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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: :

Chaplin Restaurant DC, LLC

t/a Chaplin Case Numbers 15-PRO-000119 and

1501 9th Street NW 16-PRO-00005

License Number 95700

Retailer CR

ANC 6E

PROTEST HEARING

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Wednesday, April 20, 2016

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

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3 CHAIRPERSON:

4 DONOVAN W. ANDERSON, Presiding

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6 OTHER PERSONS PRESENT:

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8 NICK ALBERTI, BOARD MEMBER

9 RUTHANNE MILLER, BOARD MEMBER

10 JAMES SHORT, BOARD MEMBER

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

2 CHAIRPERSON ANDERSON: The -- the next case  
3 on our calendar is another protest hearing, Case Number  
4 15-PRO-00119 and Case Number 16-PRO-00005, Chaplin,  
5 License Number 95700. Will the parties please approach.  
6 So please when you approach there is a piece of paper on  
7 the table. I would like you to fill in your name on the  
8 license, and I would also ask that you introduce  
9 yourself for the record please.

10 MR. PADRO: Alexander M. Padro for Advisory  
11 Neighborhood Commission 6E.

12 CHAIRPERSON ANDERSON: Good afternoon,  
13 Mr. Padro.

14 MR. WILLIAMS: Adrian Williams, Chaplin  
15 Restaurant.

16 MR. WILDER: Ari Wilder, Chaplin's  
17 Restaurant.

18 MS. NJOROGI: Joyce Njoroge, Chaplin  
19 Restaurant.

20 CHAIRPERSON ANDERSON: Can you tell me the  
21 roles you play at the restaurant. You're owner --  
22 what -- what's your -- you're -- I'm sorry. You, sir,

1 tell me your name again and tell me your role.

2 MR. WILLIAMS: Adrian Williams.

3 CHAIRPERSON ANDERSON: Mr. Williams. Okay.

4 And what's your role at the restaurant, sir?

5 MR. WILLIAMS: Owner.

6 CHAIRPERSON ANDERSON: You're the owner.

7 Okay. Yes, sir.

8 MR. WILDER: Ari Wilder, beverage director.

9 CHAIRPERSON ANDERSON: Yes, ma'am.

10 MS. NJOROGE: Joyce Njoroge. I'm a  
11 representative.

12 CHAIRPERSON ANDERSON: What's your last name  
13 again?

14 MS. NJOROGE: Njoroge, N-J-O-R-O-G-E.

15 CHAIRPERSON ANDERSON: Are you an attorney,  
16 ma'am?

17 MS. NJOROGE: No, I'm not.

18 CHAIRPERSON ANDERSON: You're the  
19 representative. All right. All right. This matter  
20 comes before The Board as a consolidation of two  
21 protests; a protest against a substantial change  
22 application for the expansion of hours and a protest

1 against a second substantial application for an  
2 entertainment endorsement. These two applications and  
3 protests were consolidated into one hearing pursuant to  
4 Board Order Number 2016-100. The protestant is ANC 6E  
5 represented today by Commissioner Alex Padro. Before we  
6 commence this hearing I want to make a few remarks. I  
7 have reviewed the -- the PIFs and exhibits. Please note  
8 that The Board will only hear testimony on the  
9 appropriateness standards as it relates to this -- the  
10 two substantial change -- changes, hours and  
11 entertainment. The Board will not entertain any  
12 testimony that does not relate to -- to these two  
13 applications. For example, if the ANC has a concern  
14 regarding the maintenance of trash bins, that issue is  
15 best reserved for the protest against the renewal of the  
16 license. Trash is not relevant to hours and  
17 entertainment. I will remind the parties that not --  
18 not withstanding this late start The Board intends to  
19 conduct -- conclude this hearing today. The Board will  
20 not hear duplicative or cumulative testimony, and we  
21 encourage the parties to carefully manage their  
22 presentations of evidence because The Board will

1 conclude a party's case once the time has expired. You  
2 have been advised of this time limitation, and The Board  
3 assumes that the protest hearing will proceed  
4 efficiently. We thank the parties for timely submitting  
5 their Protest Information Forms and exhibit lists. To  
6 that end, we are aware that the applicant submitted an  
7 amended PIF on April 14th, 2016, one day after the  
8 deadline. It was brought to The Board's attention that  
9 the protestant raised an objection to applicant's  
10 amended PIF yesterday, April 19th, 2016. Has this  
11 matter been resolved or do we need to discuss it?

12 MR. PADRO: From our prospective the amended  
13 PIF was submitted after the deadline. So we object to  
14 its submission.

15 CHAIRPERSON ANDERSON: And how are you  
16 prejudiced, sir, by -- how is the ANC prejudiced by if  
17 it's the one day -- it was submitted one day late?

18 MR. PADRO: Because we were deprived of the  
19 additional time to be able to adequately prepare to  
20 address the -- the additional witness that has been  
21 proffered.

22 CHAIRPERSON ANDERSON: And so you're saying

1 the one day has -- the ANC is -- by the one day -- the  
2 one day filing?

3 MR. PADRO: That's our -- that's our  
4 position, but that is The Board's prerogative. So --

5 CHAIRPERSON ANDERSON: I'm not -- I'm -- no.  
6 I -- I need to make a ruling. So I'm -- that's why I'm  
7 asking you why is it that -- why your objection. Okay.

8 MR. PADRO: Yes, sir.

9 CHAIRPERSON ANDERSON: And who's speaking  
10 for the -- who's speaking for -- Ms. --

11 MS. NJOROGÉ: Njoroge. Joyce is fine.

12 CHAIRPERSON ANDERSON: Ms. -- tell me your  
13 last name again, and I will get it before the hearing is  
14 over. We're -- we're -- hopefully we're not here for  
15 three hours, but I will get it before. So Ms. -- Ms. --

16 MS. NJOROGÉ: N is silent, so it's Njoroge.

17 CHAIRPERSON ANDERSON: Ms. Njoroge.

18 MS. NJOROGÉ: Yes.

19 CHAIRPERSON ANDERSON: Why was -- why was  
20 this filed late?

21 MS. NJOROGÉ: It was filed late --

22 CHAIRPERSON ANDERSON: The amendment, why

1 was it filed one day late?

2 MS. NJOROGE: Well, we -- we had already  
3 communicated with this particular individual. And the  
4 reason we went back to request them to come before The  
5 Board is because it is -- one of the reasons the ANC is  
6 contending that this particular resident, they have  
7 complained to them regarding the noise. When we went to  
8 them they said no, they have not complained. They did  
9 make one complaint to us, and we deserved it. So that's  
10 why we went back to them to clarify and to ask them to  
11 come and clarify before The Board. The ANC raised the  
12 issue that these people living in 800 P Street, they  
13 have complained to the Commission regarding noise.

14 CHAIRPERSON ANDERSON: So just -- but you  
15 were aware prior to. So was -- were you just -- were  
16 you just made -- were you made known of this issue once  
17 the ANC filed its PIF, or is it something that you were  
18 aware of prior to their filing?

19 MS. NJOROGE: We were not aware before that.  
20 All we were aware is that we had been in communication  
21 with residents of that particular property and we had  
22 deserved the issue.

1                   CHAIRPERSON ANDERSON: All right. All  
2 right. I will allow the document in. Okay. So the  
3 document -- I'm sorry. The -- the witness will be  
4 allowed to testify. So it's fine. I find that there's  
5 reasonable cause to -- to -- to make the document a part  
6 of the -- I'm agreeing with you, sir. I'm agreeing that  
7 I will allow that person to testify today. I'm -- I do  
8 understand your -- your -- yeah, I do understand it is  
9 your right to -- to object because it was not timely  
10 filed and I believe that they have given a reasonable  
11 explanation why. So -- so I think that's -- that's  
12 appropriate to allow it. Okay?

13                   MR. PADRO: All right.

14                   CHAIRPERSON ANDERSON: Now, are there any  
15 other preliminary matters that we need to address?

16                   MR. PADRO: One preliminary matter and just  
17 one question. Actually I was not advised of the time  
18 limitations to which you referred to most recently. So  
19 what is the limitation for the time for the -- the ANC's  
20 case?

21                   CHAIRPERSON ANDERSON: All right. Each side  
22 has 90 minutes to present its case. Now, we have not

1    been -- I -- I mean and I -- I -- so this whole matter  
2    should take no more than three hours, but I'm hoping  
3    that it doesn't take three -- three hours. We -- I'm --  
4    Mr. Alberti, will you --

5                   MR. ALBERTI: I will keep time. Yes.

6                   CHAIRPERSON ANDERSON: All right. So  
7    I'll -- what -- this is how we'll do it. You have about  
8    five minutes for opening and closing each. So I would  
9    say that the applicant has about five minutes to  
10   present -- to do its opening, and the other side five  
11   minutes. So -- but I'm not going to -- for the most  
12   part I think that if we -- if we keep to what the issues  
13   are and try to be very efficient, try not to have  
14   duplicative testimony, that I believe that we should be  
15   able to present all of it. I mean one of the things --  
16   and I've been doing this since November so I'm very new  
17   to this process. And I -- you don't have to say the  
18   same thing three times for me to get it. I think that  
19   we have gotten it. And so -- so if -- if a witness  
20   testify, you don't need to have another witness come and  
21   say the same testimony. So if you have different  
22   witnesses they should -- should give a different

1 prospective, not the same testimony, not the same exact  
2 testimony. And I think if we -- if we utilize it that  
3 way, then I believe that you shouldn't have a time limit  
4 in a sense that the time limit won't be a -- a lie. One  
5 of the things that I've seen done here is that the  
6 applicant will have a witness and they'll have the  
7 witness on direct testimony for five minutes, the  
8 protestant would have the same witness for half an hour.  
9 Sometimes I'm -- I'm like -- I'm not saying that maybe  
10 you might have more questions to ask. But by keeping --  
11 but by keeping that witness on the stand for half an  
12 hour you're taking away some of your own time in  
13 presenting your case in chief. So I would say that  
14 rather than spending most of your time cross examining  
15 their witness, which -- which sometimes is helpful, then  
16 be mindful of the time that you have to make sure that  
17 you -- you have that time to put your witnesses forward  
18 for them to testify. All right. This is basically  
19 the -- the process that -- the way the -- the way the  
20 process is going to go: The applicant will have an  
21 opening statement, then the protestant will have an  
22 opening statement. The Board will call its witness. So

1 our investigator will testify. The Board will ask  
2 questions. The Board will ask questions of the  
3 investigator, and then the applicant -- the applicant  
4 will ask questions, and then the protestant will ask  
5 questions after we're done. And I might allow maybe one  
6 or two -- you could cross -- you can ask cross  
7 examination of the questions that we have asked. Once  
8 The Board has presented its witness, then the applicant  
9 will present its case. And then once the -- once the  
10 applicant has rested its case then the protestant would  
11 present its case. Okay. Does anyone have any questions  
12 that they want to ask us prior to us -- the start?

