

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

5 - - - - - - - - - - - - - X

6 IN THE MATTER OF: :

7 Cedar Hill Bar and Grill : Case #16-251-00078

8 License #91887

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9  Retailer Class CT :
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10 Substantial Change :

11 - - - - -X

12 Wednesday, May 17, 2016

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

1 BOARD'S AGENT:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS PRESENT:

5 Ruthanne Miller

6 Nick Alberti

7 Mike Silverstein

8 James Short

9

10 OTHER PERSONS PRESENT:

11 Louise Phillips

12 Zachary Shapiro

13 Michael Fonseca

14 Malake Gebre

15 Matthew Minora

16

17

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

2 [10:04 a.m.] SUMMARY SUSPENSION HEARING

3 CHAIRPERSON DONOVAN: Good morning

4 everyone. As Chairperson of the Alcoholic
5 Beverage Control Board in the District of
6 Columbia in accordance with D.C. Official Code
7 Section 2576D of the Open Meetings Act, I am
8 announcing the convening of an emergency meeting.

9 The subject of this emergency meeting is a
10 Summary Suspension Hearing in the case of #16-
11 251-00078, Cedar Hills Bar and Grill, Union Town
12 Bar and Grill, located at -- I guess I don't have
13 the address but it's located at 2200 Martin
14 Luther King Jr. Avenue Southeast, License #91887.

15 The nature of this emergency meeting is the
16 closure of the establishment by the MPD Chief of
17 Police Cathy Lanier dated on May 8, 2016. Public
18 notice of this emergency meeting was provided by
19 publication of the hearing calendar to ABRA's
20 website and by posting of the hearing calendar to
21 the ABC Board, bulletin Board at 2000 14th Street
22 Northwest, Suite 400-South. Today is May 17,

1 2016. I'd like to introduce members of the Board
2 with us today. To my far right is Ms. Ruthanne
3 Miller, to my immediate right is Mr. Nick
4 Alberti, to my far left is Mr. Mike Silverstein,
5 and to my immediate left is Mr. James Short. My
6 name is Donovan Anderson and I am the Chairperson
7 of the Board. The Board has five members in
8 attendance for the conduct of business today and
9 this constitutes a quorum. I would like to
10 mention two things before we first get started.
11 First of all, if you have any electronic devices,
12 pagers, cell phones or such, please make certain
13 that they are turned off to avoid any
14 interruption of the proceeding. Secondly, there
15 is a piece of paper on the table. When you come
16 forward when your case is called, please take a
17 seat at the table, please sign in to ensure the
18 correct spelling of your name for the record.
19 Additionally, when you introduce yourself for the
20 record, please spell your name aloud for the
21 court reporter.

22 Again, good morning. Would the parties

1 please identify themselves for the record,
2 please.

3 MS. PHILLIPS: I'm Louise Phillips,
4 Assistant Attorney General for the District of
5 Columbia along with Zachary Shapiro, also an
6 Assistant Attorney General.

7 CHAIRPERSON ANDERSON: Good morning.

8 MR. FONSECA: Good morning, Michael
9 Fonseca, F-O-N-S-E-C-A, counsel for the licensee
10 and principle owner, Malake Gebre. Spell your
11 name for the record.

12 MR. GEBRE: M-A-L-A-K-E, that's the first
13 name. Last name is G-E-B-R-E.

14 CHAIRPERSON ANDERSON: I'm sorry, sir, I
15 didn't hear your name.

16 MR. MINORA: Matthew Minora, also co-
17 counsel.

18 CHAIRPERSON ANDERSON: Mr. Minora, good
19 morning Ms. -- is it Ms. Phillips or Mr. Shapiro?
20 Who is handling the case?

21 MR. SHAPIRO: Mr. Shapiro.

22 CHAIRPERSON ANDERSON: Good morning, Mr.

1 Shapiro. Can you tell us why are we here and
2 what is it that -- what is it the government's
3 asking?

4 MR. SHAPIRO: We're here for an incident
5 that occurred on May 8, 2016, where there was an
6 altercation at the licensee resulting in a
7 stabbing wound to the victim. We have reached an
8 offer in compromise with the licensee. Would you
9 like me to dive deeper into the facts?

10 CHAIRPERSON ANDERSON: I think the Board
11 might have -- the Board was provided an advance
12 copy of the offer in compromise. I mean, we have
13 reviewed it and we do have some concerns, so
14 maybe you can preliminarily just give us some
15 more information and why is it that you believe
16 that this offer in compromise that has been
17 presented -- why is this in the best interest of
18 the citizens of the District of Columbia.

19 MR. SHAPIRO: Well, the District's main
20 concern with this incident in question, there's
21 multiple phases of our concern for the imminent
22 danger to the public. There are both incidents

1 that occurred before -- this arises from things
2 that happened before the actual stabbing and
3 after. Before the stabbing, there was some
4 concern that there is a rear entrance that was, I
5 guess a fire escape or emergency escape that was
6 locked and was not manned by security. This was
7 unlocked right before the incident in question,
8 where the aggressor was able to gain entry
9 followed by a throng of others. After the
10 incident happened -- the stabbing incident -- the
11 concern was that 1) MPD wasn't called; 2) the
12 crime scene was contaminated; and 3) medical care
13 wasn't rendered to the victim. The offer in
14 compromise which you have in front of you I think
15 accomplishes the District's concerns in each of
16 those regards. The offer in compromise -- I can
17 go more specifically into the specific points.

18 CHAIRPERSON ANDERSON: I would like you
19 to do that, please.

20 MR. SHAPIRO: Okay. So number one, there
21 is the general theme of the offer in compromise
22 and the security plan that has been committed --

1 or submitted -- there is additional security
2 presence, I believe the licensee can speak more
3 to the specifics of it but there's going to be at
4 least two security officers on Sunday evenings
5 through Wednesday evenings. There will always be
6 someone -- a security officer -- stationed at
7 that rear exit and the exit will remain unlocked.
8 So, in the event of an emergency situation guests
9 will be able to freely exit but they won't be
10 able to enter because there will be security
11 present.

12 CHAIRPERSON ANDERSON: Let me ask you a
13 question. What's the purpose of this door? Is
14 it an emergency exit or is it just an exit that
15 people utilize -- can utilize at any point?

16 MR. SHAPIRO: It's my understanding that
17 it's an emergency exit because there is a panic
18 bar, but I can't speak specifically to that, that
19 would be a question for the licensee.

20 MR. FONSECA: And we can, I mean
21 essentially it's kept and it was, and we'll
22 acknowledge, locked for the purpose to make sure

1 no one pushed it open and let individuals in.
2 So, we've done several things including: 1) now
3 having a camera outside there so you can monitor
4 who is out there; 2) It will not be locked, and
5 3) It will have a permanent security person
6 there. Now, at the end of the evening, because
7 there are two floors, rather than normally
8 letting folks out the emergency exit, which is,
9 you know, a metal staircase that goes down, but
10 that's always available, they come down --
11 straight down the steps -- and it's easier when
12 you're closing, the last thirty minutes, to let
13 them go out. There'll be security there to make
14 sure no one comes in and people on the first
15 floor just normally tend to go out the front
16 door. Now, some people will turn that corner and
17 go out the front, if it's more empty and they
18 prefer to go out the front, but you know,
19 frankly, if the place is busy it's just easier
20 for the second floor to go out. Now, that's at
21 the end of the evening. Otherwise you'll get a
22 jam-up if it's crowded downstairs and it's

1 crowded upstairs. It's just the nature -- the
2 flow is more natural that way. But I digress.

3 CHAIRPERSON ANDERSON: And I'll say this
4 and I'm familiar with the facility, and I'm not
5 necessarily familiar with the entrance -- I'm
6 sorry -- that exit. I mean, why do we want folks
7 -- I know that you're saying it's easier but
8 because since that exit leads out to a parking
9 lot --

10 MR. FONSECA: It's actually W Street.
11 It's a very short -- around the corner is the
12 parking lot. Yeah, it's really a side door,
13 towards the rear, but it's a side door onto W
14 Street, maybe 40 yards from the bar from the
15 front door.

16 CHAIRPERSON ANDERSON: Go ahead, Mr.
17 Short. Since I'm familiar with the place I'm
18 trying to picture that in my mind, so go ahead
19 Mr. Short.

20 MR. SHORT: Your front entrance is
21 directly on the corner of [inaudible 09:23]
22 Street.

1 MR. FONSECA: It's actually at the corner
2 as opposed to being, you know --

3 MR. SHORT: And the entrance that's in
4 question is on W Street.

5 MR. FONSECA: That is correct.

6 MR. SHORT: I do understand that.

7 MR. FONSECA: And it is probably only a
8 few paces towards the church where you're at the
9 parking lot and then the church parking lot and
10 then you reach the building of the church.

