving  
9 food at all.

10 MR. ALBERTI: So are you --

11 MR. STEWART: The food trucks will be  
12 doing their food thing.

13 MR. ALBERTI: Okay. So I mean, I'll  
14 discuss this with the Board. It appears like  
15 that may not be a licensed area.

16 MR. STEWART: That's true. That's  
17 exactly correct.

18 MR. ALBERTI: Is that your intent, that  
19 that's not a licensed area?

20 MR. STEWART: That's true.

21 MR. ALBERTI: Right?

22 MR. STEWART: The only licensed area is

1 where the blue line is.

2 MR. ALBERTI: Okay. So the public bike  
3 parking area is not.

4 MR. STEWART: True.

5 MR. ALBERTI: And the food truck area is  
6 not.

7 MR. STEWART: True.

8 MR. ALBERTI: You don't intend that to be  
9 licensed.

10 MR. STEWART: True.

11 MR. ALBERTI: All right. Fine.

12 MR. STEWART: There's a six-foot-high  
13 fence, and there's a gate --

14 MR. ALBERTI: I got you. I got you.

15 MR. STEWART: -- and the guys aren't  
16 going to let people with beer out.

17 MR. ALBERTI: So how large is the  
18 licensed area?

19 MR. STEWART: It's about 40,000 square  
20 feet.

21 MR. ALBERTI: That's only 40,000 square  
22 feet. It's about an acre, then?

1 MR. STEWART: It's about an acre, right.

2 MR. ALBERTI: Okay. I'm sorry. I'm  
3 going to let you stop that down. Okay.

4 Now, I want to talk about this parking  
5 area. How many cars you say there's a parking  
6 lot for?

7 MR. STEWART: It's about 275.

8 MR. ALBERTI: And that would be really --  
9 that would be sufficient for you in non-game  
10 times, right? Non-game days?

11 MR. STEWART: Well, yeah.

12 MR. ALBERTI: All right.

13 MR. STEWART: More than enough.

14 MR. ALBERTI: All right. That's what I  
15 kind of thought. But how do you get there? I'm  
16 a little curious. I'm not understanding how you  
17 get there because I'm looking at a Google map.

18 MR. STEWART: Okay.

19 MR. ALBERTI: And so tell me --

20 MR. STEWART: You go down --

21 MR. ALBERTI: No, no, I'm trying to  
22 understand. Let me just ask my question because

1 this, again, I want to make sure we understand  
2 where this is. So the parking lot, what is the  
3 western boundary of the parking lot?

4 MR. STEWART: The western boundary is  
5 South Capitol Street.

6 MR. ALBERTI: Okay.

7 MR. STEWART: The actual address is 1620  
8 South Capitol Street.

9 MR. ALBERTI: Okay. So it's that portion  
10 of South Capitol Street that doesn't go across  
11 the bridge so to speak.

12 MR. STEWART: Right.

13 MR. ALBERTI: It's south of where the  
14 bridge curves over towards the Southeast?

15 MR. STEWART: Right. On the Google map.

16 MR. ALBERTI: All right. So that's the  
17 western portion?

18 MR. STEWART: That's the western  
19 boundary, right.

20 MR. ALBERTI: And so the eastern boundary  
21 is what?

22 MR. STEWART: South Capitol Street,

1 actual bridge.

2 MR. ALBERTI: Okay. All right.

3 MR. STEWART: You've got about 80,000  
4 square feet between those two. The other  
5 boundary is the police helicopter.

6 MR. ALBERTI: To the what? To the south?

7 MR. STEWART: Down river.

8 MR. ALBERTI: Down river to the south of  
9 that?

10 MR. STEWART: Yes.

11 MR. ALBERTI: Okay. Oh, I see it. Yeah.  
12 To the south of that is the helicopter place.

13 MR. STEWART: Right.

14 MR. ALBERTI: And part of the eastern  
15 boundary is the river, it appears.

16 MR. STEWART: Right.

17 MR. ALBERTI: Okay.

18 MR. STEWART: True.

19 MR. ALBERTI: Is there a sidewalk that  
20 goes underneath the bridge?

21 MR. STEWART: We are going to have to put  
22 in a walkway.

1 MR. ALBERTI: Who is we?

2 MR. STEWART: Me, Bardo.

3 MR. ALBERTI: Under whose auspices? Do  
4 you own that land?

5 MR. STEWART: Yes. Well, I don't own it  
6 but Florida Rock, my landlord, owns it.

7 MR. ALBERTI: They own the property  
8 underneath the bridge?

9 MR. STEWART: That's right. And that's  
10 why when they build the new bridge and they tear  
11 down the old bridge, they put their building  
12 there. So apparently the government has an  
13 easement on their land.

14 MR. ALBERTI: Okay.

15 MR. STEWART: But they don't actually own  
16 it.

17 MR. ALBERTI: Okay. So they have the  
18 ability to allow you to put a public walkway  
19 through underneath the bridge.

20 MR. STEWART: Right.

21 MR. ALBERTI: Okay. Okay. Now, I want  
22 to talk about game days.

1 MR. STEWART: Okay.

2 MR. ALBERTI: You said that you thought  
3 it best that Bardo be opened after 11:00 p.m.  
4 because some of the games end at 11:00 p.m. and  
5 then that would just add to people exiting Bardo  
6 at 11:00 p.m. would then add to the Nat's traffic  
7 coming out of the Nat's game. Did I understand  
8 you correctly?

9 MR. STEWART: That's true.

10 MR. ALBERTI: Okay. Great. So the  
11 premise there is that while the game is going on,  
12 you're going to have 750 people at your  
13 establishment?

14 MR. STEWART: Yeah, probably, if we're --

15 MR. ALBERTI: Okay. Well, I mean, that's  
16 what was implied by your statement, am I correct?

17 MR. STEWART: Right. Yes.

18 MR. ALBERTI: All right.

19 MR. STEWART: I'm hoping.

20 MR. ALBERTI: So you're going to be  
21 competing with that parking lot with the Nat's  
22 fans, right?

1 MR. STEWART: Oh, you mean in that I  
2 don't own the parking lot, so then --

3 MR. ALBERTI: Well, I didn't -- let's  
4 actually go there. Do you own the parking lot?

5 MR. STEWART: I do not.

6 MR. ALBERTI: Do you have an agreement  
7 with the parking lot?

8 MR. STEWART: I have talked to them about  
9 getting an agreement, but I don't know if that's  
10 -- if you find it necessary then I will try and  
11 get one.

12 MR. ALBERTI: So the answer is no?

13 MR. STEWART: The answer is no.

14 MR. ALBERTI: And so, all right, is it  
15 correct to assume, maybe just answer if you don't  
16 know, is it correct to assume that that parking  
17 lot is used on game day by Nat's fans?

18 MR. STEWART: That is true.

19 MR. ALBERTI: Okay. So you are competing  
20 for parking on that parking lot.

21 MR. STEWART: That would be true. Okay.

22 MR. ALBERTI: All right.

1 MR. STEWART: I understand what you're  
2 saying.

3 MR. ALBERTI: Yeah. So on game day --  
4 never mind. But I'll say it, I mean, just where  
5 I'm going, on game day you really can't count on  
6 that for parking. You don't have to answer that.  
7 That's just my impression. All right.

8 MR. STEWART: Okay.

9 MR. ALBERTI: Now, I want to talk about  
10 ID checking. You said that at your north  
11 entrance along Potomac Avenue that people would  
12 be checked and they'd be given an ID band?

13 MR. STEWART: Yeah, the north entrance is  
14 not on Potomac Ave, it's on the middle of our  
15 site.

16 MR. ALBERTI: Oh, okay. So, all right.

17 MR. STEWART: The licensed area --

18 MR. ALBERTI: So, all right. So let's  
19 step back, so I -- perfect because I'm  
20 misunderstanding something here.

21 You have an entrance to your -- the  
22 property that you will be using, not necessarily

1 the licensed property, but you have an entrance.  
2 There's a sidewalk, it appears, that goes from  
3 the licensed area, north to Potomac Avenue.

4 MR. STEWART: True.

5 MR. ALBERTI: All right. True. And  
6 there's an entrance there that comes down to the  
7 licensed property.

8 MR. STEWART: True.

9 MR. ALBERTI: Where is the first place  
10 that someone is checked for their ID?

11 MR. STEWART: The licensed property.

12 MR. ALBERTI: At the gate to the licensed  
13 property.

14 MR. STEWART: Right.

15 MR. ALBERTI: Okay. Very good. And what  
16 happens there?

17 MR. STEWART: Well, they're checked and  
18 then they can get a band there and proceed.

19 MR. ALBERTI: What does the band signify?

20 MR. STEWART: You know, wrist band for --

21 MR. ALBERTI: What's it signify?

22 MR. STEWART: -- old enough to drink.

1 MR. ALBERTI: Old enough to drink.

2 MR. STEWART: Yeah.

3 MR. ALBERTI: That they're older than 21?

4 MR. STEWART: Right.

5 MR. ALBERTI: Okay. Very good. Just  
6 this is, purely out of curiosity, who gets to use  
7 the dog park? I mean, how do you get access to  
8 the dog park? You pay, you come in and tell  
9 you --

10 MR. STEWART: You know --

11 MR. ALBERTI: -- I'm going to use it.  
12 Can I leave my dog there for the day? No, you  
13 know, I'm being facetious here, but you know, I  
14 was just curious. How is that going to work?

15 MR. STEWART: Well, what we're going to  
16 start off as, it's going to be like a public dog  
17 park and we're going to ask people to, you know,  
18 keep their act together, clean it up, behave, all  
19 the rest. And if that doesn't work we're going  
20 to go like, there's a place in Dallas that the  
21 guys at MRP pointed out. It's called Mut  
22 Cantina.

1 MR. ALBERTI: Uh-huh.

2 MR. STEWART: And basically you pay \$5  
3 for a one-day visit. Like \$20 for a month, or  
4 \$100 for a whole year for your dog.

5 MR. ALBERTI: Okay.

6 MR. STEWART: And you get the tag and he  
7 goes in.

8 MR. ALBERTI: Okay.

9 MR. STEWART: Hopefully in the beginning  
10 we can just let people in there, let them behave,  
11 all the rest. And if they don't then we'll go to  
12 that. We'll put a big lock on it, have to pay a  
13 guy to stand there and check the dog to see if  
14 he's got all the tags.

15 MR. ALBERTI: This is none of my  
16 business, but I advise that you check with your  
17 insurance company before you move forward. But  
18 again, that's none of my business.

19 MR. STEWART: Actually, I'm going to  
20 write that down.

21 MR. ALBERTI: Okay. So you've got 40,000  
22 square feet. Now --

1 MR. STEWART: Not only that, if you look  
2 at Exhibit A from the ANC, there's a good picture  
3 in there. And it shows the green area along the  
4 river. If you look at it you'll see trees and  
5 grass and the rest of it looks desolate, on  
6 Exhibit A from the ANC.

7 MS. FARLEE: Exhibit 1.

8 MR. STEWART: Exhibit 1. Sorry.

9 MR. ALBERTI: I'm not sure I have that  
10 one.

11 MR. STEWART: That's the best  
12 representation of what we're going for.

13 MR. ALBERTI: Yeah, okay. It's a vacant  
14 lot. I've been down there. I've seen it.

15 MR. STEWART: You saw the green area with  
16 the trees and the --

17 MR. ALBERTI: Yeah, right along the  
18 river.

19 MR. STEWART: Yeah, so that area is what  
20 we're concentrating on, that green area. We're  
21 putting tables and chairs there. Then we're  
22 going to have the service areas, like the toilets

1 and the dishwasher and all that stuff, up in the  
2 ugly section.

3 MR. ALBERTI: You've got a map here that  
4 lays it out.

5 MR. STEWART: Yeah, but with the picture  
6 you can actually see the green and you can  
7 understand like --

8 MR. ALBERTI: That's fine. Thank you.

9 MR. STEWART: Okay.

10 MR. ALBERTI: So I'm -- people will have  
11 free access, it looks like to this entire 40,000  
12 square feet.

13 MR. STEWART: Well, you know, once you go  
14 through the gate and you're carded, right, they  
15 will have access to that 40,000.

16 MR. ALBERTI: Yeah, all right. Okay.  
17 Great. You have represented that you're going to  
18 -- that you've -- well, I'll put it this way. At  
19 least have contemplated having a security plan  
20 that complies with Title 25. The security plan  
21 requirements of Title 25.

22 MR. STEWART: Doesn't the security plan,

1 the one I submitted, work for that?

2 MR. ALBERTI: I don't know. I will have  
3 our legal staff take a look at that.

4 MR. STEWART: Okay. I thought it was --

5 MR. ALBERTI: So I just wanted to let you  
6 know that it may not.

7 MR. STEWART: Okay.

8 MR. ALBERTI: But, so are you committing  
9 today to promising to having a security plan that  
10 would comply with Title 25?

11 MR. STEWART: Yes, sir.

12 MR. ALBERTI: Meaning that it would be  
13 reviewed by our legal experts and they would have  
14 a conversation with you and you would make sure  
15 you complied with their minimum level of --

16 MR. STEWART: That's fine.

17 MR. ALBERTI: Okay. You say you'll have  
18 30 staff during peak times. What are peak times?

19 MR. STEWART: Friday, Saturday, Sunday,  
20 probably.

21 MR. ALBERTI: Friday, Saturday, and  
22 Sunday. During the entire time?

1           MR. STEWART: What we found so, in  
2 Trinidad and Arlington is that people show up at  
3 like 1:00 p.m. and they're just there, pretty  
4 much the whole day on Saturdays and Sundays. I  
5 mean, not that one person is there for 12 hours,  
6 but --

7           MR. ALBERTI: No, I understand. I  
8 understand.

9           MR. STEWART: But they let -- thing about  
10 D.C. is a lot of people sit in air conditioning  
11 all day, all week.

12           MR. ALBERTI: No, you don't have to talk  
13 about people's -- I understand. I understand.  
14 But my concern is, is that if we have sufficient  
15 staff. So you are committing to including that  
16 in your security plan, that staffing level; a  
17 minimum of that staffing level at all times?  
18 Well, on Fridays, Saturdays, and Sundays?

19           MR. STEWART: You know, according to the  
20 amount of people in there. I mean, we ran a  
21 place in Arlington that had 900 seats, and we ran  
22 it for like 10 years.

1 MR. ALBERTI: Okay.

2 MR. STEWART: This is smaller than the  
3 one we had in Arlington.

4 MR. ALBERTI: So, Mr. Stewart, all right.  
5 You at a previous hearing said to me, well, you  
6 know, there are times when we'll only have three  
7 staff. And I remember that pretty well because  
8 that struck me. I mean, that really, really  
9 struck me, all right? And you know, 40,000  
10 square feet and three people to monitor people  
11 playing corn hole, sitting at the tables, it just  
12 doesn't cut it. I mean, that's a huge -- it's  
13 just, it's not the amount of people. It's the  
14 amount of area that you have to monitor.

15 MR. STEWART: Well, I understand that,  
16 but I think when I said three people I was  
17 talking about what we did in Trinidad, which is  
18 only 15,000 square feet.

19 MR. ALBERTI: But I asked you about the  
20 site that you were planning. So this is why I'm  
21 asking you about how many people you're going to  
22 have on staff at all times, because I have to be

1 assured. If I'm going to agree to give you a  
2 license, I have to be assured that you have  
3 enough people to monitor 40,000 square feet.

4 MR. STEWART: Okay. That makes sense.

5 MR. ALBERTI: So what is that number  
6 going to be?

7 MR. STEWART: Well, what do you people  
8 think is good?

9 MR. ALBERTI: You tell me. You're the  
10 one who's trying to -- you have to make the case  
11 for why this is appropriate. You tell me.

12 MR. STEWART: Okay. So what --

13 MR. ALBERTI: I can tell you, three isn't  
14 enough.

15 MR. STEWART: Okay. Fair enough. Well,  
16 I mean, in the -- my basic thing we've been  
17 concentrating on is game days, because that's  
18 when we're going to be busy, so I've been  
19 concentrating mainly on that. So you want me to  
20 talk about like the minimum, like what's  
21 happening on a slow Tuesday.

22 MR. ALBERTI: Yeah. Yeah, so on a

1 Wednesday night you decide to be open --

2 MR. STEWART: And it's just late and  
3 there's not much going on.

4 MR. ALBERTI: -- and because, you know,  
5 there's some -- and there's some softball games  
6 coming but they're not there yet. And but people  
7 might be coming by. You know, I might come by  
8 for a drink, you know?

9 MR. STEWART: Okay. Right. I understand  
10 what you're saying now. I just, honestly, I  
11 hadn't like been talking about that because  
12 nobody has asked about it. But I mean you're  
13 going to have -- you're going to have a manager,  
14 you're going to have a bar back, you're going to  
15 have a dishwasher, you're going to have three  
16 servers there, pretty much all the time. That's  
17 six people right there.

18 MR. ALBERTI: Okay. So how many people?  
19 I'm not talking about dish washers, but servers  
20 and security staff. How many?

21 MR. STEWART: Server -- do I include my  
22 manager?

1 MR. ALBERTI: Yeah, your manager, sure.

2 MR. STEWART: I'd say six.

3 MR. ALBERTI: Six. Okay.

4 MR. STEWART: On a slow time.

5 MR. ALBERTI: Are you willing to put that  
6 in your security plan?

7 MR. STEWART: Yes, I can do that if you  
8 want.

9 MR. ALBERTI: Because I mean, that's  
10 important.

11 MR. STEWART: That's fine.

12 MR. ALBERTI: I mean, it's important to  
13 know how the crowds, small as it is, will be  
14 managed.

15 MR. STEWART: That makes sense. I mean,  
16 it was like you said before, I mean, how are you  
17 going to manage 1,000 square feet with all these  
18 people everywhere? You know, even as --

19 MR. ALBERTI: Right. Right.

20 MR. STEWART: You were saying there's  
21 like 10 people, and one is in each corner doing  
22 something wrong. You're right.

1 MR. ALBERTI: And I appreciate you  
2 listening. Okay. See where I'm at.

3 How many SPO officers will you have on  
4 game day?

5 MR. STEWART: I think ABRA recommends one  
6 per 200 people. Is that right? Coralie, is that  
7 right?

8 MR. ALBERTI: I don't know what you're  
9 talking -- well, are you talking about the  
10 recommendations we have when we have one-day  
11 events, we have a recommendation or we have a  
12 desired level of security staff per people? Is  
13 that what you're talking about?

14 MR. STEWART: I think so, yes.

15 MR. ALBERTI: Our policy is one security  
16 staff for every 50 people.

17 MR. STEWART: Fifty people.

18 MR. ALBERTI: For every 50 people. Now  
19 to be fair to you, we are not -- we talk about  
20 one-days and we talk about that ratio, we're not  
21 talking about SPOs.

22 MR. STEWART: Okay.

1           MR. ALBERTI: But you said you would have  
2 SPO officers there.

3           MR. STEWART: That's what the --

4           MR. ALBERTI: So I asked you how many SPO  
5 officers would you have.

6           MR. STEWART: All right. What I'm  
7 thinking is there would be around seven security  
8 people. Two of those would be police on the  
9 reimbursable detail, and --

10          MR. ALBERTI: They can't come on your  
11 property. They are not on your property.  
12 Reimbursable detail will not enter your licensed  
13 area. And in fact I doubt if they will even  
14 enter any part of the portion that you manage.

15          MR. SHORT: Unless there's a problem.

16          MR. ALBERTI: Unless there's a problem.  
17 When there's a problem then they will enter. But  
18 they are not allowed to enter -- police are not  
19 allowed to enter licensed establishment unless  
20 there's a problem, and that goes for RDO. And I  
21 doubt that they would even walk on to the dog  
22 park unless there's a problem. And I'm getting a

1 head nod from the police officer in the audience.