13 MR. PADRO: Just one preliminary matter.

14 CHAIRPERSON ANDERSON: Sure.

15 MR. PADRO: So I do have one additional  
16 exhibit which is Exhibit --

17 CHAIRPERSON ANDERSON: Have you discussed it  
18 with them before?

19 MR. PADRO: I am going to do that [inaudible  
20 41:42].

21 CHAIRPERSON ANDERSON: And why don't you  
22 discuss it with them, show it to them. They can let

1 you -- you can -- you folks can decide whether or not  
2 they have an objection to it. And then if they don't  
3 have an objection to it, then I don't have -- well, I'm  
4 not going to have a problem if they don't have a problem  
5 to -- to what the document is because I don't know what  
6 it is [inaudible 42:04]. So you can talk to them and  
7 figure out why you want to, and then they can decide.  
8 And if you guys can't agree, then I'll make a ruling.

9 MR. PADRO: Okay. Would you like me to  
10 describe what the exhibit is?

11 CHAIRPERSON ANDERSON: Well, I -- well, I  
12 guess because I'm a lawyer when you have stuff you show  
13 it to the other side first. And so they -- I guess from  
14 the other side's prospective I mean do they have -- does  
15 the applicant have a -- any objection with the document?

16 MS. NJORGE: Yes, we do.

17 CHAIRPERSON ANDERSON: All right. What  
18 is -- what is it -- what's the document, sir, and -- and  
19 why is it -- why is it relevant and why is it being  
20 presented at this late -- at this late stage?

21 MR. PADRO: Yes. The exhibit consists of  
22 copies of Board orders -- of ABC Board orders and a copy

1 of a license information page generated by ABRA. And  
2 the reason that they are being presented now and were  
3 not presented with the PIF is because they are needed in  
4 order to be able to question the investigator on the  
5 investigator's report. They are obviously The Board's  
6 documents -- ABRA's documents and they are intended to  
7 be able to ask the investigator questions about content  
8 in the report.

9 CHAIRPERSON ANDERSON: Can you pass a copy  
10 of the --

11 MR. PADRO: Yes. I have -- I have four  
12 copies. I was instructed to bring four copies for The  
13 Board and --

14 CHAIRPERSON ANDERSON: Can you give it to --

15 MR. PADRO: -- and one copy for the file.  
16 So who should I hand those to?

17 CHAIRPERSON ANDERSON: Because the documents  
18 are ABRA's documents I'm not quite sure what's the  
19 purpose, but I will allow these documents in the record.  
20 I'll allow the documents to be included. They're not a  
21 part of the record yet. So later on they will be  
22 included. And the only reason why I'm doing that, it --

1 they are ABRA's documents. So I guess I can -- should  
2 say that you shouldn't be surprised because these are  
3 rulings that this Board has made regarding I guess  
4 whatever the issue at -- at here. So I don't expect you  
5 to know every decision that we have -- we -- we have  
6 issued. But one could say you should have notice of the  
7 decisions of this agency. So I'll allow him to use this  
8 document. You can also object later on if you still  
9 object once they are officially moved in the record.  
10 One of the things that I'll ask both sides to do if you  
11 have documents and evidence that you want us to  
12 consider, you need to move those in the record. So you  
13 need to make a formal motion to move those. You can  
14 either move them during the presentation of the case or  
15 at the end of your case. I'm reminding that you need to  
16 say I need to move Exhibit bla, bla, bla as a part of  
17 the record. I will hear objections, and I will make  
18 ruling on the objections. I might -- in reviewing the  
19 documents I do see some documents that I have some  
20 issues with. But I will wait until I see whether or not  
21 they are being asked to be moved in the -- in the  
22 record. All right. So if there are no other

1 preliminary matters, one of the things that -- that you  
2 have the right -- let me ask the question how many  
3 witnesses does the applicant have?

4 MS. NJOROGE: Two.

5 CHAIRPERSON ANDERSON: Two witnesses. And  
6 the protestant, how many witnesses?

7 MR. PADRO: We will have five. And I would  
8 like to -- based on the statement made by The Chair  
9 dismiss witness Kenneth Rogers as his testimony was  
10 related to a topic that has been judged to not be  
11 germane.

12 CHAIRPERSON ANDERSON: All right. All  
13 right. You don't need -- necessarily need to tell me  
14 that you're -- who you're going to dismiss because --  
15 but I just -- just to keep track to know how many  
16 witnesses that -- so you have five witnesses, and they  
17 have two. All right. So does the applicant -- does the  
18 applicant wish to make an opening statement?

19 MS. NJOROGE: Yes. We are Chaplin  
20 Restaurant, and we have put an application for change of  
21 hours and entertainment endorsement. And the reason we  
22 are applying for entertainment endorsement is because we

1 have a certain segment of customers who would like to be  
2 able to come to a facility and have some type of  
3 enjoyment like a DJ music and live music. We are not  
4 trying to change to become a lounge or a bar. It's  
5 because -- and also we want to be able to provide  
6 fund-raising -- to support fund-raising events for the  
7 community. Right now we have so many people call and  
8 they say we would like to come there and do this  
9 fund-raising for this cause or that cause, and we have  
10 to turn them down because we don't have the  
11 entertainment endorsement. The second reason we are  
12 applying for -- is for the change of hours. We are  
13 changing our hours just to be able to have the hours of  
14 service and hours of operation be the same. That's all  
15 we are asking for.

16 CHAIRPERSON ANDERSON: And so what are --  
17 specifically what are the hours that you're asking --  
18 what are the changes from your existing hours that  
19 you're asking for.

20 MS. NJOROGE: We are asking to change our  
21 last call from --

22 MR. WILDER: 1:30 and 2:30 to [inaudible]

1 49:04].

2 MS. NJOROGE: 1:30 to 2 and from 2:30 to 3.

3 CHAIRPERSON ANDERSON: So -- so currently  
4 the -- the establishment closes I guess Monday through  
5 Thursday at two and on weekends at three. And so you're  
6 just asking for -- to move the last call from half an  
7 hour?

8 MS. NJOROGE: Yes.

9 CHAIRPERSON ANDERSON: So therefore last  
10 call and closing is the -- is the same time.

11 MS. NJOROGE: Yes.

12 CHAIRPERSON ANDERSON: And then you're  
13 asking for an entertainment endorsement. All right.  
14 That's your -- that's the extent of you're opening?  
15 That's your -- that's the extent of your opening?

16 MS. NJOROGE: Yes.

17 CHAIRPERSON ANDERSON: All right.  
18 Mr. Padro, do you wish to make an opening statement?

19 MR. PADRO: Yes, Mr. Chairman. Thank you.  
20 Advisory Neighborhood Commission 6E prides itself on  
21 supporting the renaissance of the neighborhood that has  
22 been largely driven by ABC licensed establishments.