11 CHAIRPERSON ANDERSON: I work better with
12 the pictures rather than the diagram, so I'm
13 trying to see if there's a picture.

14 MR. ALBERTI: Can I ask a question?

15 CHAIRPERSON ANDERSON: Go ahead, Mr.
16 Alberti.

17 MR. ALBERTI: My concern -- my question
18 is -- so, my concern is you've got a crush of
19 people going out. So, my question is, you've got
20 one -- you've got a crush of people going out and
21 one security guard at the back door. Is that
22 sufficient? That's my concern. You know, I

1 think we've all been in crowded situations and
2 it's maybe -- I just don't know, and I'm just
3 laying it out there for everyone to think about.
4 At the end of the night I've got one security
5 person back there and 130 people. Well, 70 -- 60
6 people from upstairs -- I mean, if you've got a
7 crush and need to do it, that means there's a lot
8 of activity at that back door at some point for
9 like five minutes or so. I mean at some point
10 you're anticipating that and that's why you have
11 it open, and that concerns me if you've only got
12 one security guard back there. Maybe there's a
13 solution here, I don't know, but I'm concerned
14 about securing that back door while it's open.

15 MR. FONSECA: Ideally, this probably --
16 Mr. Gebre could be certain -- it's more likely
17 that happens when special functions up there or
18 on the nights when there's a live band, which is
19 Friday and Saturday. Now, since we're going to
20 have an MPD detail, we can see -- again, they've
21 got to tell us what they'll do -- if it may be
22 that at closing time one of the officers is going

1 to be near that side door.

2 MR. ALBERTI: You can't guarantee --

3 MR. FONSECA: Understood.

4 MR. ALBERTI: -- you -- Mr. Fonseca you
5 know as well as I do you cannot direct RDOs to
6 where to station themselves.

7 MR. FONSECA: That's exactly why I said
8 that. The other alternative is, if where I hear
9 you're going, if everybody goes out the front
10 door, that's fine, we just have to anticipate,
11 you know, not having tussling and people just
12 trying to move bodies through if it's crowded --
13 crowded now only because you've essentially
14 compressed capacity down onto the first floor as
15 opposed to -- if you've got 60 and 60 or a little
16 bit more, it's manageable if you have two exits.
17 I'm just saying if it happens that way. If
18 there's a natural flow of people leaving earlier
19 and there's 30 upstairs and there's 30
20 downstairs, then it makes perfect sense.

21 MR. ALBERTI: I gotcha. So what I
22 haven't said, and this goes to a bigger picture

1 of where the security personnel are stationed.
2 And so I'm wondering -- I'm just throwing this
3 out to you -- I'm offering this as something to
4 consider, is there any way of stationing more
5 security personnel back there at closing when the
6 door is open, and I don't know if that takes away
7 from security inside, you have to tell me. You
8 have to make a proposition to us as to where
9 security will be at the end of the night and if
10 it's possible.

11 MR. FONSECA: If you look at Exhibit B
12 which has the floor plans, and notes, the first
13 floor is at the top, second floor at the bottom.
14 The stars are security. Now, on the second
15 floor, those aren't natural stations. This floor
16 allows total visibility. So it could be we could
17 have -- we could possibly bring down close to
18 closing and bring this other security over to the
19 landing or bring them down so you have two
20 security at the door. I mean, that is a
21 possibility. Then we just have one security
22 remaining upstairs. I mean, there's a

1 flexibility that can be built into this, because
2 with six -- the place is small -- six, the
3 coverage should be fine because what if we have a
4 roamer? The roamer could come over here but I
5 think a roamer should continue to roam.

6 MR. ALBERTI: You want to have one
7 security person at the top of the steps and one
8 at the bottom? Is that --

9 MR. FONSECA: Well, it's a matter of a
10 natural flow. There's two security upstairs, one
11 can come to the top of the stairs or go down and
12 have two right at the door either saying you
13 can't go out or, you know, watching it so that if
14 the door is going to be open during closing to
15 exit then no one is reentering.

16 CHAIRPERSON ANDERSON: Could I ask you a
17 question and because, and if effectually what I'm
18 stating is incorrect, it's my understanding that
19 there's a video showing that someone actually
20 opening this door --

21 MR. FONSECA: Yes.

22 CHAIRPERSON ANDERSON: So, if that's the

1 case, it doesn't appear to me that this is a door
2 that is used normally for people to exit the
3 building then.

4 MR. FONSECA: The incident that occurred,
5 the aggressors were put out. Then some five or
6 six minutes later, after the individual who
7 ultimately went to the hospital under her own
8 accord, had gone to the bathroom, had cleaned
9 herself up, did not appear to be that injured.
10 Mr. Gebre asked her "are you okay? Do you need
11 an ambulance? Do you need any help?" She said,
12 "no, I'm fine, I'm fine" so the two of them then
13 were going to be put out the back door. That's
14 normal procedure and that's when they got bum
15 rushed.

16 CHAIRPERSON ANDERSON: No, I know, but
17 I'm just saying, though -- so are you saying then
18 that this door is then not normally used for
19 people to leave, since someone had to open -- and
20 I'm not -- I'm not asking you to admit whether or
21 not the door was locked or unlocked, so that's
22 not my point.

1 MR. FONSECA: Understood. It's just -- if
2 someone has to unlock the door then that tells me
3 that this door is not normally used -- utilized.
4 At least that's what I would assume.

5 MR. FONSECA: That is correct. But that
6 is [inaudible 16:10] as a result of this and the
7 fact is that's a fire code violation.

8 CHAIRPERSON ANDERSON: Well, I'm not
9 talking about the locking of the door --

10 MR. FONSECA: Yeah, but the door -- the
11 ability to unlock it to allow nonaggressors to be
12 put out a separate door it has always been part
13 of their natural procedures and that's in the
14 plan here now as it is.

15 MR. ALBERTI: I'm sorry to interrupt you,
16 but I'm confused. So, up until now, how were you
17 letting people out at the end of the night? I
18 mean that's what the chairman's question is.

19 MR. FONSECA: This was at the end --
20 you've got to remember, the timing when this
21 happened it's already the end of the evening, by
22 the time they left you weren't having folks, most

1 were starting to leave. They were starting to
2 put them out. This was after the incident
3 happened.

4 MR. ALBERTI: Does this happen in the
5 last 30 minutes?

6 MR. FONSECA: Did it happen in the last
7 30 minutes? I think it was the last 45.

8 MR. GEBRE: Which was way before 15
9 minutes, more than 15 minutes.

10 MR. ALBERTI: More than what?

11 MR. GEBRE: It was more than 40 minutes--

12 MR. ALBERTI: Okay.

13 MR. GEBRE: -- that it happened.

14 CHAIRPERSON ANDERSON: All right, this is
15 a question. Do people --

16 MR. GEBRE: It happen at about 1:50 a.m.

17 CHAIRPERSON ANDERSON: Do people in
18 general utilize this exit to leave the building?

19 MR. GEBRE: Yes.

20 CHAIRPERSON ANDERSON: When? When do
21 they use that?

22 MR. GEBRE: When we close or when there

1 is like any problems like a fight, then it's
2 closer to use that door depending on where they
3 are.

4 CHAIRPERSON ANDERSON: And without
5 admitting that you close the fire door, I'm not
6 asking you to do that, okay? So, without -- the
7 fire doors open or closed -- so are you saying
8 that someone then would have to physically go
9 there and open the door to allow folks to leave?

10 MR. GEBRE: There is someone already
11 there.

12 MS. PHILLIPS: Mr. Chairperson, could I
13 answer?

14 CHAIRPERSON ANDERSON: Yes.

15 MS. PHILLIPS: By just looking at the
16 video sometimes it's easier for somebody who's
17 never been there, doesn't know, but just looked
18 at the video. This door was key locked during
19 the night. We saw people on this video come and
20 test the -- what do you call that? -- the panic
21 bar and the door wouldn't open. I'm watching
22 this on the video and I'm going 'oh, my god, oh

1 my god, oh my god.' As a lawyer. So, then we
2 see somebody come and put a key into the lock and
3 unlock the door and push the door and it opens.
4 Then we see, because it appears to be frosted
5 window in the door, we see what looks like
6 somebody maybe banging on the door and then some
7 person on the inside opens that door and that's
8 when the aggressor comes in with what I call a
9 Nike shirt and then a bunch of other people come
10 in. Now, I see two problems, three problems,
11 several problems with that. One, it's a fire
12 hazard and the city -- they'll be liable and the
13 city will be liable for allowing them to do that.
14 That's why there's a security guard posted at the
15 back door at all times, because that door needs
16 to be unlocked and it's not visible from anywhere
17 else in the building, really.