2 MR. STEWART: Okay. All right. Well, I  
3 was confused. Then there would be, you know,  
4 probably two people at each gate. So that's  
5 four. Plus, two people roaming, minimum, that  
6 would be six.

7 MR. ALBERTI: Well you -- wait, wait,  
8 you've already committed to 30 people.

9 MR. STEWART: Thirty people is the  
10 servers, the manager --

11 MR. ALBERTI: How many security staff?  
12 That's what I want in the security agreement.  
13 How many security staff are you going to have on  
14 game days?

15 MR. STEWART: I was figuring one to 100.

16 MR. ALBERTI: And by game days I mean --

17 MR. STEWART: So, seven.

18 MR. ALBERTI: -- during -- okay. Can we  
19 define game days?

20 MR. STEWART: Yes.

21 MR. ALBERTI: From an hour before the  
22 game opens to an hour after the game ends, all

1 right?

2 MR. STEWART: I'd say --

3 MR. ALBERTI: That's what I would  
4 consider game time.

5 MR. STEWART: Let's say three hours  
6 before the game opens.

7 MR. ALBERTI: Three hours before the game  
8 opens.

9 MR. STEWART: Yes.

10 MR. ALBERTI: All right. Cool. That's  
11 great. Three hours, and an hour after the game  
12 ends.

13 MR. STEWART: Yes.

14 MR. ALBERTI: All right. So that's game  
15 period.

16 MR. STEWART: Right. So, yes.

17 MR. ALBERTI: So what are you going to  
18 commit to in your security plan? And then, you  
19 know, I'm listening. If you're committing, it's  
20 going to get documented.

21 MR. STEWART: That's fine.

22 MR. ALBERTI: If I get agreement from the

1 rest of the Board.

2 MR. STEWART: That's fine.

3 MR. ALBERTI: So, tell me what it is.

4 MR. STEWART: I was figuring one person  
5 per 100 patrons. So seven security staff.

6 MR. ALBERTI: Okay. Seven security  
7 staff. Okay. All right.

8 MR. STEWART: That's --

9 MR. ALBERTI: How many SPO officers?

10 MR. STEWART: I thought they were  
11 included in that.

12 MR. ALBERTI: That's fine. How many SPO  
13 officers?

14 MR. STEWART: Probably, I would say the  
15 people working the door would not be, but the  
16 people roaming would be. So that would be --

17 MR. ALBERTI: Fine.

18 MR. STEWART: -- three.

19 MR. ALBERTI: You're here, you're selling  
20 it to us.

21 MR. STEWART: Right.

22 MR. ALBERTI: You need to tell me.

1 MR. STEWART: Three SPO officers and four  
2 people that are trained --

3 MR. ALBERTI: Okay.

4 MR. STEWART: -- security management  
5 branch certified.

6 MR. ALBERTI: Okay.

7 MR. STEWART: That make sense?

8 MR. ALBERTI: And that's during game  
9 hours.

10 MR. STEWART: Yes, sir. That's --

11 MR. ALBERTI: In the game time, I'll  
12 say --

13 MR. STEWART: Seven hours.

14 MR. ALBERTI: -- as you defined it.  
15 During those hours that you described.

16 MR. STEWART: Right. Seven hours.

17 MR. ALBERTI: Well, if there's overtime.

18 MR. STEWART: Probably.

19 MR. ALBERTI: Yeah, so. All right. What  
20 is it, seven hours, or is it three hours before  
21 the game time and then until the game ends, or  
22 seven hours? You tell me.

1           MR. STEWART: No, no, it's three hours  
2 before the game, the game is about three hours,  
3 then an hour after, equals seven.

4           MR. ALBERTI: Okay. So it is three hours  
5 before and one hour after the game.

6           MR. STEWART: That's when we're figuring  
7 it would be --

8           MR. ALBERTI: Okay. Fine.

9           MR. STEWART: You know.

10          MR. ALBERTI: All right. All right. All  
11 right. Fine.

12          Again tell me why you need the late night  
13 hours.

14          MR. STEWART: Well, well one, so that  
15 we're not dumping people out when the ballgame is  
16 dumping out.

17          MR. ALBERTI: Okay.

18          MR. STEWART: Two is Blue Jacket,  
19 Justin's, Bull Pen, Jenny's Asian Fusion, all the  
20 rest of those people are like 1:30 or 2:00 a.m.  
21 So I mean --

22          MR. ALBERTI: Even on weekend are they

1 1:30, 2:00 a.m.?

2 MR. STEWART: It's 3:00 a.m. for Blue  
3 Jacket on weekends, 2:00 a.m. during the week.

4 MR. ALBERTI: Okay.

5 MR. STEWART: So I was figuring we were  
6 the same crowd, you know, the same kind of  
7 people. And if you go from the guidelines, you  
8 know, of what are the similar establishments  
9 doing in that area, that's why I went with that.  
10 I really didn't see many people that close at  
11 11:00 p.m. when I looked at the license thing. I  
12 mean --

13 MR. ALBERTI: I don't really care about  
14 that. I want to know why you --

15 MR. STEWART: Okay.

16 MR. ALBERTI: -- want the hours.

17 MR. STEWART: Yeah. Well, I want to be  
18 like everybody else. So, you know, be like Blue  
19 Jacket, be like Gordon Biersch, be like Willy's  
20 Barbeque, be like Justin's.

21 MR. ALBERTI: Okay. So you want equality  
22 with the surrounding establishments, is what

1 you're saying?

2 MR. STEWART: Yeah. I think it goes back  
3 to the whole thing of, you know, you know, are  
4 you going to be part of the neighborhood. You  
5 know, are you going to be an amenity like the  
6 rest of them or you know, are you different? I  
7 mean, we're not Chipotle, we don't close at, you  
8 know, 10:00 p.m.

9 MR. ALBERTI: Okay.

10 MR. STEWART: It's a different kind of  
11 thing.

12 MR. ALBERTI: Okay. That's all I have.  
13 Thank you.

14 MR. STEWART: Okay. Thanks.

15 CHAIRPERSON ANDERSON: Do you have any  
16 other witnesses that you plan to call?

17 MR. STEWART: I don't have any witnesses  
18 that I listed, no.

19 CHAIRPERSON ANDERSON: Okay. Do you have  
20 -- was this you rest your case, or --

21 MR. STEWART: Yeah, I rest my case.

22 CHAIRPERSON ANDERSON: All right. Prior

1 to resting your case do you have any documents  
2 that you want to be a part -- move into the  
3 evidence?

4 MR. STEWART: Only the map that I showed  
5 you and the sound printout. Those are the only  
6 things. Okay, the map is a duplicate.

7 CHAIRPERSON ANDERSON: In your PIF you  
8 had submitted some documents. So that's why I'm  
9 saying, what are -- do you want those documents  
10 to be a part of the record? You had submitted --

11 MR. STEWART: Oh, yes, sir.

12 CHAIRPERSON ANDERSON: -- a site map  
13 which is -- you did a site map but you gave us a  
14 supplement, which is a blowup. So that's Exhibit  
15 1. So we'll substitute the larger map as Exhibit  
16 1. And then you also provided us, there is an e-  
17 mail from the ANC. Do you want us to submit that  
18 into evidence?

19 MR. STEWART: Sure.

20 CHAIRPERSON ANDERSON: That's Exhibit 2.

21 [Discussion off the record.]

22 CHAIRPERSON ANDERSON: And then the next

1 document is, you have the preemptive agreement.  
2 Do you want to submit that into evidence as  
3 Exhibit 3?

4 MR. STEWART: Yes, sir.

5 CHAIRPERSON ANDERSON: Three. And the  
6 number 4, the 4th document is the Bardo logistics  
7 and safety map. Do you want to submit that into  
8 evidence as Exhibit 4?

9 MR. STEWART: Yes, sir.

10 CHAIRPERSON ANDERSON: Now, you gave us -  
11 - you gave the Board, today, the sound -- I don't  
12 know how to describe it. Is that a document you  
13 want to be a part of the evidence for the record?

14 MR. STEWART: Sure.

15 CHAIRPERSON ANDERSON: Since this  
16 document wasn't submitted seven days prior, Ms.  
17 Farlee, do you have any objection to this  
18 document?

19 MS. FARLEE: No objections. I think it's  
20 meaningless, but no objection.

21 CHAIRPERSON ANDERSON: Do you have any  
22 objections to the other documents that were

1 submitted timely? No? Then we will move --  
2 there is five -- I'm sorry, five documents that  
3 the applicant have, that have been submitted into  
4 evidence, into the record. And, okay?

5 [Applicant's Exhibit Nos. 1 through 5  
6 were admitted into evidence.]

7 CHAIRPERSON ANDERSON: All right. Since  
8 the applicant has no further -- do you guys want  
9 to take a break for a couple minutes?

10 MR. ALBERTI: Yeah, I would.

11 CHAIRPERSON ANDERSON: All right. We'll  
12 take a five-minute break and then the applicant  
13 will prepare its case. How many --

14 MS. FARLEE: Protester?

15 CHAIRPERSON ANDERSON: I'm sorry. I'm  
16 sorry, the protester. I apologize. The  
17 protestant will present its case. How many  
18 witnesses do you have?

19 MS. FARLEE: Well, six.

20 CHAIRPERSON ANDERSON: You have six  
21 witnesses.

22 MS. FARLEE: Three from the Nationals,

1 one, police commander will be first, Nationals  
2 second, and ANC Commissioner and a member of the  
3 ABC planning.

4 CHAIRPERSON ANDERSON: All right. We're  
5 going to take a five-minute break and then you  
6 can line up your witnesses.

7 MS. FARLEE: [Speaking off the  
8 microphone.]

9 CHAIRPERSON ANDERSON: Yes. All right.

10 MS. FARLEE: Okay. Thank you.

11 [Recess from 4:11 p.m. until 4:24 p.m.]

12 CHAIRPERSON ANDERSON: We're back on the  
13 record. Back on the record for the protest  
14 hearing, 15-PRO-00114, Bardo. And now we're  
15 going to have the case-in-chief by the  
16 protestant.

17 Ms. Stewart -- Ms. Farlee, can you call  
18 your first witness, please?

19 MS. FARLEE: Well, I want to say some  
20 preliminary things for a moment, please. Just  
21 brief comments on the last testimony.

22 CHAIRPERSON ANDERSON: This is your --

1 you're presenting your case now. So whatever  
2 comments you have you can do that in your closing  
3 argument. So this is an opportunity for you to  
4 call your first witness and --

5 MS. FARLEE: Let me just correct then.  
6 Exhibit 1 I should have said, Potomac Avenue all  
7 the way through, it says Potomac Place. So  
8 that's not correct.

9 My first witness is Commander Contee, 1D  
10 Commander Contee.

11 MR. STEWART: I have a question. Is  
12 Commander Brown gone?

13 MS. FARLEE: yes.

14 MR. STEWART: Okay. Are you here  
15 protesting?

16 MS. FARLEE: He's my witness, yes.

17 MR. STEWART: I'm bringing up the same  
18 thing as with the Nationals that --

19 MR. SILVERSTEIN: Sir, they can come as  
20 witnesses. He can come as witnesses.

21 CHAIRPERSON ANDERSON: Well, just hold  
22 on. Hold on everybody. Hold on. Hold on. Go

1 ahead, sir.

2 MR. STEWART: That the police have every  
3 right to protest but, you know, they should file  
4 the form because what I -- when the protest came  
5 in under the ANC had protested. And if the  
6 police are going to protest they should have  
7 filed a form back, you know, with ABRA saying  
8 they're protesting because I had no idea that the  
9 police had a problem with this.

10 CHAIRPERSON ANDERSON: All right. You  
11 were given at least seven days ago, you were  
12 given -- and the PIF that had all her documented  
13 witnesses.

14 MR. STEWART: Right.

15 CHAIRPERSON ANDERSON: And at the  
16 beginning when we talked about the switching of  
17 the witnesses, you had an opportunity to state  
18 that I have a problem with this witness, as the  
19 same way you stated you had a problem with the  
20 National. Then I disagreed by saying they were  
21 not a party. She had called her witness. And I  
22 said that the Nationals were not a party, they

1 were just a witness.

2           You also had access to Commander Contee,  
3 that he was being called, that he was also being  
4 called. You didn't state that you had any reason  
5 that you rejected his testifying or anything like  
6 that. So at this juncture you have been on  
7 notice that he's listed. I mean --

8           MR. STEWART: Well, just as long as he's  
9 testifying and not protesting.

10           CHAIRPERSON ANDERSON: Well, I don't  
11 know --

12           MR. STEWART: He doesn't have a standing  
13 to protest.

14           CHAIRPERSON ANDERSON: I don't know what  
15 -- he's been called as a witness and so questions  
16 are being asked of him.

17           MR. STEWART: Okay.

18           CHAIRPERSON ANDERSON: By the protestant  
19 and as a witness.

20           MR. STEWART: Okay.

21           CHAIRPERSON ANDERSON: And, because she  
22 thinks that he has some testimony to provide that

1 will help her case, and you of course you will  
2 have an opportunity to cross-examine the  
3 commander.

4 MR. STEWART: Okay. Well, you said the  
5 Capitols didn't have standing.

6 CHAIRPERSON ANDERSON: Yes.

7 MR. STEWART: Is that also the case with  
8 the commander?

9 CHAIRPERSON ANDERSON: Well, I -- right.  
10 Well, the reason why I didn't really answer the  
11 question that way, it's -- this is my  
12 understanding. There is only one party that has  
13 standing here, and it's the ANC.

14 MR. STEWART: That's my understanding  
15 also.

16 CHAIRPERSON ANDERSON: Okay. That's the  
17 only person that has standing. I know the  
18 commander, you've been standing up for -- you've  
19 been sitting for a while so standing up is not an  
20 issue, I don't -- yeah. So therefore if he had  
21 standing he would be sitting up here and he would  
22 cross-examine the witness, all the witnesses, he

1 would have had an opportunity to cross-examine  
2 you. So no, he doesn't have standing. He's just  
3 been called as a witness to testify.

4 MR. STEWART: All right. I'm clear.  
5 Sorry.

6 CHAIRPERSON ANDERSON: All right.  
7 Commander Contee, can you raise your right hand?

8 COMMANDER ROBERT CONTEE, SWORN

9 CHAIRPERSON ANDERSON: All right. Thank  
10 you. Your witness, Ms. Farlee.

11 DIRECT EXAMINATION

12 BY MS. FARLEE:

13 Q Yes. Could you please state your current  
14 position, how long you've been in the job, an  
15 then your perspective on this application, and  
16 then I'll ask you more specific things when you  
17 finish that?

18 A My name is Robert Contee. I'm a member  
19 of the Metropolitan Police Department. I have  
20 been since 1989. I'm the most senior commander  
21 on the police department and I've been a  
22 commander for 12 years.

1           Recently, about three weeks ago, Commander  
2 Brown retired and I was named the new commander  
3 of the First District. I'm not a new district  
4 commander. As I said, I am the most senior  
5 commander on the department but I've also  
6 commanded two other police districts. The Second  
7 District and the Sixth District, as well as  
8 Special Operations Division. So again, I've been  
9 around for a little while.

10           I was contacted by the ANC regarding this  
11 license for Bardo, and I had an opportunity to  
12 have some conversations with my predecessor prior  
13 to his retirement, just to kind of get a feel for  
14 what was going on. I've had an opportunity to  
15 kind of ride through the location to take a look  
16 at it, and see, you know, what's actually  
17 proposed, and to, based upon my viewing of what,  
18 you know, of the location to make some  
19 assessments about what has been proposed. And  
20 again, this is separate from Commander Brown's  
21 assessment. But I think that we kind of ended up  
22 in the same place.

1           CHAIRPERSON ANDERSON: I just wanted just  
2 a confirmation, Commander Contee, and thank you  
3 for the explanation. So the testimony you're  
4 going to give today is based on your personal  
5 knowledge, not your conversation, per se with  
6 Commander Brown.

7           THE WITNESS: That's correct.

8           CHAIRPERSON ANDERSON: This is from your  
9 own personal knowledge.

10          THE WITNESS: That's correct. Yes, sir.

11          CHAIRPERSON ANDERSON: All right. Thank  
12 you.

13          THE WITNESS: So I've had an opportunity  
14 to go to the location. I've been in meetings as  
15 you can imagine, taking over a new command. Over  
16 the last couple of weeks I've met with the  
17 Riverfront Bid folks, I've met with several  
18 residents and so forth. And like I said, just  
19 had an opportunity to kind of lay my eyes on the  
20 property.

21          There are obviously some concerns that I  
22 have as a commander because when issues arise,

1 and inevitably I think they will, when issues  
2 arise such as noise that was, you know, that was  
3 mentioned, you know, how do we mitigate the  
4 noise. The first call that people make before  
5 they call the property owner, is 911, which means  
6 that my people are responsible for responding to  
7 those calls for service.

8           Looking at where the location -- where  
9 the location physically is, I noticed that the  
10 applicant has made several adjustments to what  
11 was originally -- what was originally proposed.  
12 And I think that, you know, the adjustments were  
13 made in an effort to -- if the application is  
14 approved, and we'd like to see these kinds of  
15 things in place. At least that's the position  
16 that I understand from the ANC and also in my  
17 conversations with Commander Brown, about if it  
18 were approved, you know, these things need to be  
19 in place.

20           So the noise, let me just kind of address  
21 that. There was mention about, you know, the  
22 building is close to -- there is an apartment

1 building that will be opening in July. And one  
2 of the issues that I have concern with in terms  
3 of the noise, you know, you're talking about the  
4 volume of people, but in addition we have food  
5 trucks that will be on site, you know, food  
6 trucks. And I'm not sure if this was accounted  
7 for, but food trucks often have generators that  
8 are running when they are operational because  
9 they have, you know, they're cooking food. There  
10 are things that I purchase from the food trucks  
11 myself, so I know that they have, you know,  
12 generators that are running, and that produces  
13 noise, which could be problematic, especially if  
14 we're talking about an establishment that's going  
15 to be open, you know, past 10:00 at night, 11:00,  
16 12:00. You know, the food trucks, you know, they  
17 show up. They do what they do. I'm not sure if  
18 it's the intent for the food trucks to be on  
19 private property or on the street there. But if  
20 the food trucks are there, you know, regardless  
21 of whether they're on private property or the  
22 street, the noise is still the noise which will

1 generate the complaints to the police department  
2 to address whatever the noise concerns are.

3 In addition to that, my other concern  
4 with respect to noise has to do with people who  
5 will be leaving from the establishment, 1:00,  
6 2:00 in the morning. There were some comparisons  
7 made about Blue Jacket and some of these other  
8 places that are down there on the waterfront.  
9 And I think the difference that I'm looking at,  
10 at least from my perspective, is that some of  
11 these other places, most of them, they are  
12 enclosed locations, whether it be Justin's or  
13 Blue Jacket and so placed, and they have small  
14 areas, 80 people, 25 places, 25 seats for people  
15 to sit. And there's food that's being served  
16 inside of these -- inside of these  
17 establishments.

18 And what's being proposed is a little  
19 different from that. I mean, we're talking about  
20 800 people, maximum capacity, at this outdoor  
21 venue where again, I think it's just going to be  
22 very difficult to mitigate that. And again, once

1 the new residents come in, starting in July 2016,  
2 those issues now become my issues as the District  
3 Commander for the First District.

4           There was discussion about maybe, you  
5 know, having the hours a little later so that  
6 it's not such a burden on the police adding these  
7 seven or 800 people, you know, an hour after the  
8 game is over with. Well, my position would be  
9 that that's not a sound plan and here's the  
10 reason why.

11           When the games are going on, for the  
12 times that we have the games going on, there are  
13 additional resources in the form of police  
14 officers, Department of Transportation, the  
15 traffic control aids. They are out there, they  
16 are in place, they are on site.