1 Unlike many other commissions we rarely protest  
2 licenses. We generally only do so in order to allow  
3 additional time to be able to negotiate with the  
4 applicants or the licensees and so that we can arrive at  
5 a settlement agreement and resolve the issues amicably.  
6 Over the course of the 16 years that I have been a  
7 commissioner I have only been a party to a protest  
8 hearing on one occasion, and that was actually a protest  
9 that was raised not by the Commission but by a third  
10 party, by a party of five. So it is very unusual for  
11 ANC 6E to find itself in the position of having to  
12 actually conduct and participate in a protest hearing.  
13 However, one of the things that our commission has  
14 prided itself on has been that we have striven to  
15 prevent some of the types of negative impacts from ABC  
16 establishments that have caused resistance to the  
17 proliferation of licenses in other neighborhoods, and we  
18 have done so primarily by establishing limitations on  
19 certain types of activities; one of them being  
20 nightclubs. So we have never approved a nightclub  
21 license in our jurisdiction. We have restricted the  
22 issuance of entertainment endorsements because we have

1 found that there have been negative impacts in adjacent  
2 ANCs. That we have been an affective ANC as a result of  
3 those types of licenses, and we have successfully  
4 restricted the hours of operation and service of  
5 sidewalk cafes and outdoor service. And as a result,  
6 with the exception of the Dacha Beer Garden case, we  
7 have not had problems with noise complaints to the  
8 extent that other ANCs have had and have had adversarial  
9 relationships with licensees. The Dacha Beer Garden  
10 case, the members of The Board will recall, was  
11 resolved, you know, recently and again another example  
12 of the fact that, you know, ANC 6E, you know, prefers to  
13 negotiate in good faith with applicants and licensees to  
14 resolve issues rather than having to go to the extent of  
15 a protest hearing. However, in this instance we are,  
16 you know, so concerned about the potential deleterious  
17 effects of granting an entertainment endorsement to this  
18 establishment that as a result of the fact that we were  
19 unable reach a settlement agreement with the licensee to  
20 address the concerns, we find ourselves at this  
21 particular juncture. So specifically related to the  
22 entertainment endorsement, because there is an outdoor

1 patio seating component to this particular establishment  
2 that has the ability to operate using late hours as a  
3 result of the fact that an agreement with the previous  
4 licensee was never filed with The Board and with the  
5 result that this is the only establishment in ANC 6E's  
6 jurisdiction that has outdoor seating after midnight on  
7 any day of the week, the cumulative impact of noise that  
8 would be generated by that outdoor activity with noise  
9 that would be able to emanate from the establishment  
10 when doors and windows are either left open or are  
11 opened in order to allow egress to the property would be  
12 a particular burden especially to residents of a 17-unit  
13 senior building that is directly across a ten-foot alley  
14 from the establishment. That is the -- the principal  
15 concern that the Commission has about the entertainment  
16 endorsement. The same potential cumulative noise impact  
17 would also apply to a residential building that is under  
18 construction currently across P Street from the  
19 establishment that will have an additional 200 units of  
20 housing directly across from this location with windows  
21 and doors that are operable and are actually facing that  
22 apartment building. So those are the -- the major

1 concerns related to the entertainment endorsement. In  
2 terms of the increases in hours it is the Commission's  
3 opinion that the establishment, you know, has not been  
4 responsive to community concerns about its operations  
5 and to allow the establishment to expand its hours of  
6 operation is not in the community's best interest. So  
7 those are the -- the grounds upon which we ask that the  
8 two applications either be denied by The Board or  
9 conditions be placed on especially the entertainment  
10 endorsement so as to minimize the potential negative  
11 impacts that might result, you know, from noise  
12 generated by the entertainment activities that could  
13 disturb the peace, order, and quiet of the community and  
14 especially of the adjacent residential neighbors.

15 CHAIRPERSON ANDERSON: Since you mentioned  
16 it may be in your closing since -- if you're -- if --  
17 that I would like you to tell us what it is that if The  
18 Board was to agree to do the hours or do the -- or  
19 approve the entertainment endorsement, what is it that  
20 would satisfy you. Say -- so -- so since you mentioned  
21 it in openings, I would ask that in closing -- then I  
22 would ask you to tell us in closing what it is. Like to

1 say well, if The Board is inclined to give the  
2 entertainment endorsement, then these are the conditions  
3 or for the hours, these are the conditions. Okay. So I  
4 don't know if we have -- I don't know what decisions.  
5 But I'm just saying since you had said that, I -- I  
6 would just ask you just to give us some guidance at the  
7 end in your -- in closing so at least we'll know what  
8 the possibilities are. Okay.

9 MR. PADRO: I would be pleased to do so.

10 CHAIRPERSON ANDERSON: All right. Thank  
11 you. All right. The Board then will call its first  
12 witness. And so we're calling investigator Earl Jones.  
13 And can you raise your right hand please. Do you  
14 swear -- do you swear or affirm to tell the truth and  
15 nothing but the truth?

16 INVESTIGATOR JONES: Yes, sir.

17 CHAIRPERSON ANDERSON: Have a seat please.  
18 And, Investigator Jones, what can you tell us about this  
19 protest, this -- this proceeding?

20 INVESTIGATOR JONES: Well, before I begin  
21 I'd like to make --

22 CHAIRPERSON ANDERSON: Can you be closer to

1 the mic because I -- I can't hear.

2 INVESTIGATOR JONES: Before I begin I'd like  
3 to make two corrections to the report.

4 CHAIRPERSON ANDERSON: Okay.

5 INVESTIGATOR JONES: Once is I got  
6 information from our admin side of the building that  
7 Mr. -- I'm sorry -- that Ms. Njoroge is a attorney;  
8 however, she's the agent, slash, representative for  
9 Chaplin.

10 CHAIRPERSON ANDERSON: Where -- where is  
11 that in the report?

12 INVESTIGATOR JONES: I have her listed as an  
13 attorney.

14 CHAIRPERSON ANDERSON: No. I'm just saying  
15 where -- where do you have that listed in the report?  
16 So that's --

17 INVESTIGATOR JONES: I didn't put the  
18 information that we -- I don't put the information that  
19 we receive from the licensing side into our reports.  
20 But I'm just -- that's -- I was just letting you know  
21 that was the reason why I listed her as an -- as an  
22 attorney in the report.

1 CHAIRPERSON ANDERSON: Oh, no. I don't know  
2 where that is. That's why I was just saying where.

3 INVESTIGATOR JONES: Oh, okay. It's not in  
4 the report. But I'm saying I listed her as an attorney  
5 because of the information I received from licensing --

6 CHAIRPERSON ANDERSON: Okay.

7 INVESTIGATOR JONES: -- the licensing  
8 division.

9 CHAIRPERSON ANDERSON: Okay.

10 INVESTIGATOR JONES: Also on Page Number 5  
11 there's a correction that needs to be made regarding the  
12 request that Mr. Padro made regarding trash being thrown  
13 out. It should be trash should not be thrown out before  
14 9 p.m. versus after 9 p.m.

15 CHAIRPERSON ANDERSON: So where -- I'm on --

16 INVESTIGATOR JONES: Page Number 5. It's  
17 about halfway or three quarters down the page.

18 CHAIRPERSON ANDERSON: Okay. So --

19 INVESTIGATOR JONES: The third bulletin  
20 point.

21 CHAIRPERSON ANDERSON: Yeah. I see it. So  
22 what's -- what is it that you wanted -- I just want the

1 record to be clear what it is --

2 INVESTIGATOR JONES: It should be that trash  
3 shouldn't be thrown out prior to 9 p.m.

4 CHAIRPERSON ANDERSON: Okay.

5 INVESTIGATOR JONES: I'm sorry. Trash  
6 should not be thrown out after 9 p.m. I'm sorry.

7 CHAIRPERSON ANDERSON: That's what the  
8 report says. No waste can be allowed to pile up inside.  
9 It says trash should be thrown out after 9 p.m. So what  
10 is -- what is correct?

11 INVESTIGATOR JONES: No, it shouldn't --  
12 it's thrown out before.

13 MR. ALBERTI: Before. It should say should  
14 be thrown out before.

15 INVESTIGATOR JONES: Right. Right. Before.

16 MR. WILDER: No more trash after 9 p.m.

17 INVESTIGATOR JONES: Right.

18 CHAIRPERSON ANDERSON: Okay. So that should  
19 be before 9 p.m.

20 INVESTIGATOR JONES: Correct.

21 CHAIRPERSON ANDERSON: Okay.

22 INVESTIGATOR JONES: Instead of after.

1                   CHAIRPERSON ANDERSON: All right. All  
2 right. Go ahead.

3                   INVESTIGATOR JONES: I conducted a protest  
4 investigation of Chaplin Restaurant DC, LLC which is  
5 located at 51 -- 1501 9th Street NW 2009. The  
6 establishment at 1501 9th Street is located at the  
7 corner of P Street and 9th Street NW and is bounded by O  
8 Street NW to the south, Q Street NW to the north, 10th  
9 Street NW to the west, and 8th Street NW to the east.  
10 The renewal CR license application for 1501 9th Street  
11 NW was protested by the Advisory Neighborhood Commission  
12 for 6E led by Vice-Chair Alexander Padro. There are two  
13 ABC establishments within a block of 1501 9th Street NW.  
14 One is Queen of Sheba which is directly next door and 9  
15 -- and P Street Liquors which is across the street --  
16 diagonally across the street from the establishment.  
17 The protest issues of the ANC is adverse impact on  
18 peace, order, and quiet. On April 4th, 2016 I visited  
19 Chaplin Restaurant DC, LLC and spoke with Ari Wilder  
20 who's a manager for the establishment and Adrian  
21 Williams, the proprietor of the establishment who stated  
22 the primary issues with the renewal license application

1 for Chaplin Restaurant DC, LLC is the applying for  
2 change of hours of operation as well as adding an  
3 entertainment endorsement although it is not listed  
4 impact on peace, order, and quiet. Mr. Williams stated  
5 he has no idea why he is being protested, and even  
6 during mediation issues were being brought up that had  
7 nothing to do with his application that is being  
8 protested such as his sidewalk cafe. Mr. Williams  
9 stated that he attempted to compromise on many issues of  
10 the ANC; however, it became extremely apparent that his  
11 license would be protested only after he would not  
12 comply with the ANC's demands of his business. On April  
13 4th, 2016 I spoke to Mr. Myint, landlord and tenant of  
14 the building where Chaplin is housed who stated Chaplin  
15 had -- had been nothing but a model tenant and had no  
16 issues at all since they have occupied the first two  
17 floors of his building. Excuse me. On April 13th, 2016  
18 I spoke with Joyce Njoroge, agent for Chaplin who  
19 similarly recalled the events of this protest as  
20 reported by Mr. Williams. I also spoke with Mr. Ari  
21 Wilder who's the beverage director who also similarly  
22 reported the events of this protest as reported by

1 Mr. Williams. The establishment at 1501 9th Street NW  
2 was monitored by ABRA personnel on a total of nine times  
3 from March 18, 2016 to April 11, 2016 with no violations  
4 found. I attempted to make contact with Mr. Padro on  
5 two occasions, on March 18th, 2016 by e-mail and on  
6 April 11, 2016 this time telephonically with no response  
7 to either form of communication. I monitored 1501 9th  
8 Street NW on six occasions and observed no issues with  
9 peace, order, and quiet. And finally, I was unable to  
10 obtain information regarding the calls for service from  
11 the Office of Unified Communications for 1501 9th Street  
12 NW. Thank you.