18 CHAIRPERSON ANDERSON: Right.

19 MS. PHILLIPS: Because it's like a
20 hallway with the stair going upstairs.

21 CHAIRPERSON ANDERSON: That's -- right.

22 MS. PHILLIPS: So, I'm looking at a back

1 door where a patron could come out of the
2 bathroom on the first floor which is in a little
3 corridor and then turns left to get out that
4 door, or they could come down from the upstairs
5 down and nobody's there and there's no -- there
6 is a camera there, and they could open the door
7 and let people in. Now, the establishment, of
8 course, is concerned because they don't want
9 people to come in without them knowing about it
10 and without the security checks. The district is
11 concerned because they don't want people coming
12 in without being security checked if they need to
13 go through a security check, but the district is
14 also concerned that people have to be able to
15 exit a door. It cannot be key locked. It has to
16 be opened at all times for the safety of
17 everybody concerned, which was the first thing I
18 saw which raised the hackles on the back of my
19 neck.

20 So, that's what the situation is. And I
21 can also see the Chair's perspective and it seems
22 to be what they normally do though we didn't see

1 that happen in the video, is that when they exit
2 from the back stairs from the top floor, they go
3 out the back door. So, I understand Mr.
4 Alberti's concern but it seems to me that it's
5 never been a concern before this incident that
6 there was going to be congestion going out that
7 door.

8 CHAIRPERSON ANDERSON: Right.

9 MS. PHILLIPS: And there's only a
10 security guard posted there now because of the
11 summary suspension issue which I think needs to
12 be there because we need to make sure that that
13 door is never key locked and that nobody opens it
14 and lets people in.

15 MR. ALBERTI: Right, so -- but -- so you
16 remark that there hasn't been an issue, there
17 doesn't seem to have been an issue with
18 congestion at that back door -- right? However,
19 when I look at the security plan I see two people
20 stationed at the front door at closing time, I
21 would assume, and so if you're -- so, if you've
22 got as many people going out that side door as

1 you have going out the front door, it doesn't
2 make sense to me.

3 MS. PHILLIPS: I think those two security
4 guards are posted at the front door because
5 that's where the main security checks are done.
6 I don't know whether they stay there the entire
7 night or --

8 MR. ALBERTI: But 30 minutes before
9 closing no one's coming in.

10 MS. PHILLIPS: Right, nobody's coming in,
11 so maybe they're not both at the front door --

12 MR. ALBERTI: I don't know.

13 MS. PHILLIPS: -- because everybody's
14 going out. I don't know the answer to that
15 question but I think Mr. Fonseca has said that
16 they can put two people there, if you're
17 concerned, at the back door.

18 MR. ALBERTI: All right. Maybe you need
19 an extra person. Maybe you need an extra
20 security person. I don't know.

21 MR. FONSECA: And I know the chairperson
22 has been inside of here and I walked through -- I

1 was in there for an hour on Sunday, and based on
2 the size of it, it would appear six is
3 sufficient. I mean, if you add more, you know,
4 especially with an MPD detail. I mean, remember
5 everything's kind of overlapping and overlying
6 security. The extra cameras, both outside and
7 inside --

8 MR. ALBERTI: All right.

9 MR. FONSECA: Being able to get people to
10 move through the place and staying on top of it.
11 I mean, it's -- we're at the mercy of what the
12 Board's opinion may be on this but I think it's -
13 - without including back of the house you're
14 looking at approximately 1500 square feet each
15 floor. It's just not big.

16 CHAIRPERSON ANDERSON: I guess my concern
17 -- I know Mr. Alberti's talking about whether or
18 not you need one or two. I guess I'm more so
19 concerned because I wasn't -- and that's before
20 I've been in the establishment -- I wasn't
21 familiar with that door so I wasn't even familiar
22 that people utilized that door, and I think one

1 of the things that I have always mentioned, at
2 least here, I'm not asking your client to state
3 that they did lock the door, okay? So, that's
4 one of the reasons every time I've prefaced my
5 statements, I'm not asking them to put that on
6 the record, but it would appear to me that that
7 door is never usually utilized, so why now are
8 you guys concerned that "well, you know, we need
9 to have -- we're going to have a bum rush at the
10 front of the building if everyone is forced to
11 utilize the front entrance on MLK." So, the
12 bottom line is that yes, you need the security.
13 I know Mr. Alberti said maybe there's more
14 security, but if it was never an issue before,
15 that people weren't using this door, then the
16 door should -- you have security maintained, the
17 door should be unlocked, there's a security guard
18 that's maintained there to make sure that folks
19 don't enter or exit, but then folks -- when folks
20 are leaving then they are directed to utilize the
21 front door, because since it wasn't a -- as I'm
22 saying it wasn't -- whatever you guys were doing

1 it wasn't a problem before.

2 MR. GEBRE: Can I say something of the
3 way we always do? I understand the fact what was
4 said was too, but what we do is the back door, we
5 have the security for normal conditions. It's
6 not congested, it's just to keep that nobody
7 opens to let somebody in because they did it
8 before. But now, we have six security. We used
9 to have four for Saturdays. As a result of this,
10 we'll have six security on Saturdays. And even
11 though there's only one person by that door for
12 normal conditions but during a rush or during
13 exiting, so we pull all the others to help people
14 move out. So, it's not going to be only one
15 person, it will be two or three people in that
16 area, because they come from upstairs pushing the
17 people out, you know, "we got to go, we got to
18 go, we leave," so whichever way they want to go,
19 they can go straight, which it's easier to use
20 the outside door as they come down from upstairs
21 right out front, it's easier rather than going to
22 the bar, I mean to the lower level, creating more

1 congestion, it's easier to do that. In fact,
2 what we usually do is we separate them towards
3 the end. The people at the lower level, they go
4 straight out through the front. People that were
5 from upstairs they use that side door to go out
6 and we have more security pushing them because we
7 don't need any security upstairs when it's empty,
8 you know, they are pushing them to come down and
9 go out. So that's how we do. Six is more than
10 enough I think for that size.

11 CHAIRPERSON ANDERSON: Hold on, Mr.
12 Silverstein. Go ahead, Mr. Silverstein, since
13 you have not spoken so far.

14 MR. SILVERSTEIN: So, help me out, Mr.
15 Gebre. That all sounds very good but what went
16 wrong on the night in this case and how are we
17 going to make sure that that doesn't happen again
18 for the safety of the people in your
19 establishment?

20 MR. GEBRE: What went wrong was only four
21 security staff, so that creates --

22 MR. SILVERSTEIN: What went wrong?

1 MR. GEBRE: We only had four people at
2 that time.

3 MR. SILVERSTEIN: How many were at the
4 back door?

5 MR. GEBRE: For the whole place.

6 MR. SILVERSTEIN: Okay, how many were at
7 the back door when the person came through?

8 MR. GEBRE: When that happened there was
9 only one person and one manager. So, they -- with
10 pounding or whatever it is, they open it up to
11 see what's happening or what's wrong but those
12 people forcibly got in.

13 MR. SILVERSTEIN: Okay.

14 MR. GEBRE: And the correction to this
15 could be now we have cameras that show that.
16 Last Sunday, I did -- we paid extra money for
17 somebody to put in a new system with 26 cameras.

18 MR. MINORA: 24.

19 MR. GEBRE: 24 cameras, I'm sorry. With
20 24 cameras. We used to have 16 cameras. So,
21 that system will hold more cameras. So, with the
22 whole system, with 26 cameras including to see

1 that outside the whole W Street and the whole MLK
2 Street and the whole parking lot. So, we have
3 cameras all around the building, and most of the
4 time the way we do is I stay in the office with
5 the cameras. If anything happens then I will
6 point to the security. At that time we couldn't
7 because we didn't have the camera that shows that
8 door.

9 MR. SILVERSTEIN: Okay, the cameras can
10 certainly be helpful afterwards, but my --
11 explain to me how the cameras can be helpful
12 before.

13 MR. GEBRE: Because I sit in the office
14 and watch the cameras constantly.

15 MR. SILVERSTEIN: Okay.

16 MR. GEBRE: And that's how I tell, when I
17 see anything, I get out and tell the security
18 person "go there, go here, do this and do that."
19 Because when they are stationed around the area
20 they may not see what's behind them or whatever
21 it is. If I see a crowd talking I may not hear
22 what they talk but I make sure they are visited

1 by one of the security personnel to see what's
2 happening. If it's an argument, they have to
3 work proactively, tell them to cool down or take
4 them out. That's how we did it. That area is
5 not an easy area.