17           Once the games are over with and that's  
18 done, these individuals are gone. And now  
19 whatever issues that were happening on -- or  
20 that's happening on Potomac Street, which you  
21 know, if it's closed during the games, now that  
22 street is open. Again, those issues now become

1 my issues to address. The seven or 800 people  
2 that are leaving from that establishment after a  
3 game at 1:00, 2:00 in the morning, maybe they go  
4 straight to their cars on the other side of the  
5 lot if they were parking available on the other  
6 side of that lot on the other side of the bridge.  
7 Or maybe they don't. I don't know what they do.  
8 But I know that once they leave the business and  
9 they're on the street, now they become my issue.

10           There was some mention about the  
11 reimbursable detail that the applicant talked  
12 about, the officers and I think Board Member  
13 Alberti made reference to what the limitations  
14 are for the reimbursable detail officers. And  
15 he's absolutely correct. The reimbursable detail  
16 officers, they're really primarily, their  
17 responsibility is on the outside of the  
18 establishment. If they have to come inside,  
19 that's a problem. Clearly that's a problem if  
20 they have to come inside.

21           But nevertheless, disorderly patrons,  
22 whatever, once they get out hand inside the

1 establishment and they come out on to public  
2 space, again, they become my problem to deal  
3 with. So from a resource deployment standpoint,  
4 if I have someplace where I'm deploying police  
5 officers, you know, again this is outside of  
6 baseball hours we're talking about, where those  
7 additional resources are not there, these are  
8 less officers that I have to patrol  
9 neighborhoods. These are officers now that have  
10 to concentrate on focusing on, you know, on an  
11 issue that otherwise would not be -- otherwise  
12 would not be a problem for us.

13           There was mention about children and so  
14 forth, you know, a play area for children and  
15 that kind of thing. And maybe that -- I mean, I  
16 guess that's what the original intent is going to  
17 be, but you know, to just kind of have that kind  
18 of environment, you know, at 1:00 or 2:00 in the  
19 morning, I don't think that is a reasonable  
20 expectation that children are going to be there  
21 while alcohol is going to be -- or while alcohol  
22 is being consumed at 10:00, 11:00, 12:00 at

1 night, you know, and then the folks that will be  
2 leaving from the location.

3           So it was the noise, the food trucks, the  
4 pedestrians, the idea about the people kind of  
5 going under the bridge. Initially I kind of  
6 thought, you know, that may not be a bad idea,  
7 but in light of the fact that the parking  
8 facility is not owned by the applicant and  
9 there's no guarantee that the people will be  
10 using that, you know, a lot of people will be you  
11 know, dumping out on to Potomac Avenue. I mean,  
12 just kind of logistically, what does that look  
13 like if we're talking about a street, Potomac  
14 Street, that is closed during National's games,  
15 or at least it's been mentioned that it was  
16 closed during National's games, I'm not sure if  
17 it is or is not, but I think Commissioner Short  
18 mentioned, you know, you've got these people that  
19 are dumping out. The expectation that Uber  
20 drivers are going to be able to you know, kind of  
21 make their way down the street if we've got  
22 people that are coming out of the National's Park

1 and this location is directly across from those  
2 steps there. But just kind of coming out and  
3 then going across the street to the establishment  
4 without a controlled intersection, you know,  
5 people are going to do what people do.

6           You know, generally you know, I've  
7 managed some major details in this city from  
8 President Ford's funeral, to Georgetown during  
9 Halloween, you name it. And you know, I mean,  
10 people respond to what they respond to. And if  
11 you have a traffic control person out there,  
12 somebody that's kind of guiding people, you know,  
13 that's one thing. But if the shortest route  
14 between A and B is a straight line, most people  
15 opt for the straight line. Which is to just kind  
16 of go into the street. So I have concerns about  
17 that.

18           Obviously, you know, if a person is  
19 struck, you know is trying to cross the street,  
20 trying to make their way to the business  
21 whatever, you know, that might happen, again,  
22 that becomes a problem for me because now again,

1 officers are deployed to deal with those issues.

2           And, you know, the applicant in this case  
3 or the business -- any business, not just Bardo,  
4 but any business the, you know, if it's something  
5 that's happening on the street, you know, I don't  
6 think most businesses are going to stand up and  
7 say hey look, you know, that's our problem. You  
8 know, we're going to deal with that. That's  
9 really kind of -- want the police to deal with  
10 it. They got hit before they got into wherever  
11 they were going to, whether it's the National's  
12 Stadium, whether it's Bardo, or whatever location  
13 that happens to be.

14           I was excited to hear that the tenants of  
15 the new building are you know, that they're going  
16 to sign some, you know, agreement with the  
17 property manager. I mean, that's great. But  
18 like I say, when they pick up the phone to call  
19 911 those calls for service, those come to me.

20           I had an opportunity to pull calls for  
21 service for the location over at Bladensburg  
22 Road, and you know, for the area there were some

1 calls for service. I looked at 2015. There were  
2 about 20 calls for service, and the calls were  
3 for disorderly conduct. Now that could be, you  
4 know, that could be a neighbor, it could be  
5 somebody calling about whatever. But for the  
6 address, for 1200 Bladensburg Road, there were a  
7 total of like 20 calls for service. And I think  
8 there were like, you know, 11 days and maybe  
9 there were -- you know, I don't know if it was  
10 something special going on but we did have some  
11 calls for service over there.

12           You know, on the grand scheme of things,  
13 looking at the time frame, you know, I mean,  
14 that's not a hugely significant amount of calls  
15 for service. But, you know, every call for  
16 service obviously is a call that when we get it,  
17 we have to respond to it. Be it two officers for  
18 most disorderly conduct calls. Those are two  
19 police officers that are out of service that  
20 respond to address whatever the concern may be  
21 for that particular call for service.

22           I think really those are really kind of

1 the primary issues that really kind of stood out  
2 to me. Like I said, just kind of looking at  
3 what's being proposed, driving through the area,  
4 personally driving through the area, and just  
5 kind of seeing, you know, what you know, what's  
6 intended to happen there. I don't know if you  
7 have some specific questions for me but those are  
8 just kind of some initial assessments.

9 BY MS. FARLEE:

10 Q Well, just in general I'll go through my  
11 checklist.

12 Do you think as described, is there an  
13 appropriate adequate pedestrian safety plan?

14 A No, I don't. And I say that because  
15 again as it was alluded to earlier, you know, the  
16 pathway to the other parking lot that's over  
17 there, I mean, that's really kind of you know,  
18 really kind of a wish at this point. Perhaps at  
19 some point an agreement can be worked out between  
20 the applicant and the parking folks over there.  
21 But you know, again, during -- at peak time, you  
22 know, National's game, you know, those facilities

1 are filling up. Most of those facilities in the  
2 area, they're filling up.

3 And once those facilities are filled up, you  
4 know, people are just, you know, however many  
5 people that may go there, they want to get there  
6 by whatever means they can.

7 Q Mr. Stewart has said during our mediation  
8 session that this --

9 CHAIRPERSON ANDERSON: I don't think you  
10 can talk about what happened at mediation. I  
11 mean, mediation is --

12 MS. FARLEE: Okay.

13 BY MS. FARLEE:

14 Q Is this a place to go for thousands  
15 before the subway has space? Do you agree with  
16 that statement?

17 A Can you repeat that question?

18 Q This Bardo on the Riverfront would be a  
19 place for thousands of people to go before the  
20 subway has space?

21 A No, I wouldn't -- I would not agree with  
22 that.

1           Q     Is that a good plan for a alcohol  
2 license?

3           A     No, I would not agree with that.

4           Q     Okay. Would this solve a problem for the  
5 commander, that is if it's stated that people  
6 can't get on the subway, they need some place to  
7 go. Would this be a solution to that problem?

8           A     I don't believe it would be a solution to  
9 the problem. Not the way things are set up. I  
10 think you know, there are -- you know, there are  
11 a number of places that are there. There was a  
12 reference made to the, I think the -- I forget  
13 the name of the other open garden that's along M  
14 Street.

15           MR. STEWART: Bull Pen.

16           THE WITNESS: What's the name of it?

17           MR. STEWART: Bull Pen.

18           THE WITNESS: Bull Pen. Thank you.

19 There was a reference made to Bull Pen. But, you  
20 know, even with Bull Pen the difference is I  
21 think, you know, Bull Pen is kind of like right  
22 there on M Street and then you have the office

1 spaces that are across the street from there.  
2 And you've got like DDOT that's right there. You  
3 know, there's not a residential building that's  
4 like right next to it. So this place is kind of  
5 like right there next to the residential  
6 building. And that's kind of -- that's what  
7 causes me concern.

8 BY MS. FARLEE:

9 Q I realize I neglected to ask before about  
10 the children's play area, which I don't see on  
11 the map, but there's supposed to be one in the  
12 proposal. If there is a children's play area how  
13 do you feel that that should be protected?

14 A I mean, I think that's going to be really  
15 up to the applicant, you know, to figure that  
16 out. You know, it's going to be open space and I  
17 think there was some discussion about, you know,  
18 a fence being put up along like where the river  
19 line is and so forth. But that could be, just my  
20 opinion, that could be very difficult to police  
21 something like that.

22 I mean, if you have children in an

1 environment where we need to hire, you know,  
2 seven security officers, I mean, but you know,  
3 you could make that argument either way. I just  
4 think that it would be difficult and you'd have  
5 to have a solid plan in order to contain that and  
6 make sure that they're safe.

7 Q So is there anything more you'd like to  
8 say about the traffic flow during and after the  
9 games?

10 A I mean, we have been over there. I mean.  
11 It's busy, but I think that there was a lot of  
12 unknown for a fact because before the National  
13 Stadium even -- before the stadium was even  
14 erected I was part -- I was commander of SOD at  
15 the time. And in discussions with the Learner  
16 family about the traffic plan and with DDOT and  
17 Chief Ramsey at the time. And I mean, I know  
18 that there has been a lot of coordination and  
19 discussion about, you know, how to manage traffic  
20 around that area to ensure that everyone has a  
21 great experience when they attend Nat's Park.

22 You know, I don't think that you know, what

1 you know, if we have six or 700 more cars, bikes,  
2 people, whatever the case may be, you know, that  
3 happen to show up to the game I think that, you  
4 know, they have resources there during the game.  
5 You know, my primary concern would really be  
6 after the game is over with and all those  
7 resources are gone and I'm left with, you know,  
8 in terms of 1D personnel, being responsible for  
9 maintaining that.

10 Q Uh-huh, on the food trucks location is  
11 there any -- is that of concern to you or is that  
12 okay?

13 A No, the food trucks, as I mentioned, the  
14 concern -- and I couldn't tell from the map thing  
15 if that -- and maybe Mr. Stewart can tell -- I'm  
16 not sure if that's on private property where they  
17 would like pull on to. So like I mentioned  
18 earlier, you know, whether it's on private  
19 property or public property, excuse me, I mean, I  
20 think it's great. You know, people have got an  
21 opportunity to eat while they're consuming  
22 alcohol, so that you know, it kind of balance

1 things out. But from the standpoint of noise  
2 that could be associated, like I said with  
3 generators and stuff like that running, I thought  
4 of even though there's no live music, I thought I  
5 saw something where, you know, there would be  
6 piped in music or something like that. I could  
7 be wrong about that. But you know, if there's  
8 music, you know, whoever happens to be you know,  
9 handling the volume for that day, plus noise  
10 generated from the generators with the food  
11 truck, coupled with seven or 800 people inside of  
12 the open garden, that has a potential to create  
13 some problems in my opinion.

14 Q Well, let me just clarify. There is no  
15 statement about music of entertainment in the  
16 draft proposal. But that leaves them free to  
17 have music, recorded music or televisions or  
18 movies. So all those would create noise. Do you  
19 have a concern about that?

20 A Sure, I mean, I mean, just to restate  
21 what I've already said, I mean, any time you  
22 have, you know, all those things just kind of

1 mixed in, I mean, the loud band piece, I mean,  
2 that kind of thing, that would certainly be a  
3 problem if that were the case. But it looks like  
4 Mr. Stewart and his group have agreed to, I guess  
5 not even seek to have that type of application.  
6 But you know, any music, people, generators, et  
7 cetera, all that stuff combined could create a  
8 problem.

9 And you know, I guess at this point, you  
10 know, we don't know what we don't know. The  
11 business is not -- I mean, the business is not  
12 place and the residents have not moved in yet.  
13 So, but you know, if everything, you know, goes  
14 forward or whatever, you know, I think we'll be  
15 finding out real soon.

16 Q On the logistics and safety plan Mr.  
17 Stewart has said we will employ one reimbursable  
18 detail of two officers of MPD, SPO with police  
19 powers. Comment on that?

20 A Yeah. I think that the reimbursable  
21 detail, I mean, that's a good option. We do that  
22 for several establishments with ABC

1 establishments throughout the city. And, you  
2 know, we have officers that are working, be it  
3 China Town, H Street, some of the other areas  
4 throughout the city and you know, officers sign  
5 up. It's a routine thing. And they're there,  
6 you know, in the event that there are issues that  
7 take place outside. And obviously like I said,  
8 if something happens inside then that's really  
9 not a good thing. But you know, those officers  
10 are there.

11 Businesses, you know, that's something  
12 that -- a service that they pay for. That does  
13 not deplete from the resources that I have  
14 assigned at the First District because the  
15 businesses would be incurring the cost for those  
16 officers to be there. Having trained SPOs, I  
17 think that's a very sound decision, simply  
18 because the trained SPOs, if they have the power  
19 of arrest, these guys coupled with some  
20 assistance with MPD officers would be able to  
21 process and arrest, you know, if an arrest had to  
22 take place. Again, the cost that's associated

1 with paying those guys again, that's something  
2 that's incurred by the business and would not  
3 directly impact me.

4 Q There are two comments in the plan about  
5 traffic officers. Traffic officers will be out  
6 front of Bardos to prevent jay walking and there  
7 will be a traffic control officer stationed right  
8 outside the gate at Bardo. Is that feasible in  
9 terms of staffing on your part, or --

10 A Well, the staffing wouldn't come from me  
11 for something like that. If DDOT, traffic  
12 control officers, the ones from -- that are there  
13 for the games, you know, they are there because  
14 they're DDOT employees. I did not plan on having  
15 any MPD personnel, you know, assigned there for  
16 the purposes of traffic control. Obviously if I  
17 did that, you know, every establishment in the  
18 First District, you know, they would want that  
19 level of service. And, you know, right now it's  
20 just something that, you know, the only service  
21 that's provided where they're specifically there  
22 for a business is the reimbursable detail.

1 MS. FARLEE: Is it feasible for me to ask  
2 Mr. -- Commander Contee to look at my Exhibit 5  
3 and comment on that?

4 MR. SILVERSTEIN: Mr. Chairman, I  
5 would -- we're going to -- you had less than one  
6 witness and I think you've gone more than half of  
7 your time already.

8 MS. FARLEE: Okay.

9 MR. SILVERSTEIN: And I was wondering how  
10 many more witnesses you have and how much time is  
11 left because I don't want you in a situation --

12 MS. FARLEE: All right.

13 MR. SILVERSTEIN: Where you can't ask  
14 your witnesses, or have them testify.

15 MS. FARLEE: Okay. Thank you. All  
16 right. I'm done. Thank you very much.

17 MR. STEWART: I just have a couple  
18 questions.

19 THE WITNESS: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. STEWART:

22 Q The 20 calls for service --

1 A Yes, sir.

2 Q -- at Trinidad location --

3 A Yes, sir.

4 Q -- so people call up and they say a dog  
5 is barking, a dog is barking, whatever. And then  
6 you come out. So you never had any citations  
7 issued?

8 A No, sir.

9 Q No infractions, no nothing?

10 A No infractions that we've issued.

11 Q Okay.

12 A That we've issued. No, sir.

13 Q So the crazy lady complaining about the  
14 dog calls up and you go out and you don't -- but  
15 you've never had any noise infractions ever  
16 issued for Bardo?

17 A No noise infractions that we've issued.  
18 That's correct, sir.

19 Q Okay. Good.

20 A Uh-huh.

21 Q Did you call Commander Fitzgerald, who is  
22 the commander of 5D?

1           A     I did call Commander Fitzgerald, yes,  
2     sir.

3           Q     Did he give a good, bad, neutral --

4           A     Commander Fitzgerald said he hasn't had  
5     any issues.

6           Q     Okay. Good. I think that's the main  
7     thing. And also just the fact that you have some  
8     concerns but you're not here to protest because  
9     otherwise you would have filed all the paperwork  
10    for protesting this license, right?

11          A     That's correct. I'm here as a witness,  
12    sir. I was asked to come and just to give my  
13    assessment, my opinion, and look at how it  
14    impacts us.

15          Q     So MPD is not protesting us, you just  
16    have a couple concerns that you want worked on.

17          A     Absolutely.

18          Q     Okay. That makes sense. That's about it  
19    for me.

20                CHAIRPERSON ANDERSON: Any of the board  
21    members have any specific questions for the  
22    commander? Yes, Mr. Silverstein.

1           MR. SILVERSTEIN: Very quickly. It's a  
2 question that we often ask in a case like this.  
3 It doesn't tell what we're thinking or whatever.  
4 Assuming for the sake of argument that the  
5 applicant's request was approved, what are the  
6 conditions that you would need in order to make  
7 it palatable to MPD?

8           THE WITNESS: I had an opportunity to  
9 review the conditions that the ANC and the  
10 applicant were working through. I think all of  
11 those are good. I think the time is also very  
12 important. Obviously as you guys already know,  
13 the noise at night goes into effect after 10:00  
14 p.m., so after 10:00, I think anything beyond  
15 that starts to pose potential problems for us.

16           But all the other things that were  
17 mentioned, having a sound security plan and the  
18 rest of the things that were -- conditions that  
19 were mentioned in the mediation, I don't know if  
20 it's mediation of their agreement that they were  
21 trying to work through, I think all of those are  
22 very sound.

1 MR. SILVERSTEIN: Thank you, sir. No  
2 further questions.

3 CHAIRPERSON ANDERSON: I'll start with  
4 Ms. Miller first.

5 MS. MILLER: Okay. Good afternoon.

6 THE WITNESS: Good afternoon, ma'am.

7 MS. MILLER: So I want to clarify. It  
8 seems like one of your biggest concerns is the  
9 noise that -- and particularly the noise that  
10 would affect the new apartment building that's --

11 THE WITNESS: Yes, ma'am.

12 MS. MILLER: -- being constructed.

13 THE WITNESS: Yes, ma'am.

14 MS. MILLER: Okay. Do you have any  
15 knowledge, or I don't know if anybody else does  
16 here, whether or not their windows are being made  
17 to be sound proof in light of the fact they're  
18 near the stadium?

19 THE WITNESS: I don't know if the windows  
20 are made to be sound proof. I see a hand going  
21 up over there so he may be able to answer. I  
22 mean, it's some nice looking glass up there, but

1 I'm just not sure if it's sound proof or not.

2 MS. MILLER: Okay. Would that alleviate  
3 your concerns about the noise, or do you have  
4 concerns about the noise affecting other  
5 residents?

6 THE WITNESS: That's the primary one.  
7 The location that's within the 200 feet, and then  
8 I think that he, the applicant, Mr. Stewart, he  
9 mentioned that there's another resident or  
10 something -- residence that's coming up that's  
11 going to be like 100 feet, you know, on the same  
12 parcel of land, but about 100 feet away. So  
13 that's even closer.

14 MS. MILLER: Okay.

15 THE WITNESS: But aside from that the  
16 rest of the area, like I say, you've got Nat's  
17 Park that's right there, and the other residences  
18 are like 800 feet or so, I guess, on the other  
19 side of South Capitol.

20 MS. MILLER: So those other ones don't  
21 concern you?

22 THE WITNESS: Well, I think there's a

1 potential for that. I'm not you know, noise  
2 certified or anything like that.