13 CHAIRPERSON ANDERSON: All right. All  
14 right. Do we have any questions of -- of the  
15 investigator by Board Members? Yes, Mr. Short.

16 MR. SHORT: Good afternoon, Investigator  
17 Jones.

18 INVESTIGATOR JONES: Good afternoon.

19 MR. SHORT: Investigator Jones, in this area  
20 are there -- what are the average hours of a night life  
21 for establishments?

22 INVESTIGATOR JONES: The average hours for

1 taverns and restaurants in that area are anywhere from  
2 1:30 to three depending on weekdays or weekends.

3 MR. SHORT: How many are them that stay open  
4 until three?

5 INVESTIGATOR JONES: I'm sorry.

6 MR. SHORT: How many out of number -- well,  
7 actually what is the approximate number of --

8 INVESTIGATOR JONES: In the area that  
9 they're in there's only one establishment, Queen of  
10 Sheba that's next door, and their hours I have listed in  
11 the report. But their hours are -- give me a second.  
12 So Queen of Sheba is -- is two and 3:00, and they also  
13 are a restaurant next door.

14 MR. SHORT: And their -- their hours are  
15 with two on the week -- during the week and three on  
16 weekends, is that what that is?

17 INVESTIGATOR JONES: Yes, sir.

18 MR. SHORT: And they're directly next door?

19 INVESTIGATOR JONES: Yes, sir.

20 MR. SHORT: Do they have a garden or --

21 INVESTIGATOR JONES: They don't have a  
22 sidewalk cafe nor -- or a summer garden.

1 MR. SHORT: Okay. And basically with the  
2 hours being at 3:00 have you had many complaints or has  
3 there been any peace, order, and quiet issues of the  
4 community?

5 INVESTIGATOR JONES: I haven't -- I haven't  
6 responded to that location for a lot of issues, not at  
7 all, sir. It's a Ethiopian restaurant. I'm not saying  
8 that other investigators haven't. I just haven't  
9 responded to any -- to any calls at all as a matter of  
10 fact for any issues there.

11 MR. SHORT: So the investigative histories  
12 for -- for both that Queen of Sheba and this  
13 establishment are pretty clear as far as investigative  
14 history?

15 INVESTIGATOR JONES: I know for Chaplin it  
16 is. For Queen of Sheba I can't -- I can't tell you what  
17 the extent as far as their history is concerned. But  
18 I -- like I said, I just know for my experience and for  
19 the time that I've been here I haven't had any calls to  
20 go there.

21 MR. SHORT: Okay. That's all. Thank you  
22 very much for your testimony, Mr. Jones.

1 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

2 MS. MILLER: Good afternoon, Mr. Jones.

3 INVESTIGATOR JONES: Good afternoon.

4 MS. MILLER: Did you say that there are  
5 other establishments nearby that have an entertainment  
6 endorsement?

7 INVESTIGATOR JONES: Yes, there are.

8 MS. MILLER: Okay. Is Queen of Sheba one of  
9 them?

10 INVESTIGATOR JONES: You have four. You  
11 have Vita -- Vita Restaurant and Lounge. You have  
12 uptown Ethiopian Fusion Cuisine. You have Ivy and  
13 Coney, and then you have Queen of Sheba.

14 MS. MILLER: Okay. Are you aware that  
15 entertainment has caused problems for the community?

16 INVESTIGATOR JONES: Again, I -- well, for  
17 the block that they're on I can't say that it has. I  
18 can't verify that. I know going further down a couple  
19 of blocks down from them I can say that it has.

20 MS. MILLER: Okay. What kind of problems?

21 INVESTIGATOR JONES: Mostly it's been noise  
22 issues. There have been a couple of calls for some

1 violent activity. But again, that's several blocks down  
2 the street.

3 MS. MILLER: Right. And why is it that --  
4 that -- or do you know why they would have that problem  
5 down the street but not where this establishment is?

6 INVESTIGATOR JONES: Well, the establishment  
7 that I'm speaking of is -- it's more or less a club.

8 MS. MILLER: Okay.

9 INVESTIGATOR JONES: So they're -- they are  
10 operating as a restaurant.

11 MS. MILLER: Right. Okay. Yeah. It -- I  
12 guess that's part of my question that often I find that  
13 if you have a restaurant and there's entertainment  
14 inside, sometimes it's no different because people can't  
15 really hear what's going on inside.

16 INVESTIGATOR JONES: I -- I do understand  
17 that.

18 MS. MILLER: If it's just a restaurant. I  
19 mean it's been different when it's a club.

20 INVESTIGATOR JONES: Right. And I do know  
21 that there are a lot of -- there are a lot of  
22 restaurants that morph into clubs at night.

1 MS. MILLER: Right.

2 INVESTIGATOR JONES: I do know that.

3 MS. MILLER: Do you think that this one has  
4 that potential?

5 INVESTIGATOR JONES: From what I observed I  
6 don't. I don't see anything where they have any sort of  
7 space where they have a DJ booth set up. From what  
8 they -- what they explained to me -- what was explained  
9 to me was because they have a lot of patrons as well as  
10 I guess the neighbors and the community that come and  
11 want to throw events there, they want to be able to at  
12 least have music for those events or be able to host  
13 things using a microphone and those types of things  
14 which requires an entertainment endorsement. Also I  
15 know that, you know, they mentioned that they're -- they  
16 would like to have the opportunity to have Karaoke from  
17 time to time. So those are the reasons that they gave  
18 me regarding wanting the entertainment endorsement.

19 MS. MILLER: Okay. And are they near a  
20 residential building off an alley or something?

21 INVESTIGATOR JONES: There is -- there is an  
22 alley directly behind the building, and directly next to

1 that alley is a assisted living development for senior  
2 citizens. There is also I want to say it's Cambria  
3 Hotel Suites that are -- they're -- they're up but  
4 they're also developing at the same time which is  
5 directly across the street from their sidewalk cafe.  
6 And directly in front of them is Shiloh Baptist Church.  
7 And there are other -- you know, there are other  
8 residential spaces that are around -- around them. But  
9 those are primarily what's directly centered around  
10 them.

11 MS. MILLER: And did you talk to any -- any  
12 people in those residential buildings?

13 INVESTIGATOR JONES: I didn't talk to anyone  
14 because they weren't listed as protestants.

15 MS. MILLER: Okay. Okay. Thank you very  
16 much.

17 INVESTIGATOR JONES: Yes, ma'am.

18 CHAIRPERSON ANDERSON: Do you have any  
19 questions? All right. Does the applicant have any  
20 questions for Mr. Jones?

21 MS. NJOROGÉ: Yes. We have one question.  
22 Mr. Jones, do you know whether Queen of Sheba has

1 entertainment endorsement?

2 INVESTIGATOR JONES: Yes.

3 MS. NJOROGE: Do you know up to what hours  
4 they have entertainment endorsement?

5 INVESTIGATOR JONES: Their -- their  
6 entertainment endorsement is from 9 p.m. to 2 a.m. and  
7 then 9 p.m. to 3 a.m. on Friday and Saturdays. But  
8 until 2 a.m. it's during the week, so Sunday through  
9 Thursday.

10 MS. NJOROGE: Okay. Do you know whether  
11 they have a settlement agreement?

12 INVESTIGATOR JONES: They don't.

13 MS. NJOROGE: Would you know how long they  
14 have been there?

15 INVESTIGATOR JONES: I can't really give you  
16 that. I spoke to the owner probably last year, and I  
17 did ask him that question. Again I can't recall. I  
18 know that he's been there over nine years.

19 MS. NJOROGE: Thank you. That's all I have.

20 CHAIRPERSON ANDERSON: Mr. Padro, do you  
21 have any questions for the investigator?

22 MR. PADRO: Yes, I do. Investigator Jones,

1 first let me apologize to you for not having responded  
2 to your requests for an interview. I actually was  
3 confused by a message that you had left for me that had  
4 indicated that we had spoken previously, and I thought  
5 you were referring to the second protest and that we  
6 already had spoken. I get a lot of phone calls from  
7 investigators.

8 INVESTIGATOR JONES: I see.

9 MR. PADRO: I accept that responsibility,  
10 and that is completely my fault. But I apologize to  
11 you.

12 INVESTIGATOR JONES: Yeah. We did speak  
13 about the first one. I -- I wasn't aware that there was  
14 going to be a second one. So that was the reason why I  
15 was calling again.

16 MR. PADRO: That's fine. But again, I --

17 INVESTIGATOR JONES: Yes, sir.

18 MR. PADRO: My apologies to you.

19 INVESTIGATOR JONES: Yes, sir.

20 MR. PADRO: So calling your attention to  
21 Page Number 3 in your report you -- you subsequently in  
22 your presentation this afternoon have indicated that

1 it is indeed Advisory Neighborhood Commission 6E rather  
2 than myself who is the protestant. But your report does  
3 say that it is being protested by one individual which  
4 would not be possible because you would have to have a  
5 group of five in order to be able to be a protestant.  
6 So that -- just to clarify the record it is -- it is the  
7 Commission that is the protestant because you do have a  
8 copy of the Commission's correspondence about this.