6 MR. FONSECA: If I could just directly
7 answer your question, Member Silverstein, the
8 cameras will help for this type of incident not
9 to happen again but the next exterior camera --
10 for two reasons: 1) You can now see when
11 aggressors have been put out if they're over
12 there potentially waiting for someone to come out
13 that back door knowing that's likely where
14 they'll bring them out. 2) The nights that we
15 have MPD detail there the most likely spot
16 they're going to put there scout car is not on
17 MLK but on W, so it will be so visible to the
18 side door that two things happen: once you put
19 aggressors out you're literally putting them in
20 the hands of MPD and they can decide whether this
21 warrants arrest or just telling them "you're
22 going to have to leave." So hopefully they're

1 not going to mess around, they're going to leave.
2 Secondly, they're still out there at closing or
3 when the people will go out. And then third the
4 cameras will let you see whether there are
5 aggressors hanging around. So, I think those all
6 working together, and then that security person
7 at the door.

8 MR. SILVERSTEIN: Thank you.

9 CHAIRPERSON ANDERSON: Yes, Mr. Short.

10 MR. SHORT: Good morning. This appears -
11 - from what I'm hearing this seems to be a remedy
12 to some of the problems that you had. I can see
13 now in my mind anyway, as a Board member, if you
14 have MPD, the RDO, in the front, which they'll be
15 stationed, I think the RDOs from where I'm
16 standing they are to stay there at the front
17 door. Also, now that you have a camera on the
18 side or rear door, which is according to the
19 building codes, that's the main exit for people
20 from the second floor, so that door should never
21 be locked while the building's occupied, that's
22 the law and the code. And if I can say this to

1 Mr. Gebre? As the owner, you should make sure
2 that this never, ever happens again. If that
3 door is locked with a key while you have
4 customers or clients, even workers in the
5 building. If you have an incident at the very
6 front of that building, a car accident or
7 something, since you're right on that corner, the
8 only way to get out is that second door on W
9 Street, so when that door is locked with a key
10 and you have a real incident, and smoke, the
11 building's -- we've found people stacked right by
12 the door -- we, being the fire service or
13 emergency services people -- which is something
14 that we haven't had to happen in this city in a
15 long time and we don't need that kind of
16 incident. You don't need that kind of incident.

17 MR. GEBRE: Thank you.

18 MR. SHORT: You don't want your clients
19 even thinking that that kind of thing could
20 happen. I'm very happy to see that you've made
21 some of the changes and that some of the
22 readiness that you have put into place now. So,

1 do you normally sit by cameras in the office
2 while the business is open? Is that your normal
3 station?

4 MR. GEBRE: Yeah. I have stations two
5 places: Downstairs another office where we have
6 the station and upstairs as well. So, as I go up
7 and down, I always visit there and sit there and
8 watch, and of course, I walk around as well, you
9 know. But, if I am upstairs I have this, the
10 screen right there that could show me everything.
11 They are the same. And when I go down I do the
12 same. And if you would see me there you would
13 see me up and down, up and down, going up, going
14 down, going to offices.

15 MR. SHORT: Okay. I'll just say this.
16 In just the brief going over the security plan,
17 because I like to look at those a little more
18 because the briefing we got just recently looking
19 at it didn't indicate that that was a part of the
20 security plan, so will you make that a part of
21 the security plan, that someone in the office
22 will monitor the cameras while the -- is that

1 agreeable?

2 MR. GEBRE: Yes.

3 MR. SHORT: Okay, so you have RDO on the
4 front door, you have a camera on the rear door,
5 you have a person standing at that rear door
6 while the building is in business. Is that what
7 I'm understanding?

8 MR. GEBRE: Yes.

9 MR. SHORT: There'll be someone there
10 that whole time that the business is occupied,
11 your business is occupied. There ought to be a
12 person stationed at that door besides you
13 watching on the camera.

14 MR. FONSECA: Member Short, the plan is
15 built around peak activity.

16 CHAIRPERSON ANDERSON: That's the
17 question I was asking Mr. Gebre.

18 MR. FONSECA: From 9:00 p.m. During the
19 week, you know, there's a karaoke night. It's as
20 simple as this, we're trying to help both as
21 counsel but business, what activity goes on
22 whenever you have situations where you really

1 have to break up -- and it's related to this
2 Thursday, Friday and Saturday larger crowds.
3 That's why we want the RCO there. Then also,
4 after 9:00, frankly most of the stuff happens
5 after midnight. I mean, this Board's seen enough
6 incidents. They're not happening at 8:30,
7 they're not happening at 9:30. It's just the
8 nature of the thing.

9 MR. SHORT: The RDO detail is I think. it
10 starts at 12:00 midnight?

11 MR. FONSECA: We can get them at 11:00
12 and we're hoping -- Thursday they really close a
13 lot earlier so we're trying to work through that
14 if they'll give us a 9:00 to 1:00 or 9:00 to
15 close because by and far they're pretty much out
16 by 1:00.

17 MR. SHORT: But that will be -- once you
18 get that done that will be a revision of your
19 security plan so we will add that --

20 MR. FONSECA: Yes. The plan has those
21 hours and if that changes. Put it this way, if
22 MPD says "we don't do anything any earlier than

1 11:00" then that's what it's going to be. And
2 frankly, again, getting MPD there much earlier,
3 even if you're going to close earlier, that was
4 the reason why we [inaudible 35:34] thought we'd
5 do that. But it's -- that's usually what they do
6 is about 11:00 to 3:00.

7 MR. SHORT: Okay. We, I'll just say
8 this. It sounds like you're doing your very best
9 to make the situation never happening again that
10 occurred.

11 MR. FONSECA: Yes.

12 MR. SHORT: And also if there is an
13 incident and there are aggressors inside then
14 those aggressors will be taken to the RDO,
15 correct?

16 MR. FONSECA: Correct.

17 MR. SHORT: So, the RDO if you want to
18 use --

19 MR. FONSECA: If someone's going to be
20 ejected, there will be a conversation with
21 security and MPD as to why this person is being
22 put out and MPD will then have to make a decision

1 "all right, just get out of here" or it's not
2 serious.

3 MR. SHORT: Once you turn them over to
4 RDO you're done.

5 MR. FONSECA: That's it, right. Yeah.

6 MR. SHORT: Okay.

7 MR. FONSECA: Yeah, I mean if somebody got
8 injured we'd have to let MPD know so they can
9 come inside and I would think they're going to
10 hold onto that suspect at that point.

11 MR. SHORT: I've made most of my points
12 but lastly I'd just like to say to the owner,
13 locking that door with a key while that building
14 is occupied could cause you a lot more than an
15 ABC license in the city.

16 MR. GEBRE: Yes, sir.

17 MR. SHORT: You understand that?

18 MR. GEBRE: I do understand that.

19 MR. SHORT: That's all I have, Mr. Chair,
20 thank you.

21 CHAIRPERSON ANDERSON: Thank you. Mr.
22 Alberti?

1 MR. ALBERTI: Yeah, I don't know where to
2 go. I've got several things. So, Mr. Fonseca,
3 maybe you've misstated but you raised another
4 concern here and it kind of goes to the overall
5 picture of does this licensee really understand
6 what they need to do. I'm sorry for that, but
7 you know, you talk about having RDO up until
8 closing but the OIC says at least one hour after
9 closing.

10 MR. FONSECA: No, that's what they
11 normally do.

12 MR. ALBERTI: Yeah, that's right. So, if
13 you're going to promise that and you're closing
14 at 3:00 you're going to need RDO --

15 MR. FONSECA: To my knowledge, RDO never
16 leaves before their closing patrons disperse.

17 MR. ALBERTI: They don't leave until
18 they're off duty. If you hire them -- if you're
19 closing at 3:00 and you hire them until 4:00, I
20 can't guarantee they're going to be there but
21 you're paying them until 4:00 and they're
22 responsible until 4:00.

1 MR. FONSECA: We'll -- I don't -- the
2 plan --

3 MR. ALBERTI: You know, that's what's in
4 your OIC. I mean, I'm not asking you to do this,
5 you're offering this.

6 MR. SHAPIRO: Mr. Alberti, page 4 of the
7 settlement, or, sorry, the security plan states
8 that it will be, the RDO will be present until an
9 hour after closing.

10 MR. ALBERTI: And it does in the OIC,
11 number 4 of the OIC says that.

12 MR. FONSECA: And page 4 says that --

13 MR. ALBERTI: So, what time will you hire
14 them, if you close at 3:00 what time will you
15 hire them? What time will they be on duty? I
16 guess my question --

17 MR. FONSECA: Ideally, what we have --

18 MR. ALBERTI: -- to make this simple --

19 MR. FONSECA: Here's what we have, on
20 page 6 of the plan, section A at the very top,
21 2A, they would have 9:00 p.m. until one hour
22 after closing Thursday, Friday and Saturday 11:00

1 p.m. until one hour after closing.