3 MS. MILLER: Okay. Okay.

4 THE WITNESS: But I mean, I would just,  
5 you know, assume that it's possible that you know  
6 there could be some spill over from the business,  
7 just kind of depending on what's going on and  
8 what time of day. Time of day is always very  
9 important for residents. And the complaints that  
10 I get from residents just in general, I mean, is  
11 you know, is the people going back to their cars  
12 who, you know, had too many to drink.

13 MS. MILLER: Right.

14 THE WITNESS: And at the top of their  
15 lungs. Or car doors are slamming, or music, you  
16 know. So they've left the establishment, but  
17 again, it's still my problem to deal with now.  
18 I'm deploying officers for the loud noise  
19 complaint. Maybe they didn't park at the  
20 establishment there, but they, you know, parked  
21 on one of the residential streets because there  
22 was available parking space. I think, you know,

1 that has the potential to be an issue.

2 MS. MILLER: So, and you picked 10:00, I  
3 believe, as an appropriate time for them to  
4 close?

5 THE WITNESS: I'm saying 10:00 because  
6 that's when the noise at night issues kick in.

7 MS. MILLER: Okay.

8 THE WITNESS: Now, obviously there are  
9 baseball games that go on sometimes as double  
10 overtime and, you know, you've got people  
11 cheering and all that. But my suggestion would  
12 be, definitely not anything beyond you know, once  
13 the ballpark is done. You know, I think there  
14 was a lot of mention about, you know, hey people  
15 kind of having this location to go to. Kind of  
16 alleviate a little bit of pressure off of MPD.  
17 No, I don't need that kind of relief. Let them  
18 leave with everybody else.

19 MS. MILLER: Okay. So that isn't a  
20 concern of yours that they let out the same time  
21 as the ballpark?

22 THE WITNESS: No.

1 MS. MILLER: Okay.

2 THE WITNESS: That's definitely not a  
3 concern for me. And one other question about the  
4 generators.

5 THE WITNESS: Uh-huh.

6 MS. MILLER: Since you mentioned it,  
7 because I don't really have a feel for how far  
8 that noise travels. Is that basically disturbing  
9 the same people that would be disturbed --

10 THE WITNESS: Yes.

11 MS. MILLER: -- by the people noise?  
12 Okay.

13 THE WITNESS: Yes. You know, I mean, if  
14 you've got one generator running, that, you know,  
15 at the District, you know, for example, when our  
16 emergency generator kick on at the police  
17 district, I mean, that's a problem for me and  
18 it's probably a problem for, you know, some of  
19 the other residents who hear it. You know, but  
20 it comes on during the daytime and it kicks on  
21 for about 30 minutes or something like that.  
22 These generators you know, if we're talking

1 about, you know, if it's one food truck that's  
2 one generator. You add five more food trucks,  
3 now you got six all running at the same time to  
4 provide the service that they're providing to the  
5 -- or to the patrons of the establishment.

6 You know, we want you know, we want good  
7 food. We want, you know, people to be you know,  
8 clean and so forth. And they use generators just  
9 kind of as part of, you know, as part of what  
10 they do. At least the ones that I've  
11 encountered.

12 MS. MILLER: Okay. Thank you very much.

13 CHAIRPERSON ANDERSON: Mr. Short.

14 MR. SHORT: Commander Contee, thank you  
15 for your service, for your many, many years of  
16 service.

17 THE WITNESS: Thank you.

18 MR. SHORT: [Speaking off microphone] and  
19 glad to see you here today, and again, thank you  
20 for the service.

21 Mentioning these generators, and the  
22 noise, carbon dioxide or those other things, they

1 are not from space of course, but one of the  
2 issues we've had on this Board has been litter  
3 around food trucks. So these food trucks are  
4 going to be on private property and the applicant  
5 doesn't have any responsibility. So people eat  
6 and throw their wrappers down, is that going to  
7 pose any kind of health, or safety, or public --

8 THE WITNESS: Well, if they're coming on  
9 to public space with that. I mean, I'm not sure  
10 and maybe -- I'm not sure what the trash can  
11 condition is along Potomac Street, or if they  
12 will be allowed to take, you know, food or food  
13 wrappers. I mean, sometimes the Styrofoam  
14 containers from a lot of the business -- a lot of  
15 the food trucks. But obviously if that's  
16 discarded on to the street, you know, it's  
17 problematic.

18 You know, I was meeting with the  
19 individuals as I mentioned earlier from Capitol -  
20 - I mean, I'm sorry, from the Riverfront Bid the  
21 other day and I know that there's actually a  
22 restriction in place, like for the food trucks

1 that come down to that area. Obviously this is  
2 on private property, but right along M Street  
3 they are like restricted, like just up from the  
4 CVS. They're only allowed like five food trucks  
5 at max. And the food trucks that participate  
6 there, you know, I guess they've paid into a  
7 lottery or whatever it is they do. But there is  
8 at least some control, some control there.

9 With the ones that will be coming to this  
10 location it's on private property. You know, not  
11 an issue if they're throwing all the trash on the  
12 property. I'm sure the residents could have  
13 concerns about you know, whatever. But I'm sure  
14 that the business, or I would assume that the  
15 business would have staff to, you know, to clean  
16 up, you know, if there is any you know, trash and  
17 stuff that's discarded improperly.

18 MR. SHORT: Okay. And lastly, you  
19 mentioned the 10:00, 10:00 p.m.

20 THE WITNESS: Yes, sir.

21 MR. SHORT: And you said if this Board  
22 were to decide to grant this licensee a license,

1 you as a public safety person are saying 10:00  
2 p.m. would be the time you would suggest that  
3 this be allowed to open. To be open?

4 THE WITNESS: I would say, from my  
5 perspective, I would say 10:00. And the reason I  
6 say that, again, it's just based on the potential  
7 for the noise issues. We can't respond to calls  
8 for service for noise if people are not calling  
9 in to complain. Their window for complaint opens  
10 up at 10:00 p.m. So if they're calling in, hey  
11 look, you know, generators and it's you know,  
12 7:00, 8:00, there's no police action there.  
13 There's no violation of the law.

14 After 10:00, now it becomes a violation  
15 and then, you know, whether we call in ABRA folks  
16 or whether -- you know, whatever calls we have to  
17 make about the issue, now you got government  
18 resources rolling to you know, address whatever  
19 the concern is. And I don't know, maybe the  
20 business could, you know, ask the food truck  
21 people to leave at a certain time. I don't know.  
22 But for me 10:00, like I said, that would be kind

1 of the window or somewhere in close proximity of  
2 whatever time, you know, the games are over with.  
3 Especially during peak -- especially during the  
4 peak times for the business.

5 MR. SHORT: Okay. And lastly, you know  
6 too when the stadium fills up and then lets out,  
7 have there been any muggings or have any kind of  
8 situations or problems with people getting to  
9 their cars or getting to the Metro or --

10 THE WITNESS: I'm sure that there have  
11 been, you know, an issue or some issue, but you  
12 know, just in general you know, the area is  
13 really relatively safe. I mean, there is, you  
14 know, the police command bus is out there. You  
15 know, you've got the traffic control officers.  
16 You've got Nat's employ -- I mean, during game  
17 day I mean, it's a lot of stuff going on around  
18 there. I mean, quite --

19 MR. SHORT: Until the game is ended.

20 THE WITNESS: Until the game is ended.  
21 So, I mean, then kind of my concern -- my concern  
22 kind of kicks in now. So let's say at 1:00, 2:00

1 in the morning the only people I got left are the  
2 people who just finished having a couple of beers  
3 or drinks or whatever, and now they're leaving  
4 out this location, and they're back on these you  
5 know, isolated streets kind of just all by  
6 themselves. Again, resources, now I have to  
7 patrol you know, assign resources down there to  
8 patrol to make sure that people not getting  
9 mugged from the location of the business, you  
10 know, just in their short walk to the Metro. If  
11 they decide to go up 1st Street to go up the  
12 backway, I mean you know, it's kind of -- that's  
13 off the grid. I mean, unless people are going to  
14 remain on South Capitol Street and you know, just  
15 kind of, you know, stay where all the pedestrian  
16 and vehicle traffic is. I think that's, you  
17 know, again, short -- the shortest point between  
18 you know, two ends is a straight line. And I  
19 think most people you know, might opt to either  
20 go to the subway there or just walk around the  
21 1st Street. And that, again, could be a problem  
22 for me on the back end.

1 MR. SHORT: I thank you for your  
2 testimony today and thank you for your service.

3 THE WITNESS: Thank you, sir.

4 MR. SHORT: That's all I have, Mr. Chair.

5 CHAIRPERSON ANDERSON: Do you have any --  
6 Mr. Alberti.

7 MR. ALBERTI: Good afternoon, Commander.

8 THE WITNESS: Good afternoon, sir.

9 MR. ALBERTI: I'm going to be real quick.  
10 So on the streets west of there, like R Street, S  
11 Street, between Half and 1st Street.

12 THE WITNESS: On the southwest side?

13 MR. ALBERTI: Southwest side.

14 THE WITNESS: Okay.

15 MR. ALBERTI: Do you know if there are  
16 any parking restrictions during the game?

17 THE WITNESS: There are some restrictions  
18 in place. I think they count like the way the  
19 streets run, you know, they don't allow parking  
20 or something during game days. And I only say  
21 that because I take that route sometimes on my  
22 way home to go across the South Capitol Street

1 bridge. And right there at Half Street there's a  
2 do not enter sign, although the cars are parked  
3 parallel there. So I think it's just during the  
4 game days that there's some type of restrictions  
5 that are in place. And I would imagine, you  
6 know, just --

7 MR. ALBERTI: They don't allow non-  
8 residents of the area to park?

9 THE WITNESS: That's correct, sir. And I  
10 mean, you know, that's been just historic. You  
11 know, they did the same thing around RFK --

12 MR. ALBERTI: Yeah, right.

13 THE WITNESS: -- for Redskin games, and  
14 I'm sure it's probably just the same thing as  
15 well.

16 MR. ALBERTI: Exploring the availability  
17 of parking.

18 THE WITNESS: Yes, sir.

19 MR. ALBERTI: All right. Thank you.

20 THE WITNESS: Yep.

21 CHAIRPERSON ANDERSON: All right. Ms.  
22 Farlee, you have an opportunity to ask some

1 questions only on questions that were asked by  
2 the Board or by Mr. Stewart. They can't be in a  
3 new area. So if you want to ask him a redirect  
4 on a question that was asked.

5 MS. FARLEE: No, I'm fine. Thank you.

6 CHAIRPERSON ANDERSON: All right. Thank  
7 you. Thank you Commander.

8 THE WITNESS: Thank you very much.

9 MS. FARLEE: Thank you.

10 CHAIRPERSON ANDERSON: Who is your next  
11 witness, Ms. Farlee?

12 MS. FARLEE: Well, the Nationals, and we  
13 have a question. There's one lead person that's  
14 going to make a statement. And then the two  
15 other men are sort of resourced to him. Is it  
16 feasible that they all get sworn in at the same  
17 time?

18 CHAIRPERSON ANDERSON: Well, I guess the  
19 reason I was going to ask --

20 MS. FARLEE: To save time.

21 CHAIRPERSON ANDERSON: And that's the  
22 reason I was going to ask you that, are there --

1 I'll prefer if it's just one person, but like I  
2 said I don't want redundance. Since you have  
3 three people from the same establishment I don't  
4 want redundant questions. So it should be --

5 MS. FARLEE: But if the lead person wants  
6 to ask a question of his attorney, then could the  
7 attorney be sworn in, et cetera, the other --

8 CHAIRPERSON ANDERSON: Well, I don't  
9 think we can swear in an attorney. So I mean, so  
10 who are the -- is there -- because attorneys  
11 don't testify. Attorneys represent folks. So,  
12 you explain to me who the witnesses are and what  
13 it is that you expect to elicit from them.

14 MS. FARLEE: Mr. McCarthy is the lead  
15 testifier.

16 CHAIRPERSON ANDERSON: I'm sorry. Yeah,  
17 so who is this person?

18 MR. McCARTHY: I'm Gregory McCarthy, Vice  
19 President for Community Engagement at the  
20 Washington Nationals. My colleague, Jonathan  
21 Stahl is Vice President for Ballpark Operations.  
22 He has the primary lead in actually working the

1 daily police and traffic detail. I'm kind of the  
2 over community person. I was going to make the  
3 opening presentation and then any particular  
4 questions you had about day to day operations,  
5 Mr. Stahl is --

6 CHAIRPERSON ANDERSON: Well, it's not  
7 basically us. I mean, Ms. Farlee called you as  
8 witnesses so she basically will call the -- will  
9 ask the questions. And so I mean, I don't -- I  
10 mean, it's -- what I will do, I mean, they would  
11 have to be called separately and if there is a  
12 question that the person -- if you don't have  
13 direct knowledge then you can call the second  
14 person and ask. But it should not be redundant  
15 testimony. So you can call your first witness  
16 and --

17 MS. FARLEE: Mr. McCarthy.

18 CHAIRPERSON ANDERSON: All right.

19 MS. FARLEE: Thank you.

20 CHAIRPERSON ANDERSON: Can you raise your  
21 right hand, please?

22 GREGORY MCCARTHY, SWORN

1 CHAIRPERSON ANDERSON: And please  
2 identify yourself for the record, please.

3 THE WITNESS: My name is Gregory  
4 McCarthy. I'm Vice President for community  
5 engagement at the Washington National's Baseball  
6 Club.

7 CHAIRPERSON ANDERSON: Thank you.

8 THE WITNESS: Should I make a statement  
9 or --

10 CHAIRPERSON ANDERSON: No, it has to be  
11 based on direct questions that -- there has to be  
12 a question answered.

13 THE WITNESS: Okay.

14 CHAIRPERSON ANDERSON: Or asked.

15 DIRECT EXAMINATION

16 BY MS. FARLEE:

17 Q Yes, Mr. McCarthy. I would like you to  
18 make a statement, please. But please also refer  
19 to, especially Exhibits 2 and 3 that I've  
20 provided. One of these --

21 CHAIRPERSON ANDERSON: What I'm going to  
22 ask, Ms. Farlee, I need you to ask him a

1 question.

2 MS. FARLEE: Question.

3 CHAIRPERSON ANDERSON: He can answer the  
4 question whichever way he wants to answer it.  
5 This is not a court of law so I'm not going to  
6 tell him to -- I allowed Commander Contee to kind  
7 of make -- but then, to make a statement. But he  
8 was, his statement was in response to questions  
9 that were on the table. So normally I would have  
10 stated that there are no question presented.

11 So you can ask him a question. If you  
12 want to ask him a broad question to get out his  
13 statement, but it has to be responsive to a  
14 question.

15 MS. FARLEE: Okay.

16 BY MS. FARLEE:

17 Q Would you please comment on the traffic  
18 plan in place, of the National, for a game day.

19 A Yes.

20 Q Traffic for games.

21 A I'm happy to do that. We've had eight  
22 seasons of games at National's Park, probably

1 1,000 events all total for which we've managed  
2 traffic and pedestrian safety. And all in all  
3 it's worked fairly well.

4 As several people have alluded, it's based on  
5 the Transportation Operations and Parking Plan,  
6 the TOPP, which was carefully negotiated and done  
7 with the city, DDOT, MPD, the ANC, and the  
8 Southwest -- and the Capitol Riverfront Bid.  
9 It's a dynamic document. It's adjusted every  
10 year and indeed we anticipate that as the  
11 ballpark area develops there's going to need to  
12 be tweaks made every single year.

13 However, those tweaks are profound based on  
14 the application that's before you today. And we  
15 don't think at all that the TOPP has actually  
16 been assessed in terms of how it needs to be  
17 changed based on this.

18 For example, it's not correct that the street  
19 is closed during a game. At 7:00 p.m. Potomac  
20 Avenue is closed to outside traffic. The bridge  
21 entrance is closed and 1st Street at M Street is  
22 closed, but 600 cars from Garage C, and 150 cars

1 from our parking lot, Lot A on Potomac Avenue,  
2 all enter on to Potomac Avenue. That is now with  
3 the current plan, the only means of egress from  
4 those garages. So that's 750 cars every single  
5 game going directly by this establishment after  
6 the 7th inning.

7 Sunday through Thursday, for example, the  
8 Metro closes at midnight, which means the last  
9 train to a Redline station is at 11:20. So  
10 everybody has to be out on the train by 11:20 on  
11 those days.

12 Our parking inventory, as was mentioned, is a  
13 real problem for us. Every crane you see around  
14 National's Park is a former parking lot that we  
15 had available for parking. Most of those  
16 buildings are becoming residences, which by and  
17 large do not make their space available to our  
18 fans. We estimate by 2018 we're going to have a  
19 parking deficit of two to 3,000 spaces. So there  
20 is a lot of competition for our spaces, and we  
21 don't quite know where these people, the patrons,  
22 would actually park for this.

1           We've also seen inexorably, people walk the  
2 straight line. So we have people crossing South  
3 Capitol Street to get rise on the other side of  
4 South Capitol Street. We've had to put barriers  
5 up to try to prevent them. We've actually had a  
6 serious traffic near fatality on South Capitol  
7 Street, and there's no reason to think the same  
8 things would not happen if there was an  
9 establishment with 750 people where the direct  
10 entrance to the ballpark is indeed directly  
11 through traffic.

12           So these questions are probably fixable.  
13 They're probably addressable. But they haven't  
14 been addressed. The 2PP is there and as of right  
15 now it would direct conflict with the operations  
16 that we've had outlined today by the applicant.

17           Q     Could you comment, if you look at Exhibit  
18 2, my submission. Do you have a copy?

19           A     I don't.

20           CHAIRPERSON ANDERSON: Mr. Farlee, do you  
21 have a copy of the exhibit that has been  
22 referenced?

1 MR. STEWART: Mr. Stewart.

2 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
3 Stewart. I'm sorry.

4 MR. STEWART: I have seen them, yes.

5 CHAIRPERSON ANDERSON: All right. Okay.

6 BY MS. FARLEE:

7 Q This photograph was taken in the dead of  
8 winter.

9 A Right.

10 Q And on a day when it was announced that  
11 everybody could go home because the snow is  
12 coming this afternoon, so there was not much  
13 traffic.

14 A Right.

15 Q But I would like you to comment on the  
16 barriers between where the National, the  
17 photograph is taken from the National's building,  
18 looking across --

19 A Those are traffic delineators that as  
20 someone alluded to earlier, are flexible. Most  
21 of them are bent and dented, which means they've  
22 obviously been hit by cars. We would advocate

1 that if there is an establishment like this  
2 across the way that a fixed barrier be installed  
3 in the middle to prevent people from crossing  
4 over.

5 It's also worth noting that on Potomac Avenue  
6 Southeast westbound, from the seventh inning  
7 onward, that's where buses park for loading. So  
8 one or two lanes here is actually blocked with  
9 standing buses that are loading fans from the  
10 National, curbside. So we would have a great  
11 fear that somebody trying to get to or from the  
12 establishment proposed would walk between the  
13 buses, right out into traffic.

14 Q Would you please look at Exhibit 3. Next  
15 page. It's been suggested that this would be  
16 appropriate as --

17 A That would mitigate our concerns, yes.

18 Q -- as a traffic control --

19 A Yes.

20 Q -- pedestrian control.

21 A That's from College Park where I think  
22 they had a similar situation with bars on either

1 side and students running across the street. And  
2 that was a safety thing that they put in there.

3 Q So is that one of the priorities in your  
4 judgment, or how important is that?

5 A That would greatly mitigate our concerns  
6 about people running across the street, yes.  
7 It's worth noting, though, that the near  
8 fatality, and there was another serious  
9 pedestrian --

10 MR. SILVERSTEIN: Sir, please.

11 THE WITNESS: Yes. Sorry. There was a  
12 near fatality and another pedestrian incident  
13 last season. Actually happened with the detail,  
14 police detail at South Capitol and Potomac, and  
15 part of the problem is cars coming across the  
16 bridge are coming at an angle. The bridge is  
17 curved so they don't actually see the  
18 intersection until they're almost at it. And if  
19 they're running a red light then there are people  
20 there in the crosswalk with the crossing guard,  
21 which is what happened. They can get hit.