9 INVESTIGATOR JONES: From what I understand  
10 a group of five or more can protest as well as an ANC  
11 can protest.

12 MR. PADRO: Right. But that an individual.  
13 You stated that --

14 INVESTIGATOR JONES: Okay. But you were the  
15 individual listed. Okay. Okay.

16 MR. PADRO: -- me and I was an individual.

17 INVESTIGATOR JONES: That's fine. Yes, sir.

18 MR. PADRO: So -- but it -- it is the  
19 Commission that is the protestant.

20 INVESTIGATOR JONES: Okay.

21 MR. PADRO: Thank you very much.

22 INVESTIGATOR JONES: Uh-huh.

1 MR. PADRO: Moving on to Page Number 5. The  
2 second bullet related to demands that I am -- I have  
3 alleged to make that a rear patio area was enclosed.  
4 Did you consult with the mediator for ABRA related to  
5 the claims that were made by Mr. Williams related to  
6 these demands, or -- or is your statement only based on  
7 Mr. Williams' comments to you?

8 INVESTIGATOR JONES: We don't normally  
9 confer with the mediator regarding what was spoken about  
10 in the mediation. What we do is we go out and we speak  
11 to the licensees as well as the protestants and we get  
12 the statements from those individuals. So we just get  
13 the facts, and then we report that.

14 MR. PADRO: All right. So thank you for  
15 that. Just if we had had the opportunity, you know, to  
16 speak, I would have clarified and then I would have  
17 asked you to confirm with the mediator that that was  
18 actually a profer that was made by the applicant, it was  
19 not a demand --

20 INVESTIGATOR JONES: Okay.

21 MR. PADRO: -- that was made.

22 CHAIRPERSON ANDERSON: Mr. Padro. I -- I

1 don't mean to interrupt you, but it -- from -- from --  
2 and just in looking at this, this is not Mr. -- at least  
3 and I'm -- since Mr. Jones is The Board's witness, this  
4 is not his statement. He is basically -- my reading is  
5 that he's stating this is what Mr. Williams stated. So  
6 I -- so I think that you're better off questioning  
7 Mr. Williams about the statement. Because from at least  
8 my -- my reading of it is that he was just stating he  
9 had a conversation with Mr. Williams, and this is what  
10 Mr. Williams stated. And it's not apparent that he's  
11 saying this is his position. And I think it would be --  
12 mediations are confidential information. We do not --  
13 we do not discuss what happens in mediation here because  
14 clearly if it's mediated, it wouldn't have been here.  
15 So -- so I don't think Mr. -- even though The Board  
16 would not solicit any testimony from anyone to find out  
17 what happened in mediation because it's not relevant to  
18 this proceeding. But I just want to just caution you in  
19 the line of questioning that -- at least my reading  
20 Mr. Jones is just reporting what Mr. -- what  
21 Mr. Williams has stated, and he's not stating that this  
22 is true or -- or incorrect or -- okay.

1                   MR. PADRO: All right. I just wanted to --  
2 to clarify in case the -- The Board had any questions  
3 related to -- to that issue. So I did have some other  
4 questions about the statements Mr. Williams made. But  
5 if, Mr. Chairman, you assure me that, you know, such  
6 statements are not prejudicial to our case, then I won't  
7 pursue that line of questioning.

8                   CHAIRPERSON ANDERSON: This is just -- at  
9 least I'm -- my reading of it is that he interviewed  
10 Mr. Williams, and Mr. Williams states what his position  
11 is which I think if Mr. Williams testified today, I  
12 think Mr. Williams is going to testify what his position  
13 is. And if he testifies, of course you have every  
14 reason to cross examine him on whether or not -- his  
15 positions, whether or not they're reasonable or -- so  
16 you'll have that opportunity.

17                   MR. PADRO: That's fine. So we'll move on  
18 to Page Number 6. The first bulleted item again in this  
19 instance Mr. Myint is not present so we won't have the  
20 opportunity to -- to question him. But did Mr. Myint  
21 indicate that there ever had been any previous tenants  
22 in the building since he did indicate that it had --

1 that Chaplin had been the best tenant that he had had  
2 since owning the building?

3 INVESTIGATOR JONES: He did -- he did say he  
4 had a tenant previous to them.

5 MR. PADRO: Okay. Well, in fact there was  
6 not a previous tenant. The previous operator was  
7 Mr. Myint himself. So moving on to the next bullet --  
8 I'm just looking again to try to reflect the -- the  
9 chairman's instructions and eliminate any items that  
10 we'll address in examination of witnesses. So we can  
11 move on to Page 8, which is part of your analysis of  
12 other establishments in the neighborhood.

13 INVESTIGATOR JONES: Yes, sir.

14 MR. PADRO: So to -- to clarify information  
15 related to -- to the hours of -- of operation that are  
16 listed here for sidewalk cafes I would now like to  
17 introduce -- formally introduce Exhibit Number 6 which  
18 was previously distributed. And if one of the copies  
19 that -- that I presented --

20 CHAIRPERSON ANDERSON: The Board has, but  
21 the investigator doesn't have it. So you need to --

22 MR. PADRO: So I -- I gave an extra copy

1 that I would use to question Mr. Jones, unless may I  
2 pass this to Mr. Jones and then question him from next  
3 to that stand?

4 CHAIRPERSON ANDERSON: Well, I'm saying if  
5 you're going to question him, he needs to have something  
6 in front of him to look at.

7 MR. PADRO: Yeah. Yes. I just wanted to  
8 make sure.

9 CHAIRPERSON ANDERSON: But I do have a copy  
10 of the document. Yeah.

11 MR. PADRO: So in your report there are four  
12 sidewalk cafe endorsements that are cited; the first  
13 being Beau Thai which has an indication that hours are  
14 going to 2 a.m. and 3 a.m. I would call your attention  
15 to the first of the board orders that are in Exhibit  
16 Number 6 which represent the conditions of the  
17 settlement agreements for Beau Thai which were accepted  
18 by a board and incorporated into their license. And you  
19 will note that there are different hours of operation  
20 for the outdoor cafe than are listed in your report. I  
21 would ask you to address what source of information you  
22 used to determine those sidewalk cafe endorsement hours?

1 INVESTIGATOR JONES: What is this that you  
2 gave me?

3 MR. PADRO: What I gave you were -- is a set  
4 of copy of board orders related to several of the  
5 establishments that are included in your report in this  
6 paragraph.

7 CHAIRPERSON ANDERSON: What -- what  
8 establishment are you talking about, sir?

9 MR. PADRO: The first is Beau Thai --

10 CHAIRPERSON ANDERSON: Okay.

11 MR. PADRO: -- which is the first of the  
12 orders in Exhibit Number 6.

13 CHAIRPERSON ANDERSON: All right.

14 MR. PADRO: Sorry if I was not clear. So  
15 you will note that in the correspondence that is  
16 included in the board order the last page of the board  
17 order is a copy of the settlement agreement with Beau  
18 Thai which states that the sidewalk cafe does not  
19 operate past 12 a.m. on any days.

20 CHAIRPERSON ANDERSON: Are we talking about  
21 the hours of operation, or are we talking about the  
22 sidewalk cafe?

1 MR. PADRO: Sidewalk cafe.

2 CHAIRPERSON ANDERSON: And so are you --

3 MR. PADRO: So I'm just asking Mr. Jones  
4 to -- to either acknowledge that the information in the  
5 report related to the sidewalk cafe hours is incorrect  
6 or where he drew the information that is contrary to the  
7 settlement agreement.

8 MR. ALBERTI: Are you saying that the hours  
9 that Investigator Jones listed in his report for the  
10 summer garden -- for the sidewalk cafe are incorrect?

11 MR. PADRO: That is -- that is correct.  
12 That is my observation.

13 MR. ALBERTI: Okay. On Page -- just for  
14 clarity because I'm confused. All right. So on Page 2  
15 he lists the hours of operation. On Page 2 of his  
16 report -- his report he lists the hours of operation for  
17 the sidewalk cafe.

18 MR. PADRO: Okay.

19 MR. ALBERTI: Are those hours correct?

20 CHAIRPERSON ANDERSON: No. No. No. Not --  
21 not those hours. The hours for these establishments on  
22 Page 8. But he's saying the hours that are listed --

1 MR. ALBERTI: I guess why I'm -- I'm going  
2 to tell you I'm just going to interrupt here, and I  
3 apologize to the Chair. I'm curious where we're going  
4 here because --

5 MR. PADRO: No, I'm just --

6 MR. ALBERTI: Wait. Wait, let me finish.  
7 Where we're going here because there is no application  
8 pursuant to the sidewalk cafe hours.

9 MR. PADRO: That's correct.

10 MR. ALBERTI: So why is it a subject of this  
11 hearing?

12 MR. PADRO: I'm questioning the accuracy of  
13 the investigator's report.

14 MR. ALBERTI: But in regards to summer -- so  
15 you're saying that if it's incorrect in this area, it's  
16 incorrect in other areas? Is that what you're saying?

17 MR. PADRO: That potentially the -- the  
18 report is deficient.

19 MR. ALBERTI: All right. Very good. Thank  
20 you. I apologize for interrupting. I just wanted to  
21 understand why we're going there.