2 MR. ALBERTI: Okay, so that's a big
3 commitment and we're happy to see it, but it is a
4 big commitment and I recognize that.

5 MR. FONSECA: We thought that the Board
6 was going to look at this seriously --

7 MR. ALBERTI: No, I am, I am. The 9:00
8 p.m. is kind of, it's a little early, and that's
9 what I'm saying --

10 MR. FONSECA: If they're going to do that
11 and we talked --

12 MR. ALBERTI: Because if you're closing
13 at 3:00 you're talking about RDO for seven hours.

14 MR. FONSECA: Yeah and we talked about
15 this because I understand live entertainment is
16 Friday and Saturday --

17 MR. ALBERTI: I'm going to get to that.

18 MR. FONSECA: And Thursday there's more
19 business but they tend to close earlier than
20 their approved and authorized time, so we're
21 trying to fit it into that. If MPD says "no, we
22 never do it any earlier than 11:00" then it's

1 going to end up being 11:00 until -- you know --
2 whatever they do. And they only want to do a
3 four-hour shift.

4 MR. ALBERTI: No, they'll do a little
5 longer.

6 MR. FONSECA: Well, in this instance and
7 --

8 MR. ALBERTI: The RDO will do the -- it's
9 not unusual for RDO to be there from 11:00 until
10 3:30 or 4:00.

11 MR. FONSECA: Right, exactly.

12 MR. ALBERTI: It's not unusual for RDO.

13 MR. FONSECA: So, we have Thursdays at
14 2:00 a.m. authorized closing. So, if the RDO
15 stays there until 3:00 and they closed at 1:00.

16 MR. ALBERTI: All right. So -- I don't
17 want to belabor this but I think my opinion, and
18 I think the rest of the Board would agree, that
19 it's imperative that RDO be there I'll say at
20 least a half hour or an hour and you're
21 committing to an hour after closing.

22 MR. FONSECA: Yes.

1 MR. ALBERTI: Because, you know, stuff
2 happens late, it always happens towards the end
3 of the evening so just -- that's the important
4 part of RDO, all right? When you schedule them.
5 Now, with respect to when things are busy and
6 when you staff up with security, I would prefer
7 that you have in here, in all of your literature,
8 that it's Friday -- that you have the six
9 security people and you have the RDO on which
10 nights?

11 MR. FONSECA: Thursday, Friday and
12 Saturday.

13 MR. ALBERTI: Okay. Or whenever there's
14 entertainment.

15 MR. FONSECA: Live entertainment?

16 MR. ALBERTI: Live entertainment.
17 Whenever there's live entertainment. Or whenever
18 there's --

19 MR. FONSECA: Live musicians as opposed
20 to a DJ?

21 MR. ALBERTI: How about a DJ or a band?
22 Whenever there's entertainment by a DJ or a band?

1 MR. FONSECA: And/or a band?

2 MR. ALBERTI: Yeah. Which makes me more
3 comfortable, I don't know about anyone else on
4 the Board. Do you have entertainment on
5 Thursdays typically? Well, this would cover so
6 if you decide to have a live band on Thursday --

7 MR. GEBRE: Ladies night, we use a DJ
8 downstairs that night.

9 MR. ALBERTI: Thursday night?

10 MR. GEBRE: Yeah, Thursday we have the
11 ladies night and we have a DJ for that.

12 MR. ALBERTI: But you don't have a DJ
13 upstairs?

14 MR. GEBRE: No, we don't. Sometimes
15 there are events, people celebrate birthdays or
16 there could be political events or, you know,
17 they reserve that, and then depending what they
18 need then we might need more security. When we
19 have an event we have a manager that takes care
20 of that.

21 MR. ALBERTI: So that's what I'm trying
22 to understand is how do we describe this so that

1 we know you have -- that we have a commitment
2 that you'll have that security.

3 MR. GEBRE: I have the security.

4 MR. ALBERTI: I know. Trust me, trust
5 me, I know, but I want guarantees. I want
6 guarantees in this language that when you have a
7 large crowd you're going to have the security.
8 You know, I can trust you all I want but I have
9 been burned so many other times by other
10 establishments, you may be paying the price.

11 MR. GEBRE: We did that before.

12 MR. ALBERTI: So, I need language that
13 says okay when you're going to have -- maybe it's
14 when you have live entertainment and you're
15 utilizing the second floor. Do you utilize the
16 second floor on Thursdays?

17 MR. GEBRE: No Thursdays, but like some
18 people they have birthday parties.

19 MR. ALBERTI: What if we have, when you
20 have --

21 MR. GEBRE: I have events in that room
22 then I call more security for that day.

1 MR. ALBERTI: Yeah, but you're not
2 required to by the security plan.

3 MR. GEBRE: But that's what I do.

4 MR. ALBERTI: I know. But that makes me
5 have to trust you and I've got to -- you have to
6 understand, you know, we already had an incident
7 there and -- look, so the trust issue has kind of
8 been broken, we had an incident, the security
9 guards weren't mindful, they let someone in the
10 back door, obviously something went wrong. All
11 right? So, the trust is broken. So, I need some
12 guarantees. Maybe you say that whenever there's
13 live entertainment, there's a DJ or band, and the
14 second floor is utilized, you will have six
15 security and MPD.

16 MR. FONSECA: And I think the place where
17 we can utilize this if you look at page six of
18 the security plan, the very last paragraph it
19 states that "should conditions require, Union
20 Town Bar and Grill will employ additional
21 security personnel for specific shifts such as
22 additional security personnel to be used as

1 roamers throughout the interior of the premises
2 and then it references the attached Exhibit B
3 that's a floor plan. So, we could add in there
4 the additional language that you just provided
5 Member Alberti, such that whenever there's live
6 entertainment and use of the second floor, this
7 will be in effect.

8 MR. ALBERTI: You will staff as
9 commensurate with Fridays and Saturdays.

10 MR. FONSECA: Yes, exactly.

11 MR. ALBERTI: Thursdays Fridays and
12 Saturdays.

13 MR. FONSECA: Correct.

14 MR. ALBERTI: Both Fridays and Saturdays
15 because I want the six people if you're using
16 that second floor.

17 MR. FONSECA: Yes, that upstairs, so that
18 would be Fridays and Saturdays.

19 MR. ALBERTI: All right, so yeah.

20 MR. FONSECA: That's fixable and I think
21 to some extent that --

22 MR. ALBERTI: And what I'm hearing is it

1 goes along --

2 MR. FONSECA: -- it wasn't specific
3 enough but --

4 MR. ALBERTI: Right, right. So, that
5 guarantees me and what you're telling me, sir, is
6 that it goes along with what your intentions are
7 so I think we're okay.

8 MR. GEBRE: I'm learning a lot myself,
9 you know?

10 MR. ALBERTI: No, I understand.

11 MR. GEBRE: It's for the safety of the
12 public as well as for us and the property as well
13 and we did this, in fact the D.C. government
14 helped us to do this, so we wouldn't be behind
15 and make sure everything functions right, and
16 this is a big learning process that I have today,
17 and with the help of my attorneys we'll put it up
18 and do all that. That's why we rush yesterday to
19 put all these 24 cameras --

20 MR. ALBERTI: And I appreciate the
21 effort. It shows in all of these documents and
22 we do appreciate that, we understand a lot of

1 thought went into it.

2 MR. GEBRE: We had the training, the
3 security training.

4 MR. FONSECA: Actually, you also know
5 that there's a component here, I mean to show the
6 seriousness of this, there is a 12-hour, 2-day
7 security training on the 23rd and 24th when all
8 six named security personnel plus Mr. Gebre and
9 the general manager, Mr. Tripodo, and also
10 there's another manager, a female, Tanya.

11 MR. GEBRE: Tanya Hope.

12 MR. FONSECA: So, there'll be nine, and
13 perhaps a tenth, and that's the security training
14 that's commonly called the HOST Security.

15 MR. ALBERTI: Okay, sorry.

16 MR. FONSECA: The Board should be
17 familiar with that particularly those who've been
18 here longer because HOST was probably one of the
19 first ones that had such an intensive course that
20 I think both MPD and ABRA and OAG and --

21 MR. ALBERTI: Okay, so that answers one
22 of my questions, thank you. I have a couple of

1 other -- and these aren't really big things, I
2 think we can address them easily. I forget where
3 in the section but when you talk about patting
4 down and searching, you're only searching bags
5 when you do pat downs? I understand the pat
6 downs. Is that your discretion? You're going to
7 wand everybody. The pat downs are at your
8 discretion, I'm okay with that but I would like
9 to see after 9:00 p.m. that you -- when you're
10 wandling that you're doing a search of bags. I
11 think it's just too risky.