22 And that would be obviously more people

1 coming if this establishment were open there.

2 BY MS. FARLEE:

3 Q Are there any other mitigation efforts  
4 that you recommend?

5 A Well, I think the applicant should sit  
6 down with DDOT and MPD, SOD, us, the Bid, the  
7 ANC, look at the TOPP and see what tweaks need to  
8 be made to address an establishment like this  
9 being there.

10 It's also worth noting that the way the plan  
11 is written, the resources there are optimal  
12 resources. That's what's ideal. But often times  
13 if there is another public safety incident  
14 somewhere else in the city, or last year we had  
15 cars break down in the underpass of South Capitol  
16 Street, MPD Officers had to go from there to go  
17 address a concern elsewhere and they actually  
18 weren't at that intersection. So it's not a sure  
19 deal that they'll actually be there.

20 Q So you've addressed the parking and the  
21 transportation and the pedestrians, which is the  
22 second reason that we are protesting.



1 BY MR. STEWART:

2 Q So I'm sorry. You're Vice President in  
3 charge of community --

4 A Engagement.

5 Q Engagement.

6 A Yes.

7 Q So have you come by Bardo yet? Have you  
8 called me up? Have you had any contact with me?

9 A I'm sorry, I have not --

10 CHAIRPERSON ANDERSON: But give him an  
11 opportunity to -- ask one question, sir, and give  
12 him an opportunity to ask the question.

13 MR. STEWART: Okay. Sorry.

14 CHAIRPERSON ANDERSON: To answer.

15 THE WITNESS: No.

16 BY MR. STEWART:

17 Q No. Why is that?

18 A I actually was informed by the ANC of  
19 your applicant, I did not get -- I got a copy of  
20 it from them and was asked to be a witness.

21 Q So this is the first you've heard of this  
22 application in the eight months we've been doing

1 this?

2 A No, I saw the placard go up whenever it  
3 did.

4 Q Right. And you didn't contact us then  
5 about the --

6 A I did not. That's correct.

7 Q -- TOPP or anything?

8 A That's correct. I did not contact you.

9 Q You didn't have any concerns then.

10 A What's that?

11 Q You didn't have any concerns when the  
12 placards went up?

13 A I have concerns all the time.

14 Q Well, and you never contacted us.

15 A That's correct.

16 Q Okay. All right. Well, let's move on  
17 then. It seems like most of the problems you're  
18 describing are problems caused by the Nat's, not  
19 by Bardo. And you're just extrapolating, saying  
20 that Bardo will cause more problems. For  
21 example, the traffic at Potomac Avenue and the  
22 guy getting hit. That's caused by the Nat's,

1 right?

2 A It's caused by the person --

3 Q Bardo was not in existence when this guy  
4 got hit by the car, right?

5 A That's true.

6 Q Right. And the buses that are parking  
7 along Potomac Avenue and loading up with your  
8 people and unloading your people, right?

9 A Yes.

10 Q Potomac Avenue is closed except for the  
11 buses, right?

12 A And 700 cars.

13 Q Seven hundred cars that are in the  
14 parking lot.

15 A Correct.

16 Q Right. So you're concerned that the  
17 Bardo patrons are going to come out and somehow  
18 walk between the buses and get hit, right?

19 A Yes.

20 Q But the Nationals' fans are not going to  
21 do that somehow?

22 A Well, if they're going to the Bardo it

1 would be a Bardo patron.

2 Q What if they were going to the buses out  
3 there?

4 A The buses are on --

5 Q Don't they have an opportunity to get hit  
6 there also?

7 A The buses are on our side of the street,  
8 so there's no reason to cross the street.

9 Q Okay. So you have two rows of buses,  
10 though, right?

11 A Occasionally, yes.

12 Q Buses are on both sides of the street  
13 when I was there.

14 A No, they're not.

15 Q When I was there they were. So you're  
16 not protesting our license. You just have  
17 concerns about the TOPP. That correct?

18 A As of right now there are severe  
19 questions that are unanswered about how the  
20 license would actually work regarding to your  
21 TPP.

22 Q But you didn't file anything --

1           CHAIRPERSON ANDERSON: Hold up, Mr. --  
2 give him an opportunity to finish his statement  
3 then. You can ask your other --

4           THE WITNESS: Just like Commander Contee,  
5 I'm a witness here supporting the ANC's case. We  
6 are not land owners. We are a tenant in that  
7 building, so I don't believe we have standing.

8 BY MR. STEWART:

9           Q You have standing just like everybody  
10 else. You can get a note from the owner of the  
11 property saying you're a tenant and protest.

12          A No, I am -- so.

13          Q But you choose not to. So. Well, if you  
14 would like to sit down with us, as you suggested,  
15 that's fine, if you'd make contact with us. And  
16 we would talk about your TOPP and try and work  
17 something out that was agreeable to everybody.  
18 But, you know, there's been no contact so far. I  
19 mean --

20          A It's not my -- it's the City's TOPP, by  
21 the way. And I think it's incumbent upon the  
22 applicant who is seeking the changes to go to

1 DDOT and MPD to say, what is the traffic plan and  
2 how would you amend it to accommodate this  
3 establishment.

4 MR. STEWART: All right. I think that's  
5 the end of my questions.

6 CHAIRPERSON ANDERSON: Okay. Do I have  
7 any board members that have any questions? Here  
8 in her seat.

9 MS. MILLER: Yeah.

10 CHAIRPERSON ANDERSON: Go ahead, Ms.  
11 Miller.

12 MS. MILLER: I just have one, I think.  
13 As far as you're saying that these problems are  
14 probably fixable, they just haven't been  
15 addressed yet?

16 THE WITNESS: I have no idea. I don't  
17 want to say that they're not fixable.

18 MS. MILLER: Okay.

19 THE WITNESS: But certainly they -- to be  
20 fixed, I think all the parties should get  
21 together and figure it out. There are going to  
22 be changes as the development comes around the

1 ballpark. I don't think it was ever envisioned  
2 there would be an establishment of this type, of  
3 750 people adjacent to the ballpark. And the  
4 difference with the Bull Pen is of course, it  
5 opens on to a closed street, directly adjacent to  
6 the Metro. So you can go to and from that  
7 establishment without crossing any traffic.

8 MS. MILLER: Do you have any idea how  
9 long that process would take? This sit down?

10 THE WITNESS: It's not our process, per  
11 se but it's -- I think DDOT is the actually lead  
12 agency on that, so it would be up to them.

13 MS. MILLER: Is this something -- I'm  
14 just curious, is this something that you all do  
15 periodically because things are changing  
16 somewhat?

17 THE WITNESS: Yes. At least annually.

18 MS. MILLER: At least annually. Okay.  
19 Okay. Thank you.

20 CHAIRPERSON ANDERSON: Ms. Farlee -- I'm  
21 sorry. Yeah, Ms. Farlee, do you have any  
22 questions to ask, any redirect based on questions

1 that were asked of the Board?

2 MS. FARLEE: No, I'm fine.

3 CHAIRPERSON ANDERSON: All right. Thank  
4 you.

5 MS. FARLEE: Thank you very much.

6 CHAIRPERSON ANDERSON: Thank you. Your  
7 next witness, please?

8 MS. FARLEE: My next witness is Meredith  
9 -- Commissioner Fascett, ANC Commissioner. ANC  
10 6D-07.

11 CHAIRPERSON ANDERSON: Can you raise your  
12 right hand, please?

13 MEREDITH FASCETT, SWORN

14 CHAIRPERSON ANDERSON: Thank you. Your  
15 witness, Ms. Farlee.

16 DIRECT EXAMINATION

17 BY MS. FARLEE:

18 Q Yes, Meredith. I have -- Ms. Fascett, I  
19 have to ask a question. What is your  
20 impression --

21 CHAIRPERSON ANDERSON: I'm sorry. Have  
22 her identify herself formally for the record,

1 please.

2 MS. FARLEE: Yes.

3 BY MS. FARLEE:

4 Q Please identify yourself. If you have an  
5 occupation then you can -- position on the ANC.

6 A My name is Meredith Fascett. I am the  
7 Advisory Neighborhood Commissioner for the  
8 single-member district, 6D-07, which is inclusive  
9 of the Bardo site.

10 MR. SILVERSTEIN: How do you spell your  
11 last name?

12 THE WITNESS: It's F-A-S-C-E-T-T.

13 BY MS. FARLEE:

14 Q Okay. I need to ask you a question  
15 rather than make a statement. What is your  
16 impression of the application, what you've heard  
17 today, and your comments?

18 A Sure. My concerns fall into three  
19 general categories. First I think the security  
20 and logistics plan is insufficient and lacks the  
21 specificity we would need to really contemplate  
22 how this would play out in an appropriate way for

1 the neighborhood.

2 Second, I'm very concerned about a license to  
3 serve alcohol until 2:00 a.m. on weekends and  
4 3:00 a.m. on weekends, open air, summer garden,  
5 no sound mitigation plan, 200 feet according to  
6 the detail today, from a residential building.

7 And then third, I am concerned that the  
8 inability to sort out these details through our  
9 ABC Committee's process that has led to this  
10 point bodes poorly for how we would reconcile any  
11 issues that might come forward in the future.

12 Ideally this would have been sorted out along the  
13 way. I understand it's been challenging for  
14 everyone, but that would have been the format to  
15 sort it out.

16 If the Board does decide to grant the license  
17 in the Board order, I think it's important to  
18 think about that we all have the same  
19 understanding of a comprehensive security plan.  
20 I do not find the existing draft comprehensive,  
21 and I hope that if this moves forward it truly  
22 becomes a comprehensive plan.

1 I would also like specific language that asks  
2 the applicant to commit to working with the  
3 community if future issues arise.

4 Specific to the security and logistics plan  
5 as it stands, I think many people who have spoken  
6 before me have highlighted questions. So I won't  
7 repeat my same questions. But I will say that  
8 the site plan as provided by the applicant, does  
9 not provide the level of detail to really  
10 understand how this will all work. Coming in to  
11 this meeting I had questions about the entrances,  
12 how things would work, where would taxi drop offs  
13 occur.

14 One thing that has not been raised thus far  
15 is while it is fantastic that bikers are being  
16 encouraged, biking is not permitted between the  
17 11th Street bridge and the South Capitol Street  
18 Frederick Douglas Bridge, through Yards Park. So  
19 it's, sometimes people do do it. But to actually  
20 walk your bike that distance, and then sort of  
21 weave your bike, and it's unclear from the site  
22 map how it would work, to the bike parking,

1 again, perhaps a solution can be found but the  
2 details should already be in the plan.

3 The plan also talks about busy days, which I  
4 assume is synonymous with game days. But I want  
5 us to all understand what's the plan on game days  
6 or event days. I think people previously have  
7 raised the questions about parking. I'd like to  
8 know sort of -- flesh out, what does that  
9 passageway look like underneath the bridge to the  
10 adjacent parking in the event that guests are  
11 headed there.

12 And then the dog park, people would love a  
13 dog park. Don't get me wrong. But we need to  
14 understand, what is the pet waste management  
15 strategy and what happens if the pet waste is  
16 flowing into the river and into the licensed  
17 establishment? You've really got to think that  
18 through because that could become quite unsavory  
19 very quickly.

20 So there is a lack of specificity that I  
21 think would be required to even consider moving  
22 this forward.

1           On the hours piece, I think we've talked  
2 about the challenges with the rationale for  
3 extending past games. And I think that if that  
4 were the -- prior to Commander's commentary I  
5 think that if the applicant had worked through  
6 the ABC process maybe there would be some more  
7 alternatives on the table. Like, for example,  
8 perhaps guests could -- you wouldn't have any  
9 more enter, but you could exit a little after  
10 8:00 and I -- after 11:00. And I certainly don't  
11 think you need until 3:00 a.m. for staggering, so  
12 I find that whole argument quite challenging.

13           There's also no explanation for when people  
14 come out of the game, if they're coming towards  
15 the licensed area and the licensed area is at  
16 capacity, where do all these people go. You  
17 know, you could have quite a -- the people have  
18 navigated across Potomac Avenue and now they're  
19 sort of stuck in this area. So I think there are  
20 a lot of challenges around pedestrian and public  
21 safety related to the site that are not fully  
22 developed and solutions have not been provided.

1           Around noise there's no sound mitigation  
2 plan. This no complaint policy, I probably won't  
3 be the first call, but eventually the ANC  
4 Commissioner gets calls as well. And there's no  
5 detail on presumably the game is going to be on  
6 some kind of TV. So there's going to be  
7 projected speakers. How is that going to work?  
8 Which way are they going to point?

9           And sort of finally, the applicant is very  
10 consistent in saying they are not recreating the  
11 Bull Pen, which we greatly appreciate. But at  
12 the same time then why are the late night hours  
13 so critical, and why then is the applicant cite  
14 the Bull Pen is the model in terms of the hours  
15 that they want to follow.

16           The comparisons to Blue Jacket and Justin's,  
17 I don't think are there. It's a much smaller  
18 outdoor space. Those are restaurants. Those  
19 locations are also in my non-traffic expertise  
20 understanding, they're not on the -- they are on  
21 the way you would go when exiting the stadium to  
22 then go to public transportation. And they're

1 not on the water. So those are different  
2 establishments and I don't think there is a  
3 compelling argument that this site should be  
4 given hours the same as those solely because  
5 those other establishments have a certain set of  
6 hours. Thank you.

7 Q Today, 10:00 p.m. shutdown for noise at  
8 night. Would you support that?

9 A I would be open to considering any  
10 options that would make this work for the  
11 community if the Board decides to proceed.

12 Q Yeah. Comment about the music. Yes, we  
13 don't have -- I've said this before. We don't  
14 have an entertainment endorsement with the  
15 proposal, but as you said, they are permitted to  
16 have music and television and movies. So those  
17 would create noise. So in your judgment what  
18 kind of sound mitigation would be required?

19 A Well, I think it's actually incumbent  
20 upon the applicant to really think about an  
21 acoustics plan. And in the site plan it should  
22 show where they're going to be and what the

1 speakers are. Even if it ends up sort of being  
2 changed as we learn more information and you run  
3 the organization. There doesn't seem to be a  
4 baseline that we can truly evaluate and think  
5 through the impacts on the community.

6 Q Thank you. I agree that the security  
7 plan is not adequate. Would you recommend that  
8 it be in conformance with what Title 25 requires?

9 A I don't know what Title 25 requires, but  
10 if it's a regulation I think we should be in  
11 accordance with it.

12 Q Yes, [speaking off microphone]. Yes,  
13 which is in the proposal. Yes.

14 As I said, I neglected to ask about the  
15 children's area. Could you comment on that, and  
16 I haven't asked, will that be fenced in or within  
17 the fencing area? But what is your -- any  
18 concern about that?

19 A Sure. On one hand for non-game days, as  
20 a neighborhood location, a children's area would  
21 be great. I don't see it on the site plan. So  
22 it's hard for me to understand how it works, how

1 you maintain its perimeter, how people can watch  
2 their children while they're enjoying the Bardo  
3 beer, or if that's not the way it's supposed to  
4 play out. So it's hard for me to really  
5 understand what it looks like.

6 Q Well, thank you. I think those are my  
7 questions.

8 CHAIRPERSON ANDERSON: Mr. Stewart.

9 MR. STEWART: Yes.

10 CROSS-EXAMINATION

11 BY MR. STEWART:

12 Q So there is a cooperative agreement that  
13 the ANC voted six, nothing to support, right?

14 A I don't think the vote was six nothing.  
15 I have to double-check.

16 Q Okay.

17 A And Katie is really going to be the best  
18 person to address those questions. When it came  
19 to the --

20 Q I don't know if Katie is going to have  
21 time.

22 CHAIRPERSON ANDERSON: Let her --

1 MR. STEWART: Okay.

2 CHAIRPERSON ANDERSON: Let her finish  
3 answering her question, sir.

4 THE WITNESS: I know, my understanding  
5 from my representatives on the ABC Committee is  
6 they were working through multiple iterations.  
7 There was a key meeting, ABC Committee, leading  
8 up to when the ANC take a position that Mr.  
9 Stewart was not in -- I think you weren't in the  
10 country for. And there was much back and forth  
11 about different drafts. If you look in the  
12 materials submitted, the cooperative agreement  
13 that was submitted as part of the investigator's  
14 report had different terms from the cooperative  
15 agreement and some materials provided by the  
16 applicant. So you can tell this is an ongoing  
17 drafting process.

18 BY MR. STEWART:

19 Q Right. But there is a cooperative  
20 agreement that was voted on by ANC that you  
21 people said if I signed then you would drop your  
22 protest.

1           A     So there is not an agreement that was  
2 voted on by the ANC. There were scenarios that  
3 were voted on by the ABC Committee, which acts as  
4 an advisor to the ANC. The ANC votes at the  
5 Commissioner's discretion. It is true that I  
6 sent you an e-mail saying, please sign the  
7 cooperative agreement. It was a way to tell you  
8 we need to engage in order to --

9           Q     Hold on. I was there at the ANC meeting.

10          A     Uh-huh.

11          Q     You voted six to zero to one to protest.  
12 And then right after that you voted six to zero  
13 to one to support a cooperative agreement that  
14 Coralie had drawn up.

15          A     We did vote to protest, that is correct.  
16 I have to look at the minutes to know exactly --  
17 did we vote on the cooperative agreement?

18                MS. FARLEE: Yes.

19                THE WITNESS: Okay.

20                MR. ALBERTI: Well, you cannot --

21                THE WITNESS: Oh, I'm sorry. I  
22 apologize.

1           CHAIRPERSON ANDERSON: Well, you -- ask  
2 your questions, sir.

3 BY MR. STEWART:

4           Q     So what I'm saying here is there is this  
5 cooperative agreement that you voted on six to  
6 zero to one, ANC, to support. This cooperative  
7 agreement looks just like my application. The  
8 only difference between that cooperative  
9 agreement that you voted on to support, and my  
10 application is the hours. So I don't understand  
11 where all these other concerns all of a sudden  
12 popped up from the --

13           CHAIRPERSON ANDERSON: Well, Mr.  
14 Stewart --

15           MR. STEWART: I have an agreement  
16 already.

17           CHAIRPERSON ANDERSON: Mr. Stewart, one  
18 thing what I'll ask you to do, you documented the  
19 part of the record, so why don't you -- it's one  
20 of the exhibits. It's in the record. So why  
21 don't you pull the document and ask her -- first  
22 of all, one of the things you can do is to ask

1 her if she recognize the document. Also ask her  
2 was this the document that was voted for pass.

3 MR. STEWART: Okay.

4 CHAIRPERSON ANDERSON: So rather than  
5 being in an argument --

6 MR. STEWART: Okay. That's fine.

7 CHAIRPERSON ANDERSON: -- with her, I'm  
8 saying it's a part of the record so if you can  
9 get a copy of the document you can ask her about  
10 this document, if she recognizes it, and have her  
11 explain that.

12 MR. STEWART: That makes sense. I don't  
13 have a copy right here with me so I'll --

14 CHAIRPERSON ANDERSON: Is that something  
15 that you want to do, sir?

16 MR. STEWART: No, I will just move to  
17 question number 2.

18 CHAIRPERSON ANDERSON: All right. Fine.

19 BY MR. STEWART:

20 Q The ANC committee, subcommittee run by  
21 Coralie, voted four to three not to protest this  
22 application. The ANC turned around and voted six

1 to zero to protest it. Why didn't you people  
2 listen to the subcommittee? Why did you choose  
3 to protest when they said not to?

4 A My job is to represent my constituents.  
5 We have an ABC Committee to provide an advisory  
6 role. We appreciate their expertise, and we make  
7 an independent judgment during the ANC Committee  
8 meetings.