22 MR. PADRO: Sure. No. Absolutely. So

1 again, Mr. Jones, the information in -- in the report  
2 related to hours of sidewalk cafe for Beau Thai, where  
3 did you obtain that information because it is obviously  
4 in conflict with the board's order?

5 INVESTIGATOR JONES: So we have an internal  
6 database that shows all the licenses for the  
7 establishments in the district, and I get that  
8 information from what our printed licenses say.

9 MR. PADRO: Okay.

10 INVESTIGATOR JONES: So whatever the license  
11 says that's what I put on the report.

12 MR. PADRO: So then it would appear that the  
13 database is in error?

14 INVESTIGATOR JONES: I don't -- I -- I can't  
15 comment on that.

16 MR. PADRO: Okay. So I would --

17 MR. ALBERTI: Mr. Padro, just for the record  
18 the application may not marry with the settlement  
19 agreement. The settlement agreement governs the  
20 hours --

21 MR. PADRO: Right.

22 MR. ALBERTI: -- if they're less than what's

1 licensed. But our records in our database -- licensing  
2 records may reflect longer hours than what's in the  
3 settlement agreement. The licensee still has to abide  
4 by what's in the settlement agreement. So I'm not sure  
5 where you're going and why this is a point of  
6 contention.

7 MR. PADRO: Okay.

8 MR. ALBERTI: Because it really in effect  
9 isn't an inaccuracy.

10 MR. PADRO: All right. So then I would  
11 simply stipulate if that's appropriate, you know, that  
12 the hours in the report for the sidewalk cafe for Beau  
13 Thai -- and let's see which others are incorrect here --  
14 are -- are -- obviously that is incorrect. And Ivy and  
15 Coney are incorrect. So sufficient --

16 CHAIRPERSON ANDERSON: Basically you're --  
17 you're trying to introduce Exhibit 6 to say that the --  
18 that there is settlement agreement and so therefore the  
19 hours that the investigator -- you're on Page 8 of his  
20 report, right?

21 MR. PADRO: Yes.

22 CHAIRPERSON ANDERSON: Is that correct?

1 MR. PADRO: That is correct.

2 CHAIRPERSON ANDERSON: So you're saying that  
3 you have Exhibit 6, they contradict what is on Page 8 of  
4 the report?

5 MR. PADRO: Correct.

6 CHAIRPERSON ANDERSON: And you're saying for  
7 what establishments? I just want our record to be  
8 clear. So you're saying -- what are the establishments  
9 that you're saying?

10 MR. PADRO: Yes. For -- for the  
11 establishments that are listed as having sidewalk cafe  
12 endorsements in our jurisdiction that is, you know, Beau  
13 Thai and -- and actually that there is -- there are  
14 several that are missing from the report which are  
15 documented in Exhibit Number 6.

16 CHAIRPERSON ANDERSON: All right. And  
17 I'm -- I just want to -- all right. Let -- I want to  
18 ask the applicant a question. The only -- the only --  
19 the issues here are -- are for an entertainment  
20 endorsement and a change of hours for the establishment  
21 not a sidewalk cafe?

22 MR. WILDER: Yes, sir.

1                   CHAIRPERSON ANDERSON: All right. I  
2 appreciate the fact Mr. Padro, that -- that you are  
3 trying to correct the -- the record as it stands. But  
4 that line of questioning is not relevant since it's  
5 not -- it's not an issue. It's not -- there -- there's  
6 no -- we're not discussing the sidewalk cafe in this  
7 particular hearing. So if -- if this document is -- has  
8 been submitted for that fact just for -- to clarify the  
9 hours of operation for the sidewalk cafes for this  
10 establishment, then -- or is there -- is there some  
11 other reasons that --

12                   MR. PADRO: There is another reason.

13                   CHAIRPERSON ANDERSON: Okay. I'm sorry.

14                   MR. PADRO: Yes.

15                   CHAIRPERSON ANDERSON: Okay. But I'm -- but  
16 I'm just saying if the -- I will state that we need to  
17 move on from the line of questioning if you're talking  
18 about the sidewalk cafe. Because we're not discussing  
19 the sidewalk cafe in this -- in this hearing.

20                   MR. PADRO: But we are talking about impacts  
21 related to noise, and the application does not  
22 distinguish whether or not there were -- there's the

1 intention to have entertainment associated with the  
2 outdoor cafe.

3 CHAIRPERSON ANDERSON: Well, where in -- all  
4 right. Okay. Then that's -- then that's fine.

5 MR. PADRO: Okay. Thank you. So moving on  
6 to Page Number 9, discussion of the -- the building  
7 exterior -- actually no. Those are -- your mentions of  
8 the emergency exits on the first and second floors at  
9 the rear of the establishment, the -- looking at your  
10 photographs to see if there is a photograph of the rear  
11 of the establishment, and I do not see one. So I will  
12 not pursue -- no reason to -- to question you further on  
13 that. So moving on to Page Number 10 on the days and  
14 hours of visits to the -- the premises. Based on the  
15 establishment's hours of -- of operation several of the  
16 dates that you visited the establishment the  
17 establishment was not open; is that correct?

18 INVESTIGATOR JONES: There were some days  
19 that the establishment wasn't open. But again, we  
20 monitor at all hours.

21 MR. PADRO: That's fine. But I just want  
22 to -- to make sure that there's an understanding that

1 when there was an observation that there -- there were  
2 no sidewalk cafe issues, no loud noises the  
3 establishment was not open at the time.

4 INVESTIGATOR JONES: Again, we monitor at  
5 all different hours of the day. But the other thing is  
6 is that I believe had we had correspondence, I would  
7 have gotten more information from you as far as what you  
8 needed.

9 MR. PADRO: Appreciated. Thank you. On the  
10 instances where the business was actually open for  
11 business and in the evenings and you had noted that  
12 there was no loud noise and no sidewalk cafe issues.  
13 Can you tell me approximately how many patrons were  
14 present on those occasions in this time --

15 INVESTIGATOR JONES: You want me to tell you  
16 on every day that I have no sidewalk issues how many  
17 patrons were in the -- I can't tell you that.

18 MR. PADRO: Okay. Do you have an indication  
19 whether there were any patrons?

20 INVESTIGATOR JONES: There were some days  
21 when there weren't any patrons. There were some days  
22 when there may have been one or two.

1 MR. PADRO: Okay. So those were not  
2 occasions where there were any significant number of  
3 patrons present.

4 INVESTIGATOR JONES: Correct.

5 MR. PADRO: Okay. And are you aware of  
6 the -- the outdoor temperature on those occasions? Let  
7 me rephrase that. Is -- is the -- is the temperature on  
8 the occasions of your inspections a matter which you  
9 record?

10 INVESTIGATOR JONES: The weather, no, I  
11 don't. But the weather has been up and down, it's been  
12 cold, it's been hot. I don't -- I'm not -- I'm not  
13 really understanding what you're asking me, sir.

14 MR. PADRO: I was trying to correlate  
15 between the fact that there were very few patrons  
16 present and that there were no sidewalk cafe issues and  
17 no loud noises to the fact that the majority of the  
18 dates that you did visit when there -- when the  
19 establishment was in operation the temperatures -- the  
20 minimum temperatures on those dates were under 50  
21 degrees.

22 INVESTIGATOR JONES: I can't -- I can't

1 comment on that.

2 MR. PADRO: Okay. So my -- my reading of  
3 temperature records from the National Weather Service  
4 Forecast Office for the Baltimore, Washington region  
5 daily climate reports indicates that that was the case.

6 INVESTIGATOR JONES: Okay.

7 MR. PADRO: So that would explain why there  
8 were not issues of that type because there were not very  
9 many patrons out because of the weather conditions or  
10 the establishment was not open at that time. So Page  
11 Number 11, the second bullet under Item Number 6,  
12 that's, you know, related to my previous questions. You  
13 did not find noise to be excessive, and that presumably  
14 was at least in part due to the fact that there were not  
15 very many patrons out -- outside at that time.

16 INVESTIGATOR JONES: I'm just reporting what  
17 I observed at that time. I mean it could be patrons  
18 outside. It could be individuals out walking by. It  
19 could be from any of the ABC establishments in the area.  
20 I'm just reporting what I observed at that time.

21 MR. PADRO: Okay. But -- but again, from  
22 your observation there were -- there were not any

1 significant number of patrons in the outdoor seating at  
2 that time -- at those times. So thank you for that  
3 clarification. And then lastly on -- on Page Number 12  
4 you noted the October 1, 2015 citation. Is there any  
5 information that you can share to clarify that  
6 particular item?

7 INVESTIGATOR JONES: From what I understand  
8 there was one patron that was consuming an alcoholic  
9 beverage on the sidewalk cafe.

10 MR. PADRO: After hours?

11 INVESTIGATOR JONES: Yes, sir.

12 MR. PADRO: Okay. Thank you very much.

13 INVESTIGATOR JONES: Yes, sir.

14 MR. PADRO: That's all -- that's all I have  
15 for Inspector Jones.

16 CHAIRPERSON ANDERSON: Is it pertinent  
17 because I don't normally go back and forth? So is it  
18 based on a question that was asked -- I'm not going to  
19 allow new questions. So if it's -- if it's based on  
20 something specifically that was just asked?

21 MS. NJOROGE: Yes. I'd like just to --

22 CHAIRPERSON ANDERSON: Okay. Go ahead.

1 MS. NJOROGÉ: Just clarify that the one  
2 citation is not -- it was not for after hours.

3 CHAIRPERSON ANDERSON: Hold on -- hold on.  
4 Are you asking the investigator a question or are you  
5 making a -- a statement? So if you want to ask the --  
6 if you want to to ask the investigator a question  
7 about -- about the citation, you can. However, you can  
8 -- on your direct you can ask one of your witnesses to  
9 clarify that. But if you want to ask him a question  
10 about not -- the reason why I stopped you because in the  
11 beginning you were explaining, and it's not -- so are  
12 you asking him -- I'll allow to you ask him a direct  
13 question about it but not an explanation.