12 MR. FONSECA: I thought we had that.

13 MR. ALBERTI: It doesn't say that here.
14 It says, it implies -- I'm trying to see where
15 that is.

16 MR. FONSECA: Section two page 3A, adds
17 "we use a wand on every potential patron to
18 detect the presence of metal objects which may be
19 weapons, from 9:00 p.m. until closing."

20 MR. ALBERTI: During times that pat downs
21 are conducted, security personnel will search the
22 bags. I would prefer that they search the bags

1 whenever they're wandling. I understand not
2 wanting to do pat downs all the time, I get it,
3 but I don't think that searching bags is all that
4 intrusive. It's just to the women, "open your
5 purse, let me take a look inside -- you know --
6 let me visibly see what's in there. We do it at
7 the museums.

8 MS. PHILLIPS: Yes, they do.

9 MR. ALBERTI: They do, they get that
10 stick and they poke around in there. They do.
11 So, can we commit to that also? I don't think
12 that's --

13 MR. FONSECA: We can add that in to that
14 section.

15 MR. ALBERTI: Yeah, I'm not saying pat
16 downs all the time but I'm saying to search the
17 bags whenever you wand, whenever you're in a
18 process and you need to wand, you search the bags
19 because it's the sure way of getting something
20 in.

21 MR. GEBRE: They do the wand at the front
22 and the back.

1 MR. ALBERTI: I understand but sometimes
2 you miss the bag. I mean, it's easy. Just take
3 a look in the bag, it doesn't take long. Many
4 clubs do it. Many places do it where they have
5 large crowds. So, that's one thing. You said
6 that you're going to provide the list of all
7 security personnel. I would like you to provide
8 the list of all employees and their positions and
9 to maintain that list on premise, so if something
10 happens we can take a look who your employees
11 are, who was there that night, and what their
12 positions are so we're clear as to who is
13 security, who somebody else might be. I don't
14 think that that's all that onerous to do. It
15 takes a little upkeep, you know every time you
16 get new employees you're going to have to update
17 that list but that's what computers are for. It's
18 easy to do. And the last thing is -- so is that
19 -- are we okay with that?

20 MR. GEBRE: Yeah. All the employees they
21 punch in and out so we have the list who was.

22 MR. ALBERTI: And their positions, so if

1 they're a barback or a waitress or waiter that's
2 listed on that list.

3 MR. GEBRE: Okay.

4 MR. ALBERTI: Okay, and the last thing.
5 I hate nebulous language where it says "repairs
6 to the cameras will be done in a timely manner."
7 What does a timely manner mean? Your timely may
8 not be my timely.

9 MR. FONSECA: Where is this?

10 MR. ALBERTI: It's on page 8 of the
11 security plan. About your security cameras. I
12 just need to know that, you know, it's not going
13 to take a month. It's going to be much shorter
14 than that. I just need some commitment. In a
15 timely manner and no longer than 14 days, can we
16 commit to that? I mean I certainly should be
17 able to make that happen.

18 MR. GEBRE: This was last about 30 days.
19 Oh, okay.

20 MR. ALBERTI: These are repairs.

21 MR. FONSECA: Within three business days.

22 MR. ALBERTI: Okay, if you want to commit

1 to that, that's fine.

2 CHAIRPERSON ANDERSON: Mr. Alberti said
3 14 days, so I would --

4 MR. ALBERTI: Shh, that could be -- all
5 right, we'll take whatever you -- all right. How
6 about 7 days? Seven days because I understand --

7 MR. GEBRE: Seven days? Okay.

8 MR. ALBERTI: I mean you always can't --
9 I don't know what the repair is, I don't know
10 what's going to go on, I don't know who you have
11 to call in, you know it's a busy time -- so I
12 will -- I don't wanna play gotcha but I do need
13 some assurance that we're gonna be on top of this
14 so, that's all I have right now.

15 MS. MILLER: Your Honor I have some
16 questions.

17 CHAIRPERSON ANDERSON: Go ahead, Ms.
18 Miller.

19 MS. MILLER: Good morning. I think
20 you've done a really good job on the OIC and the
21 security plan and I just have a few follow-up
22 questions. One is on training. I think that #23

1 says that -- of the OIC -- says that "security
2 plan to include that all security personnel be
3 trained in proper security procedures by a date
4 certain." Now, is that what you were referring
5 to when you were talking about the training on
6 the 23rd and 24th?

7 MR. FONSECA: Yes.

8 MS. MILLER: So, can you insert the dates
9 in there now that they are definite.

10 MR. FONSECA: It's definite but I'd like
11 that in case any one of these individuals has to
12 reschedule, that we'll have a follow-up, which we
13 don't know the dates, perhaps 30 days, but we
14 believe we're going to have everyone. Right now,
15 everyone's committed to do the training on the
16 23rd and 24th, so we can insert there the date
17 that is scheduled now and then any security that
18 is unable to attend will be done within thirty
19 days of this OIC approval.

20 MS. MILLER: Okay.

21 MR. ALBERTI: And that's sort of
22 reflected in the security plan. It says 30 days

1 and within 14 days of being hired.

2 MR. FONSECA: Within 14 of them being
3 hired.

4 MR. ALBERTI: So, the thirty days is --

5 MR. FONSECA: So if you leave the OIC
6 change, we can change it by hand or just do it in
7 the security plan.

8 MR. ALBERTI: I'm just pointing that out.

9 MR. FONSECA: The problem is, remember
10 Ms. Miller was talking about the point in the
11 OIC.

12 MR. ALBERTI: I know, where it says dates
13 certain. There's no specific date but it says
14 within 30 days of the security plan being
15 accepted.

16 MR. FONSECA: Yeah, we've got it in there
17 already, so it's within 30 days in the plan.
18 We've told you when it's going to be now, where's
19 that in the plan?

20 MS. MILLER: Could you bring to my
21 attention again where that is in the plan?

22 MR. FONSECA: Yeah, I'm about. Mr.

1 Minora is the one who put this together so he
2 should locate it faster than I would. All right
3 on page 6 at the top, so 6B and you see the first
4 paragraph. "All security personnel currently
5 working at Union Town Bar and Grill shall
6 successfully complete security training within 30
7 days of ABRA's acceptance of the security plan.
8 New security personnel members shall successfully
9 complete security training within 14 days of his
10 or her first shift as a security personnel
11 member, acknowledgement and proved successful
12 completion of such course shall be maintained in
13 security personnel's file. As part of this we
14 will also provide the general counsel's office
15 and OEJ with copies of certificates of completion
16 of this. So with this OIC there's a comfort
17 level that we've complied and then thereafter
18 it'll be there and available if investigators or
19 ABRA request it. And if you want we'll send it
20 to you whenever we have new hires. I don't know
21 if that's necessary.

22 MR. ALBERTI: If you have it at the

1 establishment --

2 MR. FONSECA: Right.

3 MR. ALBERTI: An ABRA investigator comes
4 in and asks for it you can provide it.

5 MR. FONSECA: Absolutely.

6 MR. ALBERTI: That's all we're asking.
7 You don't really need to file it with us.

8 MR. FONSECA: So, rather than put the
9 commitment in here as to those dates, I'm
10 representing to you that they already are at
11 reserved places for this training on the 23rd and
12 24th. I anticipate 9 now to attend and am
13 hopeful they all will attend, and I think the
14 owner can make sure that happens, but if for some
15 reason someone slips up we'll get it done
16 according to these terms.

17 MS. MILLER: Yeah, but so this means then
18 you're saying that 23 you don't have to put in a
19 date because the security plan says they will
20 start work before they have their training?

21 MR. FONSECA: New employees --

22 MS. MILLER: That's new employees. Okay,

1 so these employees, if you don't have any date in
2 here can it just be wide open?

3 MR. FONSECA: Oh, it's 30 days from the
4 approval of this plan which will probably be
5 today or tomorrow. We'll use today's date
6 because everything else is here. The OIC signed
7 and dated the 17th. We'll consider the 30th
8 [inaudible 57:00].

9 MS. MILLER: But that's not tied exactly
10 to reopening, so let's say you want to reopen
11 next weekend but training hasn't occurred.

12 MR. FONSECA: But we're hoping the Board,
13 with everything else, and we have an MPD detail
14 in their, they'll let us be reopened prior to the
15 training. You know, we're hoping that you see
16 the good faith here and the fact is, this is the
17 earliest that's available and I frankly urged,
18 and they agreed, to do it in person as opposed to
19 the online, because as we all know, you know, a
20 lecture on line isn't the same as being in a room
21 and that's where you need to be, is to be in that
22 room.