9 Q Okay. Fair enough.

10 MR. STEWART: I think that's all the  
11 questions I have.

12 MR. ALBERTI: Pardon?

13 MR. STEWART: That's all the questions I  
14 have.

15 MR. ALBERTI: Okay.

16 CHAIRPERSON ANDERSON: Any board members  
17 have any questions that they wanted to ask the  
18 witness?

19 MR. ALBERTI: Yeah, I do.

20 MS. MILLER: Yeah, I had --

21 CHAIRPERSON ANDERSON: Go ahead. Go  
22 ahead, Ms. Miller.

1 MS. MILLER: Is it evening yet? It's  
2 dark. Okay. Good evening. Okay. I just want  
3 to ask you, you've raised I thought basic  
4 important questions here, you know, about the  
5 pedestrian safety plan, an acoustics plan, more  
6 comprehensive security, et cetera.

7 So my question is, as an ANC commissioner  
8 did you raise these questions earlier in the  
9 process of talking with the applicant?

10 THE WITNESS: Commissioner Litsky and I,  
11 and perhaps another commissioner met with the  
12 applicant much earlier in the process, during the  
13 summer. And the applicant was not ready yet. I  
14 mean, sort of -- and this is not meant to be  
15 derogatory, but it will be exemplary. Like the  
16 applicant will say, well, I have a dog. And  
17 we're like, well, listen, you need something  
18 more. And I think I literally said something to  
19 the effect of, this is the time where you need to  
20 sort of reach into your Type A personality and  
21 sort of pull out all the details.

22 And that's when Commissioner Litsky gave

1 him a copy of the Cherry Blossom Festival  
2 security plan, to use as a model. So we knew we  
3 had a big gap between what was initially thought  
4 through by the applicant and where it needed to  
5 be. Was I then sort of in the weeds week to week  
6 or month to month? No, that is led by the ABC  
7 Committee.

8 MS. MILLER: Okay.

9 THE WITNESS: But we made it very clear  
10 in the beginning that a lot more needed to be  
11 done.

12 MS. MILLER: Okay. So I don't mean in  
13 the weeds, but what I hear is -- well, first of  
14 all, you know, I hear different things in this  
15 hearing so certainly I hear the applicant saying,  
16 you know, when somebody told me this I responded  
17 and I then corrected the problem or addressed the  
18 problem. But now I'm hearing -- I mean, for our  
19 purposes or whatever, by the time you get to the  
20 hearing it would be good if these are good  
21 questions if they're raised earlier and the  
22 applicant had a chance to address them before the

1 hearing.

2           So I guess my question is, I don't know  
3 when you voted or whatever, but you said like,  
4 okay, and it's a reasonable thing to say like,  
5 well, what's the acoustics plan. My question is,  
6 before the hearing do you say to the applicant,  
7 what's your acoustics plan there? You've got  
8 these gaps. I don't mean way back in July.

9           THE WITNESS: Sure. So as I understand  
10 it the ABC Committee has raised the issue of  
11 noise. I do not think they used the specific  
12 language of an acoustics plan.

13           MS. MILLER: Okay. But I mean, for  
14 instance, it's one thing if you think like, you  
15 know what, this isn't going to work. It's open  
16 space, 750 people, it's not going to work,  
17 there's nothing to talk about, versus well, it  
18 might work if he had a little better security.  
19 Or it might work if I know what the acoustics  
20 plan is.

21           And so I mean, and I'm probably repeating  
22 myself, but was there an opportunity where these

1 specific concerns were raised to the applicant  
2 before the hearing; you know, before it was like,  
3 okay, we're going to hearing.

4 THE WITNESS: So I am not sure that the  
5 applicant sort of understood the underlying level  
6 of concern that we have had. I think it is -- we  
7 think we have clearly communicated. I mean,  
8 there's a very challenging precedent on the site.  
9 The ANC has been sort of concerned about how this  
10 will play out. We talk about, what's the level  
11 of detail, what's the plan. There's been a lot  
12 of confusion about whether the applicant is still  
13 talking to the ABC Committee after they missed a  
14 meeting. The reason I sent that e-mail is, I  
15 didn't know for sure if he was going to show up  
16 and sign or not. The ABC Committee told me that  
17 he wasn't, but nobody really knew.

18 So when I think about what it takes to  
19 build sort of a plan for an operation, it was  
20 very clear to me that we've been asking the kinds  
21 of questions that would lead you down a path that  
22 you need to do more. But how the applicant sort

1 of literally understood that, I don't know.

2 MS. MILLER: Okay. So do I understand  
3 your position correctly that you're not  
4 necessarily opposed to the concept, but you're  
5 not satisfied yet because certain issues haven't  
6 been addressed to your satisfaction such as  
7 security and noise and pedestrian safety and the  
8 bike thing, or whatever?

9 THE WITNESS: That is correct. When the  
10 idea was first brought to me by MRP Realty, I did  
11 a Facebook post, I talked to people about it.  
12 Originally had batting cages. I was very  
13 excited. And then as things sort of became clear  
14 that the details were not worked out, frankly I  
15 started to lose operational confidence. But  
16 that's sort of a separate piece.

17 But no, I don't think it is impossible to  
18 have a successful operation here. And I think if  
19 we could see what a fully comprehensive plan  
20 would look like, then we could make a better  
21 evaluation. But I'm very uncomfortable with as  
22 it stands right now, figuring out how it's going

1 to impact the neighborhood.

2 MS. MILLER: Okay. Thank you.

3 CHAIRPERSON ANDERSON: Yes, Mr. Alberti.

4 MR. ALBERTI: Commissioner, good evening.

5 I think it is evening because it's probably about

6 the time of happy hour. I want to thank you for

7 your service. As a former ANC Commissioner I

8 know that you would be called if there was noise.

9 So first of all, what is your SMD? Where

10 does it extend to? Sort of describe the

11 boundaries for me so I know what area you

12 represent.

13 THE WITNESS: Sure. So it's most of Navy

14 Yard, although it does not include Nat's Stadium.

15 So I do not have the Bull Pen, for example.

16 MR. ALBERTI: Okay.

17 THE WITNESS: It runs south of Potomac

18 Avenue and then it kind of -- it goes up 1st and

19 then it weaves around a little bit where some of

20 the streets are being redeveloped.

21 MR. ALBERTI: Is it east of South Capitol

22 Street?

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1 THE WITNESS: Yes, but not everything  
2 east of South Capitol Street.

3 MR. ALBERTI: Okay. Okay.

4 THE WITNESS: So Commissioner Cloyd  
5 (phonetic) has a small portion.

6 MR. ALBERTI: Okay. So I just sort of --  
7 okay. So you're not -- I'll ask someone else  
8 about the area west of -- because I was curious  
9 about parking. Do you know anything about the  
10 parking west of South Capitol Street?

11 THE WITNESS: Not specifically. The  
12 entire neighborhood is tight for parking, but no,  
13 that's Commissioner Hamilton's district.

14 MR. ALBERTI: Okay. Is Commissioner  
15 Hamilton here?

16 THE WITNESS: She is not.

17 MR. ALBERTI: Okay. Do you know anything  
18 about the street parking there; restrictions on  
19 street parking?

20 THE WITNESS: I assume it's sort of RPP,  
21 Ward 6, but I can't -- I couldn't give you exact  
22 details.

1           MR. ALBERTI: Which means what? RPP Ward  
2 6 means?

3           THE WITNESS: Ward 6 residents can  
4 usually park unlimited.

5           MR. ALBERTI: Okay. Okay.

6           THE WITNESS: It's probably two-hour. I  
7 think some of the signs say no entrance on game  
8 days or some -- I think the Nationals had  
9 referenced this earlier. There are some game-  
10 specific parking rules.

11          MR. ALBERTI: Okay. Great. Thank you.  
12 So this area, we have some new residents going in  
13 just 200 feet east of the proposed establishment.  
14 I'm a little confused between those residences  
15 that will be occupied beginning mid-summer, and  
16 the establishment. Is there another planned  
17 development there?

18          THE WITNESS: So my understanding is that  
19 there is the entire Florida Rock site.

20          MR. ALBERTI: Right.

21          THE WITNESS: And it's being developed in  
22 phases.

1 MR. ALBERTI: Okay.

2 THE WITNESS: And it's all owned by MRP  
3 Realty. And the first phase is Dock 79, which is  
4 the residential building that people are  
5 referring to. As a function of both the phasing  
6 of the construction and the implications of the  
7 redoing of the Frederick Douglas Bridge, they had  
8 this sort of interim space where the Bardo site  
9 would be located that they're not planning to  
10 develop right now. But they want to bring people  
11 to the area, sort of --

12 MR. ALBERTI: Okay.

13 THE WITNESS: -- bring in as part of the  
14 residential building.

15 MR. ALBERTI: So other than that second  
16 phase you spoke of there is no other residents,  
17 there's no other interim set of residential  
18 buildings being built there? Because someone  
19 talked about, well pretty soon there would be one  
20 residence within 100 feet.

21 THE WITNESS: So I think they're talking  
22 about phase 2. So phase 1 is Dock 79. And

1 then --

2 MR. ALBERTI: Phase 2 is where?

3 THE WITNESS: I believe, and I'm not an  
4 expert on this, I believe it's where the --

5 MS. FARLEE: Look at Exhibit 1.

6 THE WITNESS: If you look at the site  
7 map.

8 MR. ALBERTI: All right.

9 THE WITNESS: So Dock 79 is sort of to  
10 the right of --

11 MR. ALBERTI: Right.

12 THE WITNESS: So this parking lot for new  
13 construction --

14 MR. ALBERTI: So where he has labeled,  
15 where the applicant has labeled, "Parking lot for  
16 new construction," are there residential  
17 buildings being planned for that area?

18 THE WITNESS: I believe so, because  
19 eventually the entire site is residential  
20 buildings.

21 MR. ALBERTI: No, I understand. But I'm  
22 just talking about short time because when --

1 THE WITNESS: I believe so.

2 MR. ALBERTI: When the entire site gets  
3 built --

4 THE WITNESS: Right. This is moot.

5 MR. ALBERTI: -- the applicant is not  
6 going to be there, so.

7 THE WITNESS: I believe so. I don't know  
8 the timing on that --

9 MR. ALBERTI: Okay.

10 THE WITNESS: -- parcel.

11 MR. ALBERTI: All right. So potentially  
12 there may be more residents even closer?

13 THE WITNESS: Right. I think there  
14 likely -- it's quite potential there will be  
15 overlap.

16 MR. ALBERTI: So, you've addressed this  
17 but I just want to put this out there. I mean,  
18 the applicant really didn't talk about -- did not  
19 address sound at all. And so but obviously  
20 that's a concern to you.

21 THE WITNESS: Yes.

22 MR. ALBERTI: Has the applicant told you

1 specifically what they're going to do in terms of  
2 amplified sound, what kind of amplified sound  
3 they're going to have?

4 THE WITNESS: The applicant has not told  
5 me. Coralie, or Committee Chair, I believe  
6 either via e-mail or in conversation it says that  
7 they are allowed to have recorded music.

8 MR. ALBERTI: They are. But has  
9 anyone -- do you know if the applicant has  
10 spelled that out in any detail?

11 THE WITNESS: No. He referenced sound in  
12 his plan because he talked about the decibel  
13 abatement.

14 MR. ALBERTI: Right. Right. But he  
15 didn't tell you -- he hasn't told you --  
16 described how it's going to be done?

17 THE WITNESS: He has not.

18 MR. ALBERTI: Great. Thank you. Did he  
19 ever sign a settlement agreement with the ANC?

20 THE WITNESS: No, there's no signed  
21 settlement agreement with the ANC.

22 MR. ALBERTI: Great. Thank you. So

1 there was some reference, Board Member Miller  
2 referenced the fact that, you know, possibly you  
3 should have raised some topics with the licensee.  
4 Would it surprise -- are you aware of -- are you  
5 aware of what transpired at past hearings with  
6 this applicant, for his past applications that  
7 were similar to this?

8 THE WITNESS: I have read the mediation  
9 notes and I read the Dos Ventures materials that  
10 were included in the package.

11 MR. ALBERTI: But we specifically had a  
12 fact finding with this -- on a previous --

13 THE WITNESS: Yes.

14 MR. ALBERTI: -- in a coronation of this  
15 application we had a hearing with this applicant.  
16 Are you aware of what transpired there?

17 THE WITNESS: I read everything I  
18 received and I believe that I received that. I  
19 want to make sure I'm referencing the right  
20 things.

21 MR. ALBERTI: So it wouldn't surprise you  
22 to -- it wouldn't surprise you if I told you we

1 talked about sound, we talked about pedestrian  
2 safety.

3 THE WITNESS: Right.

4 MR. ALBERTI: We talked about all of  
5 these issues that I guess the ANC would have been  
6 concerned about. All right. So he would have --  
7 it wouldn't surprise you that he would have been  
8 aware that those were issues even before your  
9 June -- well, even before your fall conversations  
10 with him, right?

11 THE WITNESS: Correct.

12 MR. ALBERTI: All right. Thank you. And  
13 I'm going to sort of make a statement. Just FYI,  
14 as Commissioner you need to know this. If he  
15 gets a license --

16 THE WITNESS: Uh-huh.

17 MR. ALBERTI: -- we're not licensing the  
18 dog park. He can't have alcohol out there. No  
19 one can bring a drink out to the dog park because  
20 he's not applying for the dog park. He said it  
21 right here. That's not part of his licensed  
22 property. No one can carry a drink out there.

1 But I will point out to you, because you are an  
2 ANC Commissioner and I understand your  
3 responsibilities, Department of Health, I  
4 believe, or some other agency would be interested  
5 in what his plans are for a dog park because you  
6 mentioned waste management and all that. I'm  
7 sure there's an agency that would be concerned  
8 about that. I have no further questions.

9 THE WITNESS: Thank you.

10 CHAIRPERSON ANDERSON: Mr. Short.

11 MR. SHORT: Good evening, Commissioner  
12 Fascett.

13 THE WITNESS: Good evening.

14 MR. SHORT: I guess my question is, did  
15 you hear the question earlier about  
16 appropriateness?

17 THE WITNESS: Yes, sir.

18 MR. SHORT: What do you understand about  
19 that question and as far as ABRA rules are  
20 concerned.

21 THE WITNESS: I'm sorry, as far as what?

22 MR. SHORT: ABRA rules, the ABC rules.

1 And peace, order, and quiet, and appropriateness  
2 for a community, and does this particular  
3 applicant fit that model for your community?

4 THE WITNESS: That's a great question. I  
5 think that as the applicant's application stands  
6 right now it does not fit the appropriateness  
7 standard for the neighborhood.

8 MR. SHORT: Can you tell us why?

9 THE WITNESS: Because we cannot have  
10 reasonable certainty that we're going to have  
11 peace, order, and quiet, that people are going to  
12 be safe entering and exiting the property, and  
13 that we have a sort of constructive way to work  
14 with the applicant if future issues arise.

15 MR. SHORT: Public safety in your  
16 community, in your ANC, or dealing with this, how  
17 do you think it will affect public safety if this  
18 applicant is granted a license?

19 THE WITNESS: I think it is also a large  
20 function of what is put in the board order. I  
21 think that if this is really done well and there  
22 are the appropriate resources to sort of provide

1 this public safety, whether it's security guards  
2 and pedestrian -- some kind of escort to make  
3 sure people do what they want, move as they  
4 should with traffic plans, and the hours are  
5 reasonable, then I think it is manageable. But  
6 absent those things I think there is substantial  
7 downside risk.

8 MR. SHORT: My last question. What hour  
9 would be acceptable to your ANC, with your  
10 community, should this applicant be granted  
11 the --

12 THE WITNESS: So the working proposal  
13 from the ABC Committee is until 11:00 p.m., and I  
14 think that's very reasonable.

15 MR. SHORT: Thank you. That's all I  
16 have, Madam Chair. Mr. Chairman.

17 CHAIRPERSON ANDERSON: Does -- have any  
18 board member's questions?

19 MS. MILLER: Mr. Chairman, I just have  
20 one question just because I didn't get this  
21 answer from a previous witness.

22 CHAIRPERSON ANDERSON: All right.

1 MS. MILLER: Just real quickly.

2 CHAIRPERSON ANDERSON: Sure.

3 MS. MILLER: In case she knows. Do you  
4 happen to know about the new residential  
5 building, whether it's going to have sound  
6 proofed windows or not?

7 THE WITNESS: I do not know.

8 MS. MILLER: You don't know that either.  
9 Okay. Thank you. Thank you, Mr. Chairman.

10 CHAIRPERSON ANDERSON: You're welcome.  
11 Ms. Farlee, do you have any redirect based on the  
12 questions that the Board asked?

13 MS. FARLEE: No, I'm fine. Thank you.

14 CHAIRPERSON ANDERSON: Thank you. Do you  
15 have any other witnesses, Mrs. --

16 MS. FARLEE: One more. Thank you.

17 CHAIRPERSON ANDERSON: Who is your  
18 witness? Step forward.

19 MS. FARLEE: Katherine Brown.

20 CHAIRPERSON ANDERSON: Ms. Brown, can you  
21 raise your right hand, please?

22 KATHERINE BROWN, SWORN

1           CHAIRPERSON ANDERSON: Thank you. Have a  
2 seat. Your witness, Ms. Farlee.

3                           DIRECT EXAMINATION

4 BY MS. FARLEE:

5           Q Yes, Katherine, Ms. Brown, tell us what  
6 your position is on the -- in regard to the ABC  
7 Committee and I want to ask you some other  
8 substantive questions.

9           A My name is Katherine Brown. I sit on the  
10 ABC Committee, and I represent Meredith Fascett's  
11 portion of the ABC --

12                   MR. SILVERSTEIN: Please speak up.

13                   THE WITNESS: It's SMD 07, which is --  
14 goes from, I think the middle of 1st Street over  
15 to the eastern half that covers all the  
16 waterfront and the arts park area. So all those  
17 shops and residences, which would be on the east  
18 side of the proposed Bardo Big River location.

19 BY MS. FARLEE:

20           Q And what --

21                   MS. FARLEE: I scheduled Ms. Brown as a  
22 witness for two reasons. She knows in detail the

1 establishments that have been referenced by Mr.  
2 Stewart along the way today. And secondly she's  
3 spent some time at the Bladensburg establishment  
4 that Mr. Stewart runs.

5 BY MS. FARLEE:

6 Q The questions about why Mr. Stewart wants  
7 the Bardo establishment at 25 Potomac Avenue to  
8 be equal to the other establishments has been  
9 mentioned. The Justin's and the brewery, et  
10 cetera. What are those differences?

11 A Well, sure. In terms of hours, though, I  
12 think it's important to point out while the  
13 licenses may grant hours until say, 3:00 a.m. in  
14 the case of Blue Jacket, the restaurant is  
15 actually not open until 3:00 a.m. In fact, it  
16 closes at 2:00 a.m. on Friday and Saturday and I  
17 believe closes at 1:00 on Sunday.

18 Justin's Café actually closes at 10:00 p.m.  
19 on Sunday. And I think it's also important to  
20 point out that while Blue Jacket has about 80  
21 people on its sidewalk café, the sidewalk café is  
22 actually covered. There is like an awning in

1 place that actually covers it. So there is noise  
2 mitigation that exists with respect to Blue  
3 Jacket's outdoor area. So I think they are  
4 demonstratively different, in addition. None of  
5 them are just sort of an open area where people  
6 are congregating near a restaurant. So I think  
7 that's all that I would have to add to what  
8 Meredith and others said.

9 Q And how many seats does Justin's have?

10 A Twenty-four, although I've never seen --

11 Q Sixteen.

12 A Sixteen? Oh, I got it wrong. I thought  
13 it was 24. But there are not that many people  
14 out there generally, ever. It's --

15 Q And another difference between this  
16 proposed DT license and those --

17 A Sure. So this would be a different class  
18 of license. It's obviously a DT. It would not  
19 be serving liquor. I think originally Mr.  
20 Stewart had come in and suggested to us that he  
21 was interested in perhaps having a distillery.  
22 It is my understanding that under Title 27 of the

1 Federal Law that an outdoor distillery is  
2 unlawful. I don't know that for certain and I'm  
3 certainly not an expert, but that's -- so I think  
4 one of the things he's submitted to the ABC Board  
5 is that he is very happily -- you know, he's  
6 decided he's not going to have this distillery.  
7 I don't know that he could have his distillery.