14 MR. ALBERTI: But she can ask -- she can ask  
15 that we take administrative note of the -- the report.

16 CHAIRPERSON ANDERSON: But she can do that  
17 later on is what I'm saying.

18 MR. ALBERTI: Right.

19 CHAIRPERSON ANDERSON: I mean --

20 MR. ALBERTI: Just -- but just remind her  
21 that she can do that.

22 CHAIRPERSON ANDERSON: Right. So you can --

1 so I mean that's something you can do in closing. But  
2 right now if you want to ask him a question, you can ask  
3 him a question. But it can't be a clarification as how  
4 you started that out.

5 MS. NJOROGÉ: Okay.

6 CHAIRPERSON ANDERSON: All right?

7 MS. NJOROGÉ: Yes.

8 CHAIRPERSON ANDERSON: All right. So you  
9 can do that I said -- right. All right. Does any board  
10 members have any questions -- any follow-up questions  
11 based on the questions either counsel asked -- either  
12 representative asked? No. Hearing none, thank you very  
13 much, Mr. Jones, for your testimony.

14 INVESTIGATOR JONES: Yes, sir.

15 CHAIRPERSON ANDERSON: You can --

16 MR. ALBERTI: Actually I just wanted to --  
17 real quick. I'm sorry. Because the subject was brought  
18 up. So Ms. -- in your discussions with the licensee,  
19 Mr. Jones, did they discuss with you the use of the  
20 sidewalk cafe vis-a-vis entertainment?

21 INVESTIGATOR JONES: So what was explained  
22 to me was that the entertainment was solely for the

1 purposes I mentioned before regarding patrons and there  
2 are neighbors in the area who would like to host events  
3 there. Therefore they would like to have the -- the  
4 opportunity to have the entertainment endorsement to do  
5 those events. They also wanted to do Karaoke whenever  
6 they would like to. As far as the sidewalk cafe is  
7 concerned from what I'm understanding they have no  
8 intentions on using entertainment in the sidewalk cafe.  
9 They have no -- they have no -- excuse me. They have no  
10 intentions on putting speakers or anything outside.  
11 They don't plan on doing any entertainment outside.  
12 Everything is inside.

13 MR. ALBERTI: Thank you for that,  
14 Investigator. And I will be sure to follow up with the  
15 licensee on that topic.

16 INVESTIGATOR JONES: Yes, sir.

17 MR. ALBERTI: Thank you.

18 INVESTIGATOR JONES: Yes, sir.

19 CHAIRPERSON ANDERSON: Yes. You're now free  
20 to go.

21 INVESTIGATOR JONES: Thank you, sir.

22 CHAIRPERSON ANDERSON: I thank you very much

1 for your testimony.

2 INVESTIGATOR JONES: Thank you.

3 CHAIRPERSON ANDERSON: All right. All  
4 right. Now, would the -- the -- it's now the  
5 applicant's presentation of his case -- case in chief.

6 So does the applicant wish to call his first witness?

7 MS. NJOROGE: Yeah. We want -- we were just  
8 informed she would not be able to make it. So we -- we  
9 will not have the witness come.

10 CHAIRPERSON ANDERSON: Do you have any  
11 witness? Did you not have any witness to testify?

12 MS. NJOROGE: Yes. The one that was to come  
13 for the noise across the street, she just sent a text  
14 saying she will not be able to come.

15 CHAIRPERSON ANDERSON: All right. All  
16 right. Do you have any witnesses that you're --  
17 you're -- do you have any witnesses that you're going to  
18 call to -- to present your case.

19 MS. NJOROGE: No.

20 CHAIRPERSON ANDERSON: No?

21 MS. NJOROGE: No.

22 MR. ALBERTI: Can I explain something to her

1 may I explain to her? May I explain something? So --  
2 so I'm sorry. I don't -- I'll probably mispronounce  
3 your last name. So, Ms. Njoroge, the onus is on the  
4 licensee to prove that their application will not be  
5 detrimental to the peace, order, and quiet, pedestrian  
6 and vehicular safety, and property values. Those are  
7 the three standards by which we judge applications. But  
8 the onus is on the licensee to prove that. And if you  
9 have no witnesses, you have not made a case. I don't  
10 want to tell you how to do your case, and maybe I'm  
11 overstepping my boundaries. But, you know, you may want  
12 to think about having someone who's responsible for the  
13 license testify on their behalf because --

14 MR. WILDER: I'll testify. We'll testify.

15 MR. ALBERTI: Please because I will tell you  
16 that if I don't hear from anybody from your side and you  
17 can't produce any documents that convince me, I will  
18 have to vote against your -- your application just  
19 because I have nothing from you. I mean and that's --  
20 it's not by choice. This is the way the law is written,  
21 and I have to follow the guidelines of the law. So the  
22 onus is on the you to show that your application is

1 appropriate, and I'm trying to be helpful here.

2 MS. NJOROGE: Thank you.

3 CHAIRPERSON ANDERSON: And it's -- let me --  
4 where's your --

5 MR. ALBERTI: She has only one witness  
6 listed.

7 CHAIRPERSON ANDERSON: Oh, that was that  
8 person?

9 MR. ALBERTI: Melanie -- the one witness you  
10 had listed was Melanie Howell; is that correct?

11 MS. NJOROGE: Yes. Yes.

12 CHAIRPERSON ANDERSON: I'm looking -- the  
13 reason I was looking -- I was looking for your original.  
14 Here, that was what I was looking for.

15 MR. ALBERTI: So here it is here. It's in  
16 Section 3.

17 CHAIRPERSON ANDERSON: That's the amended --  
18 that's the amended one. So where's the original?

19 MR. ALBERTI: I don't know. Do we have --  
20 do we have the original? I don't know if we have the  
21 original PIF.

22 CHAIRPERSON ANDERSON: No. I'm looking for

1 what was filed first before it was amended.

2 MR. ALBERTI: Yeah. I'm not sure if we have  
3 the original PIF in our -- in the documents -- in the  
4 documents provided for us. [Inaudible 1:42:19]. You  
5 can ask her if there were any witnesses listed.

6 CHAIRPERSON ANDERSON: What -- what did you  
7 submit first? I know I saw the amendment that was filed  
8 a day late. So what was the first -- what was filed  
9 timely? What did you serve timely?

10 MS. NJOROGE: We presented our petitions.  
11 We had residents sign up showing they were supporting  
12 our applications.

13 CHAIRPERSON ANDERSON: Okay.

14 MS. NJOROGE: And we submitted that with --  
15 with the PIF.

16 CHAIRPERSON ANDERSON: So that's the only  
17 thing that you had submitted?

18 MS. NJOROGE: Yes. That's what we  
19 [inaudible 1:42:54] submitted.

20 CHAIRPERSON ANDERSON: All right. Well,  
21 although it's a little bit unorthodox and -- but I don't  
22 think -- I don't necessarily think that the protestant

1 would have -- would -- should be surprised. But the  
2 expectation is that the applicant would testify to tell  
3 us why is it that they're applying for this -- this  
4 license. So hold -- so hold on, sir. So I would -- you  
5 can call the applicant as a witness to testify. And the  
6 reason why I'm saying that -- although the person's not  
7 listed as a witness, I don't think that there's any  
8 surprise to the protestant. Because the protestant  
9 would know -- should know even if it's not on the --  
10 the -- the applicant that the -- the -- I'm sorry. Even  
11 if it's not on the PIF, that a protestant would -- would  
12 testify. I'm not going to allow anyone else to testify.  
13 So you're the general manager, sir?

14 MR. WILDER: Yes.

15 CHAIRPERSON ANDERSON: So I -- so you cannot  
16 call the general manager to testify because -- since the  
17 protestant would not expect that a general manager  
18 would. But it should be no surprise that -- that the  
19 applicant would testify.

20 MR. PADRO: So when I inquired from the  
21 assistant general counsel about who would be presenting  
22 and -- and that one -- I was told that one individual

1 would be responsible for presenting for -- for the  
2 licensee and I specifically asked if anyone else that  
3 was not on the Protest Information Form would be  
4 testifying, I was told that only one person would be  
5 presenting the case on behalf of the licensee.

6 CHAIRPERSON ANDERSON: What do you mean  
7 presenting the case? What do you -- please -- please  
8 provide me with some clarification what you meant by  
9 presenting the case.

10 MR. PADRO: Presenting the case as in, you  
11 know, who would be speaking for the licensee and -- and  
12 who would be a witness for the licensee. And I was told  
13 that if they were not on the Protest Information Form,  
14 that there would not be any other witnesses.

15 CHAIRPERSON ANDERSON: All right.

16 MR. PADRO: That was Ms. Randall telling me.

17 CHAIRPERSON ANDERSON: And I mean I -- I --  
18 that's one of the reasons why I'm -- what I'm -- what  
19 I'm stating is that I'm not sure how if the license --  
20 the applicant has testified -- I know that in your  
21 presentation that you know what the application is and  
22 that you know what's been asked. So I don't -- I really

1 don't see how you would be surprised that even if it's  
2 not listed that the -- that the applicant is going to  
3 testify about his request. And that's -- that's the  
4 only -- that's -- I'm just asking -- that's -- and this  
5 is -- and this is not me be favorable to the licensee.  
6 I'm just saying that the expectation -- I understand if  
7 there are no other witnesses testifying. So that's  
8 fine. The one witness that they -- the additional  
9 witness that they had would testify. But of course the  
10 applicant is going to testify. I mean that's -- that's  
11 a given. And so I guess what I'm saying how would you  
12 be prejudiced if the -- the applicant testifies?