1 MS. MILLER: Right. Okay.

2 MR. FONSECA: Okay?

3 MS. MILLER: That's good.

4 MR. FONSECA: I'm just asking if that's
5 going to be a requirement, I mean that's just,
6 the impact of the summary suspension is always
7 difficult and expensive, there's a lot of new
8 equipment, there's a lot of lost income, there's
9 expense of lawyers. This is not without pain so
10 having to go until, at best, next Wednesday is
11 just an additional week which takes them from 10,
12 takes them into two weeks of suspension and --

13 MS. MILLER: Okay.

14 MR. FONSECA: It's pretty harsh.

15 MS. MILLER: Okay.

16 MR. FONSECA: And I think at this point
17 we're lucky enough we have removed the imminent
18 danger and we believe with everything we have
19 here we will have done that. And we're hopeful
20 with the tweaking and we're appreciative of the
21 comments of the Board that they'll have
22 confidence and that this license can be returned

1 once the investigators come out and do their job.

2 MS. MILLER: I just wanted to -- just to
3 make sure that I understand the OIC in connection
4 with the security plan on training -- in 22 when
5 you talk about all personnel being trained on the
6 security plan prior to reopening of the
7 establishment --

8 MR. FONSECA: Yes.

9 MS. MILLER: Are you talking about
10 everybody? Bartenders --

11 MR. FONSECA: Yeah we'll do that. We're
12 focusing initially making sure all the security
13 officers have that in place and when we have a
14 sense of when this is going to occur we'll bring
15 in all the staff early and make sure -- or the
16 day before -- that we get them all there so that
17 they can essentially be trained in what the
18 components of the security plan are.

19 MS. MILLER: So their training is a
20 little different from the others.

21 MR. FONSECA: Exactly. It's just to
22 understand the plan.

1 MS. MILLER: Okay, and so how about --

2 MR. FONSECA: And to know if any of them
3 are involved what they need to do and we might
4 have multiple incident reports. Security might
5 do one because they have to physically remove
6 someone, someone else may have watched the entire
7 thing and will be involved, so an incident might
8 result in three or four reports.

9 MS. MILLER: Okay.

10 MR. FONSECA: But they understand how to
11 fill out one of these incident reports.

12 MS. MILLER: And also crime --

13 MR. FONSECA: Crime scene preservation.

14 MS. MILLER: Yeah. So, if there's a new
15 hire is there anything in there for that person
16 to being required to read and at least become
17 familiar with the security plan?

18 MR. FONSECA: I think it's #14. Well
19 that, they're going to have to learn. We have a
20 -- I'm looking, where's that employee --

21 MR. SHAPIRO: There's an affidavit, it's
22 attached to Exhibit A.

1 MR. FONSECA: A, yeah, here we go.

2 MR. SHAPIRO: That all employees have to
3 sign and there's a separate section for security
4 personnel.

5 MR. FONSECA: Yeah.

6 MS. MILLER: Okay, well that's good. I
7 mean I haven't had time to, you know, really
8 thoroughly read the security plan but we've
9 looked at it. It just seems like if there's
10 anything that's missing you might be able to add
11 that in.

12 MR. FONSECA: It's here.

13 MS. MILLER: It's in there.

14 MR. FONSECA: It's an acknowledgement
15 here by each employee so whether they're security
16 or just a general employee, server or bartender.

17 MS. MILLER: Oh, okay. And that's part
18 of the security plan, it's attached to the
19 security plan?

20 MR. FONSECA: It's attached and it
21 references it, so it's Exhibit A.

22 MS. MILLER: Okay. I just have a couple

1 of other just follow-up questions on what you
2 said today. Adding that new camera in the rear,
3 how much ground does it cover as far as being
4 able to see whether aggressors are hanging
5 around? You know?

6 MR. FONSECA: The new camera plus.
7 Essentially, there was a second camera put in the
8 front that will look down W Street. There's a
9 camera over the side door that looks a bit down
10 and then towards MLK. So, you've got full
11 coverage with those two.

12 MR. GEBRE: It can see the street as
13 well.

14 MR. FONSECA: It can see the street, so
15 the camera towards -- closer to MLK looking down
16 W can actually see all the way down past, can see
17 where the churches and essentially see what's
18 going on, parked cars, the sidewalk, it goes
19 pretty far. The other one goes towards -- it's a
20 little bit more down so I'm not sure if it
21 actually goes all the way to MLK, but it makes
22 sure it picks up.

1 MR. GEBRE: It does, MLK -- all the way -
2 -

3 MR. FONSECA: The back looks all the way,
4 right?

5 MR. GEBRE: Yeah. The one up front, the
6 new one -- that I know. And then the one on the
7 side goes all the way down the street up to close
8 to the church.

9 MR. FONSECA: But that's the one on the
10 front going that way.

11 MR. GEBRE: No, no the one on the side.

12 MR. FONSECA: But isn't that one pointed
13 down and towards MLK? So you see who's down
14 there? That's the point.

15 MR. GEBRE: Yes, yes, you can see the
16 whole people walking by or cars passing by.

17 MR. FONSECA: Right.

18 MS. PHILLIPS: For the record, Mr.
19 Fonseca, all these cameras on the outside have
20 numbers, so this camera and that camera is not as
21 expressive as telling Ms. Miller that #21 faces
22 this way and #20 faces that way and #22 faces

1 this other way and #23 faces the other way.

2 MR. FONSECA: Yeah. If you look at the
3 very last exhibit lists by the number, so if you
4 -- so if you [inaudible 1:03:27] and you look at
5 the floor plan, you look at the exhibits, you
6 look at the cameras you can cross reference them.

7 MS. MILLER: Okay. I think I've got it.
8 I know what camera you're talking about and I was
9 just curious as to how far they covered, because
10 we were talking about the security of that
11 doorway, you know, and how much things are going
12 to be improved, and so my other question goes to
13 -- I think you said that you knew that the RDO
14 were going to be stationed on W Street, are they?

15 MR. FONSECA: I believe if you look at
16 the flow of traffic on MLK, you put a scout car
17 out there it's going to be pretty -- W just would
18 seem so much better and they could put it
19 literally at the intersection -- you know,
20 whether the front end or tail end, so it's viewed
21 from MLK and it's on W and it won't cause a jam
22 up. Because W is a one-way street.

1 MS. MILLER: Okay.

2 MR. FONSECA: Is that right, Mr.
3 Anderson?

4 CHAIRPERSON ANDERSON: Yes -- [inaudible
5 1:04:27]

6 MR. FONSECA: Because I think when I left
7 I couldn't make that left to go to MLK which was
8 the natural way to go so I went around and got to
9 visit a little bit more of Anacostia.

10 MS. MILLER: Okay, I have one more
11 question and again it's just because we didn't
12 have that much time to review the security plan
13 and I think it's important at the end here, do
14 you have in here when security or employees
15 should contact the RDO?

16 MR. FONSECA: It's in there. I mean,
17 essentially it's more tailored for security
18 because when you're going to deal with the RDO
19 basically you're putting someone out, so let's
20 see here.

21 MR. ALBERTI: At least on page [inaudible
22] at the bottom it references calling MPD.

1 MR. FONSECA: Calling the MPD, that's
2 when the RDO isn't there. When the RDO is there
3 is where you hand them over to the RDO.

4 MR. ALBERTI: Okay. And is that in here?
5 Oh yeah, right here.

6 MS. PHILLIPS: Oh it is, definitely it's
7 in there.

8 MR. FONSECA: Oh yes, we discussed it.

9 MS. PHILLIPS: Take aggressors out the
10 door directly to the RDO, not any of this throw
11 them out the door and hope the RDO collects them.

12 MR. ALBERTI: I'm not surprised. I am
13 not surprised.

14 MS. PHILLIPS: It's too important.

15 MR. FONSECA: I've done a few of these
16 and Ms. Phillips is not only thorough but her eye
17 on that issue of that panic bar was drilled into
18 us deeply.

19 MR. ALBERTI: Thank you, Ms. Phillips.

20 MS. MILLER: Oh, I see it in here, okay.

21 MR. FONSECA: You see?

22 MS. MILLER: I do. Thank you very much.

1 Okay.

2 CHAIRPERSON ANDERSON: All right, Mr.
3 Short.

4 MR. SHORT: One last question I had.

5 EMS: Reading the report it stated that someone
6 the night of the incident talked to the person
7 and the person said "I'm fine, I don't need any
8 other assistance." I would hope that you
9 wouldn't do that. I would hope -- if someone is
10 injured and if they're stunned or whatever else,
11 when they have been drinking, they don't know how
12 badly they're injured. I would hope EMS would be
13 called.