8 Q But the other difference is, I believe  
9 these are restaurants and --

10 A Yeah, these are restaurants. As I said,  
11 they are restaurants. This would only have food  
12 trucks.

13 Q Serve actual food.

14 A And the restaurants are, you know,  
15 freestanding in the community and I would say I  
16 was troubled to learn today, because it is the  
17 first time I'm learning it, that the proposed  
18 Bardo Big River location would not be open  
19 between March and December. And when it was  
20 brought to the ABC Committee that is not what we  
21 were told.

22 So where as Justin's Café and Blue Jacket are

1 restaurants that are available, you know, when  
2 baseball is not in season to serve the  
3 restaurants, or to serve the residents of the  
4 community, obviously Bardo Big River seems to be  
5 primarily set up based on what Mr. Stewart said  
6 today, to serve the baseball crowd. So that's  
7 sad for me anyway, as a neighborhood resident.

8 Q Is there anything else you'd like to add  
9 about the Southeast community that you know, the  
10 restaurants there and the licenses; licensed  
11 establishments?

12 A So in comparison to my observations when  
13 I visited the Bladensburg Northeast location --

14 CHAIRPERSON ANDERSON: That's not the  
15 question. If you're going to talk about the --

16 MS. FARLEE: I'll talk about Bladensburg  
17 next. Anything you want to --

18 THE WITNESS: No, I have nothing further  
19 to add.

20 BY MS. FARLEE:

21 Q Okay. Let's go to the Bladensburg site  
22 then. You spent several hours there. What was

1 your experience?

2 A Sure. It's certainly a smaller set up  
3 than what it would be at the proposed Bardo Big  
4 River location. When I came to the -- Mr.  
5 Stewart had invited that the ABC Board, who was  
6 considering his application should go to his  
7 venue, so I did go. There was no security when I  
8 went there. There was no one checking IDs at the  
9 entrance to the Bardo location. I simply walked  
10 in to the location and was able to walk straight  
11 up to the bar.

12 I think there was maybe one person who  
13 appeared to be on staff. Mr. Stewart was  
14 actually sitting at the bar. He -- there is a  
15 dog on premises which I think he had informed he  
16 does perform some security function and I was --  
17 while I was petting the dog he informed me that  
18 in fact the dog had bitten people. I don't know  
19 if that was a joke or not, but I have to say that  
20 while the tables from being outside, the picnic  
21 tables were somewhat warped, I had a good time  
22 there. So I can't say that I didn't enjoy myself

1 at his location. But it certainly -- I don't  
2 know if it -- if it were, you know, not even to  
3 be open for some part of the year, and if it were  
4 to have the same condition you know, furniture  
5 there, that that would be an amenity to the  
6 neighborhood. So.

7 Q I'd like to show you his -- the ABRA  
8 investigator's Exhibits 12 and 13, which are the  
9 Bardo site. The question is, would they be an  
10 amenity for the Southeast?

11 A As I said, I don't believe so.

12 Q And the second exhibit it shows the  
13 establishment up against the co-op apartment  
14 building.

15 A Yes, I agree that that's what it appears  
16 to show.

17 Q Thank you. Well, you said that Mr.  
18 Stewart was the manager on duty at the time you  
19 were there?

20 A I'm not aware that he was the manager on  
21 duty. I believe he was eating at the bar. So he  
22 may have actually been the manager on duty. I'm

1 not sure. There was a gentleman behind the bar  
2 when I was there who was serving.

3 Q From your observation there do you have  
4 any concern or question about how the Potomac  
5 Place -- Potomac Avenue bar would be managed?

6 A I guess my sort of concern would be more  
7 of an observation that I think this would be a  
8 much larger establishment that he is seeking to  
9 run right there on the riverfront. And knowing  
10 as I do, living in the neighborhood, how large  
11 the baseball crowds are and how difficult it is  
12 already for traffic to be managed coming out of  
13 the stadium, I would have concerns that maybe  
14 translating an operation which you know, seems to  
15 be a very good operation for the Bladensburg Road  
16 location, to sort of the -- a location behind the  
17 National Stadium with huge crowds, where you  
18 would have to have a very comprehensive security  
19 plan, whether at this time the applicant has  
20 everything in order to manage that type of an  
21 operation that I think would be necessary to  
22 protect safety of residents and patrons to the

1 Bardo Big River location.

2 Q The Committee, ABC Committee vote was  
3 mentioned a couple times. The vote.

4 MR. SILVERSTEIN: Please speak up.

5 BY MS. FARLEE:

6 Q The vote at the ABC Committee, I believe  
7 it was October maybe, but I'm not certain. There  
8 was a tie. Can you explain what happened? Do  
9 you remember?

10 A Sure. I don't have the best  
11 recollection. I wish I had the minutes with me.  
12 But essentially there were certain members of the  
13 ABC Committee -- first of all, Mr. Stewart didn't  
14 show up. So that's the first thing I need to  
15 say. And we were not aware of why. And there  
16 were some concern on members of the committee's  
17 part that they believed that he just really  
18 wasn't engaging in the process, and that when he  
19 came before us many times he would change what  
20 his plans were, and that we had trouble sort of  
21 keeping up. And in one of the Committee members,  
22 I think at one point in time, asked Mr. Stewart,

1 did he have a business plan. It got to that  
2 point.

3 So there was a tie and, Coralie, you broke  
4 the tie and the -- but the vote was that if the  
5 applicant would agree to a CA and to continue in  
6 a CA process and come to an agreement regarding a  
7 CA that we could accept, that we would recommend  
8 that that CA be brought to the ABC Board and not  
9 protest it. But in the event that we couldn't  
10 come to some kind of an agreement, and I think  
11 the idea was, there were a lot of holes even in  
12 the CA then, and we had hoped to address them  
13 with the applicant coming before us, he didn't  
14 show up, we didn't get to address them, and we  
15 were hopeful that Coralie, because she's been  
16 doing this a very long time, might be able to  
17 help us redress that. I think we didn't want to  
18 give up on the idea of there being a business in  
19 that particular area. But I think probably given  
20 the state of the application and sort of where we  
21 are, that maybe this might not be the applicant  
22 for that particular area. And this particular

1 application might not be appropriate for the  
2 neighborhood.

3 Q Well, I want to remind, if I can make a  
4 statement, we were constrained by the protest  
5 date. We had to get some motion to the ANC, from  
6 the committee.

7 A I don't recall that but I'm sure --

8 Q By the time of the protest date.

9 A -- that's true.

10 Q Thank you. Is there anything else you'd  
11 like to add?

12 A No.

13 Q Thank you.

14 CROSS-EXAMINATION

15 BY MR. STEWART:

16 Q So I just have a question. So you had a  
17 CA, I guess that's what they're called now. Or  
18 SA. Is that what they're --

19 A CA, I believe.

20 Q Okay.

21 MS. FARLEE: We tried to call it  
22 cooperative.

1 MR. STEWART: Okay.

2 MS. FARLEE: It may be settlement by this  
3 time.

4 MR. STEWART: Okay.

5 BY MR. STEWART:

6 Q So you had a CA and you took it to the  
7 ANC and they voted on it, correct?

8 MR. SILVERSTEIN: Who is testifying right  
9 now, Mr. Chairman?

10 MR. STEWART: I'm asking her --

11 MR. SILVERSTEIN: He's getting to a  
12 question.

13 CHAIRPERSON ANDERSON: Hold on a minute,  
14 Mr. -- let him finish, sir.

15 BY MR. STEWART:

16 Q We had a CA that you guys agreed on. You  
17 took it to the ANC, they voted on it, and they  
18 approved it, right?

19 A I can't say I did not go to that ANC  
20 meeting.

21 Q Oh, okay. Well, then that's fine. You  
22 don't have to --

1           A     So I don't know that I can help you out  
2 there.

3           Q     Okay. You don't have to answer then,  
4 since you weren't there.

5           MR. STEWART: I think that's about my  
6 only question.

7           CHAIRPERSON ANDERSON: Do we have any  
8 questions by any board members?

9           MS. MILLER: Yeah.

10          CHAIRPERSON ANDERSON: Yes, Ms. Miller.

11          MS. MILLER: Just quickly.

12          MR. STEWART: I'm sorry, I did have one  
13 other question.

14          CHAIRPERSON ANDERSON: I'm sorry. Go  
15 ahead, sir.

16 BY MR. STEWART:

17          Q     I don't know if you were on the ABC  
18 Committee, but at the time, but the ANC had at  
19 least two cooperative agreements with the Bull  
20 Pen, correct?

21          A     I have only been on, I think, for like a  
22 year and a half. I do know that they've had

1 cooperative agreements with the Bull Pen. I  
2 understand it was a -- I understand just because  
3 my friend used to be on the ABC Committee, that  
4 it started off as a different type proposal, and  
5 then the proposal changed. But I'm not really  
6 familiar with that so I don't --

7 Q Okay. That's fine.

8 A -- know I can answer anything for you.

9 Q You weren't there. That's all right.  
10 That's my only question.

11 CHAIRPERSON ANDERSON: Ms. Miller.

12 MS. MILLER: Good evening. So you're an  
13 ANC Commissioner?

14 THE WITNESS: No, I am an ABC  
15 Committee --

16 MS. MILLER: Oh, okay.

17 THE WITNESS: Meredith appointed me to  
18 represent her on the neighborhood ABC Committee.

19 MS. MILLER: Okay.

20 THE WITNESS: So we work on the same --

21 MS. MILLER: Okay. So you're not  
22 representing the ANC per se.

1 THE WITNESS: I am not.

2 MS. MILLER: Yeah. Okay. So but did you  
3 say something like you would like to see a  
4 business on that property?

5 THE WITNESS: I think there -- we were  
6 concerned that that space would be disused. I  
7 don't know though -- I will say, I don't know  
8 what the residential building has planned, this  
9 Dock 79. All the other residential buildings in  
10 the neighborhood actually have retail space on  
11 the bottom level. So it may be that it's a moot  
12 point because there may be retail opening up in  
13 the bottom of that building perhaps. I don't  
14 know. But that, I think, was perhaps the reason  
15 that we worked with the applicant for so long  
16 through so many meetings in the hope that you  
17 know, we might have something to present to the  
18 Board that we thought that they would accept.

19 I've read your fact finding and read your  
20 previous decisions on this particular space and  
21 understood that there were concerns. And I think  
22 the ABC Committee, with a view towards -- and

1 because my ANC member, I think, felt that it  
2 might be good to have something on that space.  
3 We tried to work with the applicant.

4 MS. MILLER: I just want to clarify. So  
5 as a member of the ABC Committee, did you come to  
6 the conclusion that it would be good to have a  
7 non-alcoholic establishment business on the  
8 property. Or you -- or just any business in  
9 general? Just some business? I just want to  
10 understand what you --

11 THE WITNESS: I think that we were  
12 thinking that it would be good to have space be  
13 used that would otherwise be disused.

14 MS. MILLER: And have there been other  
15 proposals that are non-alcohol?

16 THE WITNESS: Not to my knowledge, but an  
17 additional business has opened up. Buffalo Wild  
18 Wings was an applicant that came in. It's now  
19 has the space right across from where the Bull  
20 Pen used to be. They have a huge space. It's  
21 not quite in that same area but we have had other  
22 applicants. The Renaissance Hotel is going up on

1 the one side of the National Stadium. They'll  
2 have apparently a pool bar on top of that and  
3 some other things. But nothing quite in that  
4 space.

5           Though there is a park that is going to  
6 be adjacent now to the Nationals Park that is  
7 under construction that will be being developed,  
8 which is where the Trapeze School of New York has  
9 moved. So.

10           MS. MILLER: Okay. Thank you.

11           CHAIRPERSON ANDERSON: And do we have any  
12 other board members with questions? Hearing or  
13 seeing none, Ms. Farlee, you have one last crack  
14 to have any questions based on questions the  
15 board members asked.

16           MS. FARLEE: Questions of --

17           CHAIRPERSON ANDERSON: Of her, based on  
18 questions that were asked from the Board members.

19           MS. FARLEE: No, I'm fine. Thank you.

20           CHAIRPERSON ANDERSON: Thank you.

21           MS. FARLEE: Well, I do want to -- well.

22           MR. ALBERTI: She has no more.

1 CHAIRPERSON ANDERSON: I don't think so.

2 Do you have any -- you can step down, ma'am.

3 Ma'am, you can step down.

4 Do you have any other witnesses?

5 MS. FARLEE: No, I don't.

6 CHAIRPERSON ANDERSON: All right.

7 MS. FARLEE: I want time to present my  
8 exhibits. I never did that.

9 CHAIRPERSON ANDERSON: Well, I'm going  
10 to --

11 MS. FARLEE: Okay.

12 CHAIRPERSON ANDERSON: I'll get to that.

13 MS. FARLEE: Thank you.

14 CHAIRPERSON ANDERSON: Now, do you rest?  
15 Do you rest your case, meaning that you have no  
16 other witnesses?

17 MS. FARLEE: Don't have another witness.  
18 That's right.

19 CHAIRPERSON ANDERSON: All right. There  
20 are several witness -- I'm sorry, documents that  
21 were presented in your PIF. Do you want to  
22 introduce those? Do you want those documents to

1 be a part of the record?

2 MS. FARLEE: Yes, and I explained,  
3 Exhibit 1 I made some errors, that it's always  
4 Potomac Avenue --

5 CHAIRPERSON ANDERSON: Hold on one --

6 MS. FARLEE: -- rather than Potomac  
7 place.

8 CHAIRPERSON ANDERSON: Hold on. Let me  
9 find. Hold on one minute, please.

10 MS. FARLEE: Exhibit 1, in about four  
11 places it should be Potomac Avenue. And  
12 that's --

13 CHAIRPERSON ANDERSON: So Exhibit 1 is a  
14 color picture. Do you want that to be a --

15 MS. FARLEE: Color picture, which shows  
16 the apartment building that we've been talking  
17 about at the end of this space.

18 CHAIRPERSON ANDERSON: All right.

19 MS. FARLEE: And the next view shows the  
20 way it was in the fall of 2005, the one that's  
21 supposed to be occupied as of July. It could be  
22 occupied.

1 CHAIRPERSON ANDERSON: So we have Exhibit  
2 1, which is a two-page document.

3 MS. FARLEE: That's right.

4 CHAIRPERSON ANDERSON: So you want to be  
5 that a part of the record.

6 MS. FARLEE: Yes, please.

7 CHAIRPERSON ANDERSON: Mr. --

8 MS. FARLEE: And at the bottom of that,  
9 the footnote there shows the other phases, but  
10 there's not -- no timing for the other phases of  
11 that property. The Florida --

12 CHAIRPERSON ANDERSON: So what other  
13 exhibits do you want to be a part of the record?

14 MS. FARLEE: Exhibit 2.

15 CHAIRPERSON ANDERSON: Okay.

16 MS. FARLEE: Which is a recommendation  
17 for a solution about pedestrian traffic -- I'm  
18 sorry, which is the problem of, this is --  
19 Exhibit 2 is the problem of a pedestrian crossing  
20 Potomac Avenue. The picture is taken from a  
21 window at the National Stadium, out towards the  
22 site that we're talking about. All those parked

1 cars on the site, we're talking about. You can  
2 see the Frederick Douglas South Capitol Street  
3 Bridge at the top of the photograph. And the  
4 pedestrian traffic would be crossing from where  
5 the -- down on the street level where this  
6 photograph is taken, across four or six lanes of  
7 traffic, across Potomac Avenue with those  
8 flexible floppy plastic things in the middle.

9 CHAIRPERSON ANDERSON: All right. So  
10 that's Exhibit 2. What other --

11 MS. FARLEE: Exhibit 3 is the proposed  
12 solution.

13 CHAIRPERSON ANDERSON: All right.

14 MS. FARLEE: For traffic Control. One  
15 example which apparently exists in Silver Spring,  
16 I don't know where, but that's for a solid  
17 barrier to manage pedestrian traffic across the  
18 street.

19 CHAIRPERSON ANDERSON: And, all right.  
20 Then, Exhibit 4?

21 MS. FARLEE: Exhibit 4 are two cases.

22 CHAIRPERSON ANDERSON: The investigative

1 history of their --

2 MS. FARLEE: Investigative history. The  
3 first one there is currently pending at ABRA, ABC  
4 Board, for a --

5 CHAIRPERSON ANDERSON: Well, you don't  
6 necessarily need to explain it. I mean, I just -  
7 - I see the documents. I just want to make sure  
8 that we are -- the documents that you want --

9 MS. FARLEE: Exhibit 5 I didn't get a  
10 chance to talk about. These were some complaints  
11 at the Bladensburg property.

12 MR. STEWART: I would object to that  
13 being that it's hearsay evidence.

14 MS. FARLEE: It's not hearsay. It's e-  
15 mails.

16 CHAIRPERSON ANDERSON: Hold up. Hold on  
17 a minute. Hold on a minute.

18 MR. STEWART: If Kathy Henderson wants to  
19 come in and testify about the problems she had,  
20 that's fine. But e-mails from Kathy Henderson  
21 don't work.

22 CHAIRPERSON ANDERSON: Well, I will say

1 that I will -- because they're e-mails, they are  
2 not -- we had no testimony on these documents and  
3 since he has objected to it, since he has object  
4 to the exhibit and there are no direct testimony  
5 on these e-mails, then I am going to exclude  
6 them, unless you can give me a reason why --

7 MS. FARLEE: Well, it's to explain that  
8 the manager, Mr. Stewart, of this property, is  
9 not responsive to the neighbors' complaints, the  
10 noise complaints. And also the language that he  
11 used with the neighbor, the bolded part on page 2  
12 of this exhibit.

13 CHAIRPERSON ANDERSON: I'm not going to  
14 allow Exhibit 5. So I'm going to take that out  
15 of it because there were no direct -- these are  
16 just some e-mails and there were no -- we didn't  
17 have any testimony on that. So Exhibit 5 will  
18 not be part of the record.

19 And are those the extent of your  
20 exhibits?

21 MS. FARLEE: Yes.

22 CHAIRPERSON ANDERSON: All right. All

1 right. So they are part of the record with the  
2 exception of Exhibit 5.

3 MS. FARLEE: Okay. Okay.

4 [Protestant's Exhibit Nos. 1 through 4  
5 were admitted into evidence.]

6 [Discussion off the record.]

7 MR. ALBERTI: Mr. Stewart, I'm just --  
8 one of these pictures prompted this question. So  
9 is that area that you plan to occupy, is that  
10 currently used for parking during Nat's games?

11 MR. STEWART: No. No, the construction  
12 people use it for their parking. And you're not  
13 allowed to charge money unless you have a parking  
14 permit.

15 MR. ALBERTI: Right.

16 MR. STEWART: As an operator.

17 MR. ALBERTI: So it's not -- so no one is  
18 using it as a parking lot.

19 MR. STEWART: True.

20 MR. ALBERTI: A paid parking lot for the  
21 game.

22 MR. STEWART: That's right.

1 MR. ALBERTI: Thank you.

2 MR. STEWART: They lock it up because  
3 they don't want the liability for insurance.

4 MR. ALBERTI: Wanted to know if I was  
5 understanding the picture correctly.

6 MS. MILLER: Mr. Chairman, I have one  
7 question for Mr. Stewart too, if I can.

8 CHAIRPERSON ANDERSON: Well, this is --  
9 we're not at that part.

10 MS. MILLER: Okay. Then we're not at  
11 that part. Okay.

12 CHAIRPERSON ANDERSON: No, but I'm saying  
13 what -- I mean, where we are is that I'm just  
14 getting documents.

15 MS. MILLER: Okay.

16 CHAIRPERSON ANDERSON: Unless before we  
17 close the record you just want to clarify  
18 something. But we're not asking questions.

19 MS. MILLER: Yeah, before we close the  
20 record. But I don't have to ask in the middle of  
21 your doing the documents.

22 CHAIRPERSON ANDERSON: All right. Is it

1 just a --

2 MS. MILLER: Yes.

3 CHAIRPERSON ANDERSON: Are you just  
4 trying to clarify it? What is it you --

5 MS. MILLER: Well, I thought I saw Mr.  
6 Stewart raise his hand when I asked the question  
7 about whether anybody knew whether the windows of  
8 the new residential building were going to be  
9 soundproofed and I --

10 MR. STEWART: Yeah, let me read you that.  
11 This is from the --

12 MS. MILLER: I think --

13 MR. STEWART: -- builder. "We have heavy  
14 urban STC rated windows that make them virtually  
15 soundproof or as soundproof as possible without  
16 spending a lot of money."

17 MS. MILLER: That's from the builder?

18 MR. STEWART: That's from the Paradigm  
19 Builders.

20 MS. MILLER: The who?

21 MR. STEWART: Paradigm, the builders.

22 MS. MILLER: Okay. And where was that

1 stated?

2 MR. STEWART: He sent me a text.

3 MS. MILLER: Oh, he sent you a text.

4 MR. ALBERTI: Does Ms. Farlee have an  
5 objection on the fact that this might be hearsay?

6 MS. FARLEE: Yeah, I'd rather in trade  
7 I'll put in my Exhibit 5.

8 CHAIRPERSON ANDERSON: Well, I guess my  
9 concern -- unfortunately, sir, I don't -- we  
10 can't take from anyone in the audience. The  
11 board member wanted some clarification and I  
12 allowed that to happen, and for whatever it's  
13 worth because that's an issue that for this  
14 particular board member is a concern. So I  
15 allowed the question and the answer.

16 So I don't think it's anything for  
17 anybody to object or it's just, it's a concern  
18 for the board member and so it's not something  
19 for -- well, I'll take it for what it's worth,  
20 but to me that's not -- but it -- all right. All  
21 right.

22 So, the documents are a part of the

1 record with -- the documents that were presented  
2 by the protestant are part of the record with the  
3 exception of Exhibit 5. And the only reason why  
4 it was excluded, these are some unsubstantiated  
5 e-mails that we had no direct testimony on. And  
6 counsel -- I'm sorry, the applicant had an  
7 objection to it and I agree with the objection.

8 All right. All right. At this portion  
9 we're ready for closing. Closing statements.

10 Closing statements, please, we're not  
11 going to be here all day for you to close. I'll  
12 give you about five minutes. The purpose of  
13 closing statements is to say, this is why -- this  
14 is what I presented, and this is why I believe  
15 that the -- I'm sorry, ABRA, the Board, should  
16 grant us a license because this is what we're  
17 presented.

18 On the other side basically we have --  
19 this is based on the presentation, this is why  
20 ABRA should not grant a license, or if the  
21 protestant believes that ABRA should grant a  
22 license and if the protestant said if you're

1 going to grant a license then these are the  
2 conditions that we would be happy with, or ABRA -  
3 or to say that you should never grant a license  
4 because there is no conditions that we're ever  
5 going to agree with. So this is your opportunity  
6 to tell us what your position is because you're  
7 wrapping up your case. Okay? So you have five  
8 minutes and the applicant goes first.

9 MR. STEWART: Okay. I will make it  
10 short.

11 CLOSING STATEMENT ON BEAHLF OF THE APPLICANT

12 MR. STEWART: Basically if ABRA goes by  
13 the guidelines of the licensee's history,  
14 proximity to the establishment to residences, and  
15 hours and operation of other existing licensed  
16 establishments, I think that 1:30 a.m. that the  
17 Bull Pen had and the ANC signed at least two  
18 voluntary agreements with them agreeing to 1:30  
19 a.m., so I don't see how we're any different. I  
20 think we're better for the community than the  
21 Bull Pen.

22 And the ANC agreed with the Bull Pen for

1 1:30 a.m. So I find it just, I don't know, just  
2 not very social when they come to me and say  
3 11:00 p.m. when we've agreed with the Bull Pen  
4 for 1:30 a.m., you know. I just find that to be,  
5 I don't know, a kick in the head or such.

6 And again we'll say, you know, Blue  
7 Jacket, 2:00 a.m., 3:00 a.m., Jennies Asian  
8 Fusion is 2:00 a.m., Justin's, 2:00 a.m., 3:00  
9 a.m. And now I find from these folks the  
10 Renaissance Hotel will have a bar on its roof  
11 projecting its noise out across everybody.

12 So and with the licensee's history of  
13 previous violations, we have 25 years in Virginia  
14 and D.C., and with minor violations. You know, I  
15 mean, you can compare Datcha or McFaddens or  
16 there's so many horrible people out there that  
17 have ABRA licenses and keep having them, and  
18 we're nowhere near that.

19 The proximity of the establishment to  
20 residences and the noise, I think that's --  
21 people keep saying, the ANC keeps saying, you  
22 don't have a noise plan, you don't have a noise

1 abatement plan. We have a noise abatement plan.  
2 It's distance. It's really the only thing that  
3 works with noise. You know. You can put up  
4 walls and bass goes right around the walls. The  
5 only thing it cuts is high end. That's why when  
6 you put up those walls around Route 66, you can  
7 still hear the trucks rumbling from, you know,  
8 half a mile away because the only thing that  
9 works is distance.

10           And we have 200 feet from the nearest  
11 residences, and that would drop the decibels from  
12 134 down to 92. That's a 40 decibel drop to the  
13 nearest residence. And as the police commander  
14 said, the other ones are 800 feet away and he's  
15 not even concerned about that for noise because  
16 they're so far away.

17           And the neighbors that are 200 feet away  
18 have to sign an urban agreement, although Mr.  
19 Alberti brought up a good point, that you can  
20 still call 911 instead of calling the landlord.  
21 But they also have double-pane sealed windows all  
22 around them. And they have the ballpark where

1 people are screaming that's going to be worse  
2 than us.

3           So we do have a noise abatement plan.  
4 It's distance. So I want to make that clear that  
5 it's not like we haven't thought about this.  
6 Okay? That's why we put the thing right by the  
7 river. It's 200 feet just from our place to the  
8 South Capitol Street intersection. South Capitol  
9 Street and Potomac Ave.

10           And I heard a lot of people talk about  
11 pedestrian safety and how somehow we're to blame  
12 and not the Nationals. You know, I understand  
13 that there's a lot of pedestrians going around in  
14 that area. I also know that the TOPP plan has  
15 two officers working on that intersection of  
16 Potomac Ave and North Capitol -- South Capitol  
17 already, and we've agreed with Commander Brown  
18 that we will pay for a traffic safety person to  
19 be standing in front of the gate at Bardo. So  
20 that was what Commander Brown requested. I  
21 thought it was good, so that's what would be done  
22 for the traffic plan.

1           I think what Coralie put up, you know,  
2 with the barrier, that's probably a good idea,  
3 but I can't make it happen. I don't have the  
4 money. ABRA can't make it happen. I don't even  
5 know who. I guess DDOT could make it happen.  
6 But I don't know how to make it happen. If  
7 Coralie wanted that on my property I would build  
8 it for her next week, but I can't do that. So, I  
9 guess that it's cheaper just to build the thing  
10 than it is to argue about it. But unfortunately  
11 that's out of my realm of control.

12           I think a lot of things the police  
13 commander brought up were speculations about what  
14 was going to happen. My record at Bladensburg  
15 Road on noise is pretty clear. I've had no  
16 violations. ABRA has come by numerous times with  
17 their sound meters and measured it. Police have  
18 been by numerous times, no violations in three  
19 years. You know. I stand on my record that the  
20 new place will be just as clean as the Trinidad  
21 location as far as noise goes.

22           Again, that falls into the guidelines,

1 licensees, history of previous violations. We  
2 have no noise violations. We have no alcohol  
3 violations.

4 Another thing that as far as Dock 79  
5 goes, which is a new development, they're going  
6 to have four locations in there with restaurants.  
7 Four retail locations with restaurants, and all  
8 of them will have outdoor seating. So they will  
9 be coming before you in the next I don't know how  
10 many months to put in applications for that. So  
11 they want to see this happen too because, you  
12 know, they want the whole unit. They want five  
13 people going down the river.

14 I think I'm running up towards the end  
15 here. I think I'm basically --

16 CHAIRPERSON ANDERSON: No, you have, but  
17 you can wrap it up now.

18 MR. STEWART: Okay. I think those are  
19 the major points. As Mr. Alberti said about the  
20 security plan, logistics and safety plan, he  
21 brought up a bunch of good points. We talked  
22 about it. I mean, if he wants to -- if you want

1 to write down all those things we talked about in  
2 there, that's fine. I'll go with that. I'm  
3 trying to be agreeable with everybody, you know,  
4 and that includes ABRA.

5 So I think that's my five minutes.

6 CHAIRPERSON ANDERSON: All right. Thank  
7 you, sir.

8 MR. STEWART: Thanks.

9 CHAIRPERSON ANDERSON: Ms. Farlee.

10 CLOSING STATEMENT ON BEHALF OF THE PROTESTANT

11 MS. FARLEE: Yes, I want to explain a  
12 couple of things. Commander Contee did mention  
13 about 25 or so calls for service.

14 MR. STEWART: Twenty.

15 MS. FARLEE: Statement that there was no  
16 incidents is not true. Those calls for service  
17 were recently, in 2015. The exhibit that I  
18 wanted to present also illustrates various  
19 reasons for calls for service. And the fact that  
20 the manager was not responsive to those, and in  
21 fact the noise got worse after these calls were  
22 made by the residents.

1 CHAIRPERSON ANDERSON: Let me -- all  
2 right. Hold on.

3 UNIDENTIFIED SPEAKER: All right, ma'am,  
4 you can only --

5 CHAIRPERSON ANDERSON: Hold on. Hold on.

6 UNIDENTIFIED SPEAKER: -- [Simultaneous  
7 speech].

8 CHAIRPERSON ANDERSON: Hold on. Hold on.

9 MS. FARLEE: Okay.

10 CHAIRPERSON ANDERSON: Just hold on,  
11 please.

12 MS. FARLEE: Only being fair.

13 CHAIRPERSON ANDERSON: All right.

14 Closing arguments is for folks to wrap up the  
15 case and not to bring new --

16 MS. FARLEE: Okay. Right.

17 CHAIRPERSON ANDERSON: -- testimony. And  
18 please, Mr. Stewart, I appreciate it, but please  
19 do not --

20 MR. STEWART: Okay.

21 MS. FARLEE: I want to respond to some  
22 things Mr. Stewart just said about Bull Pen and

1 Jenny's hours. Bull Pen morphed beyond what was  
2 actually promised, proposed. It was supposed to  
3 be one tent opposite the National's Park on N  
4 Street. Then they -- a second license started on  
5 M Street, and then it morphed to encompass the  
6 whole block. Also, they came to the ANC meeting  
7 at the last minute, that application agreement  
8 did not go through the ABC Committee at the time.  
9 That was totally out of line.

10 We have had problems with them. But to  
11 mention Jenny's and the few others, they're  
12 totally different establishments. They are  
13 restaurants. They're mostly indoors. Not at all  
14 like this site.

15 So I go back to what I said in the  
16 beginning. This is substantially the same as the  
17 Dos Ventures application and which the ABC Board  
18 looked at in 2013 and denied in November of 2013.  
19 And that's our first option. Seriously, this  
20 site is not ready or appropriate for this kind of  
21 business model, which isn't clear anyway. The  
22 modifications that are proposed are not

1 necessarily improvements. The modifications that  
2 we've talked about in the agreement, and even  
3 today, are not necessarily improvements on the  
4 important concerns that we have.

5 Three different commanders have testified  
6 that this is not a good use of this property.  
7 Commander Hickson, and then Commander Brown, and  
8 now Commander Contee. All three had major,  
9 serious, similar concerns about the use of this  
10 property for this purpose. It's not an amenity  
11 for the neighborhood. It would be a problem. It  
12 would present new significant problems.

13 If on the other hand, the Board thinks it  
14 has some merit, we do have a list of maybe 10, 15  
15 considerations that should be included. Some of  
16 which I included in the PIF. Others have been  
17 mentioned today. So if you did not decide to  
18 deny the application straight out, I want all of  
19 those considerations included in the Board order.

20 CHAIRPERSON ANDERSON: Do you recall what  
21 the considerations are, the ones that are not  
22 listed in your PIF?

1 MS. FARLEE: Oh, yeah, it's in the  
2 testify. I wasn't always taking notes.  
3 Commissioner Fascett mentioned several, the noise  
4 mitigation issues, the dog park, the sanitation.  
5 Of course we've mentioned the barrier. And in  
6 the PIF I have a half a dozen listed.

7 CHAIRPERSON ANDERSON: Right. No, I know  
8 what's in there. I know what's in the PIF and I  
9 did --

10 MS. FARLEE: You want me to remember what  
11 was the testimony from this afternoon. I don't  
12 remember them all.

13 CHAIRPERSON ANDERSON: No, the reason I  
14 ask you, you're saying that if -- I will just  
15 say, if you had remembered then you could state  
16 what they are. But if you don't, that's fine.

17 MS. FARLEE: Noise mitigation, which way  
18 is the speakers are facing to make certain they  
19 don't point towards any residences down South  
20 Capitol Street or east on Potomac Place --  
21 Potomac Avenue Southeast. Those are a few  
22 examples. Appropriate ID check at the two

1 entrances.

2 Are we able to leave the record open and  
3 I can search my memory, or even --

4 CHAIRPERSON ANDERSON: No, that's not  
5 necessary. I mean, I'm going to -- yeah, that's  
6 not necessary.

7 MS. FARLEE: It's a comprehensive list of  
8 maybe 20 things.

9 CHAIRPERSON ANDERSON: All right.

10 MS. FARLEE: Architectural improvements,  
11 mitigation to control noise, secure enclosure  
12 around the entire perimeter, separate enclosure  
13 for the children's play area, wherever that is  
14 which isn't identified on the map, require an  
15 ABRA approved security plan and security  
16 personnel with appropriate ratio of the patrons  
17 to security, support and contribute money to the  
18 traffic assessment or amelioration of the  
19 problem, pedestrian traffic during and after the  
20 Nationals' games, post signs concerning noise at  
21 night between 10:00 p.m. to 7:00 a.m. after  
22 leaving the establishment, identify in advance a

1 qualified manager for 25 Potomac Place Southeast,  
2 a qualified manager that ABRA approves of, a  
3 barrier on Potomac Avenue Southeast, Exhibit 3,  
4 hours as proposed by the ANC or 10:00 is  
5 recommended by the Commander Contee.

6 CHAIRPERSON ANDERSON: That's it?

7 MS. FARLEE: That's what I can remember  
8 now.

9 CHAIRPERSON ANDERSON: All right. All  
10 right. Thank you for both of the presentations.  
11 You do have an opportunity, which you don't have  
12 to, you could -- do the parties wish to file  
13 proposed findings of facts and conclusions of  
14 law, meaning that you could write something to  
15 tell the Board proposed findings of fact and  
16 conclusion of law.

17 MS. FARLEE: I can't quite hear you.

18 CHAIRPERSON ANDERSON: I'm sorry. You  
19 will have what we call -- you could file proposed  
20 findings and conclusions of law if you want to do  
21 that.

22 MS. FARLEE: I don't understand what that

1 means.

2 CHAIRPERSON ANDERSON: Basically you  
3 would -- what would happen is that maybe about  
4 three weeks you'd get a copy of the transcript,  
5 you'll read it, and then you'll write some  
6 proposed findings of facts and conclusions of  
7 law, basically that's an option that you have,  
8 which you don't have to do it. Or we can just  
9 close on the record that's here.

10 MS. FARLEE: No, we're happy. Close the  
11 record.

12 CHAIRPERSON ANDERSON: Okay. All right.  
13 So --

14 MR. STEWART: I have a question. So I  
15 just say close the record also or --

16 CHAIRPERSON ANDERSON: Yes.

17 MR. STEWART: -- up to them? Okay.

18 CHAIRPERSON ANDERSON: I mean, mostly  
19 that's what -- yeah. So you know --

20 MR. STEWART: Okay.

21 CHAIRPERSON ANDERSON: -- so basically --

22 MR. STEWART: I agree with them, close

1 the record.

2 CHAIRPERSON ANDERSON: -- we'll close the  
3 record on the information that's presented. And  
4 I would thank you -- I thank you both for your  
5 presentation and let me read the statement  
6 what --

7 MR. STEWART: I thank you for five hours  
8 of your time. I understand you folks are not  
9 paid to work on the Board, right?

10 CHAIRPERSON ANDERSON: Well, it's public  
11 record, but we have -- we've been here, we  
12 have --

13 MS. MILLER: A stipend.

14 CHAIRPERSON ANDERSON: The public record  
15 is that we're provided a stipend, but it's --

16 MR. STEWART: It's not much.

17 CHAIRPERSON ANDERSON: But we do it  
18 because we love the city and I don't think not  
19 for the -- because they couldn't pay us, and I'll  
20 say this as part of the record, our day starts at  
21 9:00. And when you guys pack up and go, we still  
22 have several more hours that we'll be here

1 tonight. So, and we'll be back here tomorrow.

2 MR. STEWART: My friend was a judge. I  
3 know it doesn't end right now.

4 CHAIRPERSON ANDERSON: All right. All  
5 right. But anyway, but let me close off the case  
6 and make a statement. As Chairperson of the  
7 Alcoholic Beverage Control Board for the District  
8 of Columbia in accordance with Section 405 of the  
9 Open Meetings Amendment Act of 2010, I move that  
10 ABC Board hold a closed meeting for the purpose  
11 of seeking legal advice from our counsel on Case  
12 No. 15-PRO-00114, Bardo, per Section 405(b)(4) of  
13 the Open Meetings Amendment Act of 2010, and  
14 deliberation upon Case No. 15-PRO-00114, Bardo  
15 for -- I'm sorry. It's Bardo. Bardo, that's  
16 what's on the calendar. Bardo. For the reasons  
17 cited in Section 405(b)(13) of the Open Meetings  
18 Amendment Act of 2010.

19 Is there a second?

20 MR. SHORT: Second.

21 CHAIRPERSON ANDERSON: Mr. Short has  
22 seconded the motion. I will now take a roll call

1 vote on the motion before us now that's been  
2 seconded.

3 [Roll call vote taken.]

4 CHAIRPERSON ANDERSON: Ms. Miller.

5 MS. MILLER: Agree.

6 CHAIRPERSON ANDERSON: Mr. Alberti.

7 MR. ALBERTI: Agree.

8 CHAIRPERSON ANDERSON: Mr. Short.

9 MR. SHORT: Agreed.

10 CHAIRPERSON ANDERSON: Mr. Silverstein.

11 MR. SILVERSTEIN: I agree.

12 CHAIRPERSON ANDERSON: Mr. Anderson, I  
13 agree.

14 As it appears that the motion has passed  
15 I hereby give notice that the ABC Board will hold  
16 a closed meeting in the ABC Board conference room  
17 pursuant to the Open Meetings Amendment Act of  
18 2010, and issue an order within 90 days. So  
19 you'll get an order within 90 days, but I assure  
20 you that you will get an order before that. I'm  
21 not going to let this linger.

22 So thank you very much for your

1 testimony.

2 MR. STEWART: Thanks for five hours of  
3 your time.

4 CHAIRPERSON ANDERSON: All right. Thank  
5 you.

6 MS. FARLEE: Thank you.

7 CHAIRPERSON ANDERSON: All right.

8 MS. MILLER: Have a good night.

9 [Whereupon, the above-entitled matter  
10 concluded.]

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