14 MS. PHILLIPS: I think that's in there,
15 Mr. Short.

16 MR. FONSECA: Yeah.

17 MS. MILLER: Good.

18 MR. SHORT: Where's it at?

19 MR. GEBRE: That's where I went wrong. I
20 took my judgment which [inaudible] It could be
21 the person --

22 MR. SHORT: In reality, once EMS gets

1 there and evaluates them they can tell the EMS
2 they don't want to go, but you handed them off.

3 MR. ALBERTI: The bottom line, when that
4 happens a crime has been committed and so you
5 should be calling MPD because a crime has been
6 committed.

7 MR. GEBRE: That's the main problem I had
8 after that. Because I shouldn't judge that she's
9 okay because of what she tells me. She walking
10 fine with her friend and I saw a scar right here
11 and I said "are you okay?" She said, "fine." I
12 said, "Are you sure you don't want anything?"
13 She said, "okay I walk with her a little bit" and
14 then I let her go. So, that was a wrong judgment
15 I made by saying she's okay from what she tells
16 me but later on then we heard where she went and
17 what happened, led to all these problems.

18 MR. SHORT: We've all learned.

19 MR. FONSECA: You've summed it up, Mr.
20 Short. Thank you. You've summed it up quite
21 well. And it's on page 5.

22 MR. SHORT: That's all I have, Mr. Chair.

1 CHAIRPERSON ANDERSON: Do we have any
2 other questions by any other Board members? The
3 government, any closing remarks? I guess from
4 the government's perspective, as I asked before,
5 why is it that the government believes that this
6 OIC is in the best -- that it has taken care of
7 the emergency situation?

8 MS. PHILLIPS: My understanding was that
9 we were not going to alter #23 on the OIC because
10 there had been a statement they were now
11 scheduled on May 23rd, are we going to add, are
12 those dates certain? Oh, we are. I would just
13 as soon not change the OIC so we can hand it
14 because I think it takes care of all the imminent
15 danger issues and if unaltered we can -

16 MR. ALBERTI: I think we have them on the
17 record as committing to that.

18 MS. PHILLIPS: Yeah.

19 CHAIRPERSON ANDERSON: That's it from the
20 government's perspective? Mr. Fonseca on behalf
21 of your client?

22 MR. FONSECA: We just urge the Board in

1 deliberations to find it in their will that we've
2 learned from this and that the license can be
3 returned once the Board has some further
4 confirmation by I'm sure you're going to send out
5 an ABRA investigator to the look at the security
6 cameras and anything else, and we'd ask that that
7 be done as soon as possible.

8 CHAIRPERSON ANDERSON: The question I was
9 going to ask is when is it you're asking the
10 Board to lift the suspension.

11 MR. FONSECA: If it can be by tomorrow by
12 the end of the day so that they could open
13 tomorrow?

14 MR. ALBERTI: Well, there's an acceptance
15 of the security plan as part of the OIC and I
16 think you need to make some updates that we
17 discussed, so --

18 MR. FONSECA: Right.

19 MR. ALBERTI: -- part of it's on you.

20 MR. FONSECA: I think, those could be
21 done and forwarded to the general counsel of the
22 OIG probably by 1:00.

1 MR. ALBERTI: Whatever. You need to get
2 them to us and we need just, I mean we're going
3 to have to take a look at them so that's -- I
4 just want to warn you that that's an expectation.

5 MR. FONSECA: Okay.

6 CHAIRPERSON ANDERSON: All right. Any
7 other questions, comments? As chairperson of the
8 Alcoholic Beverage Control Board of the District
9 of Columbia and in accordance with D.C. Official
10 Code 2574B of the Open Meetings Act I move that
11 the ABC Board hold a closed meeting for the
12 purpose of seeking legal advice from our counsel
13 on case #16-251-00078, Union Town Bar and Grill,
14 pursuant to D.C. Official Code Section 2574-B4 of
15 the Open Meetings Act and deliberating upon case
16 #16-251-00078, Union Town Bar and Grill for the
17 reasons cited in D.C. Official Code Section 2574
18 B13 of the Open Meetings Act. Is there a second?

19 MR. SHORT: Second.

20 CHAIRPERSON ANDERSON: Mr. Short has
21 seconded the motion. I'll now take a roll call
22 vote on the motion before us now that it has been

1 seconded. Mr. Silverstein?

2 MR. SILVERSTEIN: I agree.

3 CHAIRPERSON ANDERSON: Mr. Short?

4 MR. SHORT: I agree.

5 CHAIRPERSON ANDERSON: Mr. Alberti?

6 MR. ALBERTI: I agree.

7 CHAIRPERSON ANDERSON: Ms. Miller?

8 MS. MILLER: I agree.

9 CHAIRPERSON ANDERSON: Mr. Anderson? I
10 agree. As it appears that the motion has passed
11 5-zero I hereby give notice that the ABC Board
12 will recess this proceeding to hold a closed
13 meeting in the ABC Board conference room pursuant
14 to section 2574B of the Open Meetings Act. It is
15 11:15 and probably give us, I'll say no later
16 than 11:45, so in about half an hour we'll come
17 back.

18 MR. FONSECA: So, you're going to come
19 back.

20 CHAIRPERSON ANDERSON: We're going to
21 come back and let you know where we are with the
22 OIC.

1 Off the record 11:37 a.m.

2 On the record: 12:13 p.m.

3 CHAIRPERSON ANDERSON: We're back on the
4 record. Mr. Gebre. I'm bad so I just want to
5 apologize. I just want to say to you, sir, that
6 at least it's my role as Board chair not to give
7 you onerous conditions that you cannot live with.
8 I appreciate the fact that you're opening an
9 establishment in an area that does have some
10 concerns and at least my personal opinion is that
11 I want to ensure that your business opens and
12 that it is safe. All right? So, I want to thank
13 you for operating a business but my job and work
14 with the Board is just to make sure that once you
15 operate a business that you provide a safe
16 environment for everyone, so I just want you to
17 keep that in mind, that that is -- at least
18 that's my role, that's my take. I am familiar
19 with the establishment, I've been there. I used
20 to have my office in the Big Chair across the
21 street in the professional building so I'm very
22 familiar with your business and it's a major

1 addition to that neighborhood so I just want to
2 say that to you prior. The Board -- we have made
3 a decision and I want to basically have the
4 Board, for us to have a vote whether or not: I
5 make a motion that the Board accept the OIC.
6 There are some conditions that I will state but
7 first and foremost let's vote so that we'll
8 accept the OIC. Is there a second?

9 MR. SILVERSTEIN: I second, Mr. Chair.

10 CHAIRPERSON ANDERSON: Mr. Silverstein
11 has seconded the motion. Those in favor say Aye.
12 [Chorus of ayes] Those opposed? [No audible
13 response.] Okay, the matter passed 5-zero-zero.
14 This is what the Board would like you to do as
15 regards the security plan, this was discussed
16 earlier that the security plan is okayed and is
17 to state all bags are searched whenever wandering
18 occurs. That is something that was discussed on
19 the record earlier, that's a provision. The
20 second provision is that the security plan is
21 maintained -- that you maintain a list of
22 employees and positions, that it's maintained at

1 the place of establishment and is accessible to
2 ABRA when we come to visit the establishment.
3 The third provision of the security plan is that
4 repairs to the cameras be made within 7 days and
5 the fourth provision is that whenever there are
6 DJs/Band and the utilization of the second floor
7 that you will have sufficient security staff
8 similar to the complement of staff on weekends.
9 And again, that's discussed. The Board has
10 agreed that the establishment can be opened once
11 the updated security plan has been approved by
12 the Board and secondly, once an ABRA investigator
13 has gone to the establishment to approve the
14 security camera placement. So, therefore, if you
15 provide us with the updated security plan today,
16 the Board will review it. We have a regular
17 session tomorrow and so we can vote on it
18 tomorrow and the establishment could be opened
19 tomorrow, but again it's up to you, your
20 provision of the plan and the ABRA staff is
21 available at any point, they can make an
22 appointment today for the person to come and

1 inspect the cameras. So, it's up to you how long
2 the establishment will remain open because we
3 have agreed that we have accepted the security
4 plan and so as quickly as you provide the
5 information that since we have a regular meeting
6 tomorrow we'll be here all day tomorrow so we
7 should have sufficient time to vote to approve
8 the security plan if we receive it. Okay? Does
9 anyone have any other comments that they want to
10 make? Board members? Government?

11 MS. PHILLIPS: No, Mr. Chair, thank you.

12 CHAIRPERSON ANDERSON: Mr. Fonseca? On
13 behalf of your client?

14 MR. FONSECA: We thank you.

15 CHAIRPERSON ANDERSON: Thank you very
16 much. We are adjourned.

17