13 MR. PADRO: We had prepared lines of  
14 questioning for the one witness that was identified as  
15 being presented by the licensee. We did not prepare any  
16 lines of questioning for any other witnesses because no  
17 other witnesses were identified as being presented by  
18 the licensee.

19 CHAIRPERSON ANDERSON: But without asking --  
20 and I'm not asking you what happened during mediation.  
21 But in the mediation wasn't it you and the licensee?  
22 Didn't you participate in mediation with the licensee?

1 MR. PADRO: Yes.

2 CHAIRPERSON ANDERSON: It went back and  
3 forth?

4 MR. PADRO: Yes.

5 CHAIRPERSON ANDERSON: And so you discussed  
6 the terms. So -- and you and the licensee clearly did  
7 not -- you and the applicant -- I'm sorry -- clearly  
8 didn't -- didn't come to an agreement during the  
9 mediation. So therefore you're here for hearing for The  
10 Board to make a decision, right?

11 MR. PADRO: That's correct.

12 CHAIRPERSON ANDERSON: So you are aware that  
13 the licensee was going to present -- was going to tell  
14 The Board why is it that they made the request. And  
15 that's all that the licensee would be doing today,  
16 telling The Board why they're making their request. And  
17 so there's no -- the general manager will not be able to  
18 testify because you don't know -- I mean that's --  
19 that's -- that's not in the realm. But you have been  
20 dealing with the licensee all this period of time, and  
21 this is just the licensee telling The Board its  
22 reasoning why they -- why they believe that they should

1 be granted this license.

2 MR. PADRO: My question is strictly based on  
3 the procedural questions that were asked of the  
4 assistant general counsel. And of course the -- the  
5 Chair can dismiss my concerns. But, you know, that is  
6 the objection that I would raise, that we were told that  
7 the only witness that would be presented, you know,  
8 would be Melanie Howell, and that witness has not  
9 materialized.

10 CHAIRPERSON ANDERSON: Well, I -- I don't  
11 know what the -- I don't know what decision or what  
12 conversation occurred between the -- between yourself  
13 and the general counsel, and I'm not going to say yea or  
14 nay. But I'm just saying in this particular hearing it  
15 should be no surprise to any party -- that the  
16 license -- the -- the applicant would testify to The  
17 Board to tell The Board why is it that they are  
18 requesting this license and why is it that they believe  
19 that it's appropriate. So I will allow the -- the  
20 licensee -- the applicant to testify. But that's the  
21 only witness that will testify today. And so I will  
22 give you some latitude. But I don't think you really

1 need a whole lot of latitude since it's this is the  
2 person that you have been negotiating with this entire  
3 period of time. So -- so you would know what the issues  
4 are, you know why is it that he wants a license. You  
5 know why is it that you -- you are protesting this  
6 license based on the representations that were made  
7 either during the mediation or during whatever other  
8 interaction you have had with him. So you are aware,  
9 and I -- my assumption is that you are -- you know more  
10 about what he's going to state because he has already  
11 told you and you disagree with it. And he's probably  
12 going to state the same thing today to The Board. So I  
13 don't really see how you'd be any way prejudiced if this  
14 person testifies. So you can call the licensee -- the  
15 applicant to testify. But that's the only -- that's the  
16 only testimony. And in the future, Ms. Njoroge --  
17 Ms. Njoroge you are the representative. There are  
18 certain expectations that are held. And so therefore  
19 one of the -- I understand that the witness is not here.  
20 But in order to present a case you have to give us a  
21 case to present. If you have documents, I'm not quite  
22 sure how we can -- without you having someone who can

1 tell us what documents are -- what they are because this  
2 document stands for it. And as stated by Mr. Alberti  
3 the burden is on you to tell us why is it that this  
4 establishment is appropriate. You need to prove -- you  
5 need to -- and bring testimony, provide testimony to us  
6 that what you're doing is appropriate for the -- for  
7 this area and the same way they're going to say it's not  
8 appropriate. So in the future I -- I'm not sure if --  
9 well, I mean I probably would be because I think it's no  
10 big surprise that the -- that the applicant would be  
11 testifying even if their name is listed or not because  
12 everyone -- everyone is aware of the parties. But --  
13 but I'm just saying so that is something that is  
14 expected from someone who if you are here representing  
15 an agency as -- as their representative. Okay. So you  
16 can -- you can call the applicant, but that is the only  
17 witness you'll able to call today.

18 MS. NJORGE: Thank you.

19 CHAIRPERSON ANDERSON: All right. So who  
20 is --

21 MS. NJORGE: I would like to introduce and  
22 to call Adrian Williams, the applicant to testify about

1 this license.

2 CHAIRPERSON ANDERSON: Yes. You can go to  
3 the stand, Mr. Williams. And can you raise your right  
4 hand please. Can you swear -- do you swear or affirm --  
5 do you swear or affirm to tell the truth and nothing but  
6 the truth?

7 MR. WILLIAMS: Yes.

8 CHAIRPERSON ANDERSON: Have a seat. Your  
9 witness, ma'am.

10 MS. NJOROGÉ: Okay. Mr. Williams, how long  
11 have you been in business?

12 MR. WILLIAMS: Almost two years.

13 MS. NJOROGÉ: Where is your business  
14 located?

15 MR. WILLIAMS: 1501 9th Street NW.

16 MS. NJOROGÉ: Are there other businesses  
17 next to you?

18 MR. WILLIAMS: Queen of Sheba, which is an  
19 Ethiopian restaurant is directly next door.

20 MS. NJOROGÉ: Do you know their hours of  
21 operations?

22 MR. WILLIAMS: I know they open until 2 a.m.

1 and 3 a.m.

2 MS. NJOROGE: Do you know whether they have  
3 entertainment endorsement?

4 MR. WILLIAMS: Yes, they do.

5 MS. NJOROGE: Do you know what hours they  
6 have?

7 MR. WILLIAMS: I know they do bands until 2  
8 and 3 a.m. So I'm assuming that's what it is.

9 MS. NJOROGE: Would you explain to The Board  
10 why you are applying for this entertainment endorsement  
11 and change of hours?

12 MR. WILLIAMS: Yes. So Chaplins is a  
13 Japanese restaurant, and we are strictly a restaurant  
14 and we have a bar. We are not a lounge, not a club,  
15 nothing like that. We do a lot of food. We specialize  
16 in ramen, and we -- I wanted to change the hours for  
17 that half hour from 1:30 and 2:30 to two and three  
18 because it was an oversight. I didn't realize that  
19 the -- the sales -- I was under the assumption that we  
20 were -- our -- our hours of operation and our hours of  
21 sales were going to be the same thing, two and three.  
22 So I just wanted to make sure that that was -- I just

1 wanted to correct that so we don't fall into any issues.  
2 Because we are open until two and three, but we can't  
3 sell after 1:30 and 2:30. So -- and just so we could  
4 have -- make sure that everybody is in compliance and  
5 make sure there's no issues ever. As for the  
6 entertainment endorsement we would like to have the  
7 entertainment endorsement for events and possibly in the  
8 future I'd like to do Karaoke because it's a Japanese  
9 restaurant. We do not do entertainment outside. We  
10 never were going to do entertainment outside. We have  
11 explained that numerous times, that there is nothing to  
12 do with outside for the entertainment endorsement.  
13 There's no speakers. We have a patio license that we  
14 were placard for, and we received our hours from DDOT.  
15 And other than that we -- we just wanted to have our --  
16 get the entertainment for the events and stuff we would  
17 like to do. The -- I don't understand what's going on  
18 with -- as regards to why we're focused so much on our  
19 hours for our patio when the case at hand and what we  
20 were placard for is change of hours for a half an hour  
21 change and an entertainment endorsement. We don't --  
22 the two aren't really connected. So I -- I'm trying to

1 figure out why because we don't have -- the hours of  
2 operation on the patio have -- have never changed. And  
3 whether or not there patrons outside and there was noise  
4 when the investigator came or not doesn't pertain to the  
5 entertainment endorsement. And also we were applying  
6 for the entertainment endorsement from I think 6 to 1 --  
7 6 to 12 a.m. So it wasn't actually even a -- or 6 to 1  
8 now. So it wasn't actually until last -- until two or  
9 three in the morning, and it's only inside. And  
10 generally speaking it's most of the time only on the  
11 second level. So there's actually no noise to be -- to  
12 come from the inside to the outside. And I'm not quite  
13 sure why we're talking about doors opening and noise  
14 that comes from inside when a door opens to the outside  
15 because that's just the nature of the business anyway.  
16 Because we can't have customers inside if the doors  
17 don't open. So --

18 MS. NJOROGÉ: Thank you. I have another  
19 question. Had you applied for entertainment endorsement  
20 earlier --

21 MR. WILLIAMS: Yes.

22 MS. NJOROGÉ: -- in 2015? What happened to

1 that application?

2 MR. WILLIAMS: We were told that we  
3 needed -- that we would protested and that we should not  
4 apply for it by Alex, and that we could go and that they  
5 would do some sort of specialized events, 12 a year or  
6 something, that they were going to allow us to do some  
7 sort of specialized number of events. And then that's  
8 when we reapplied because we thought he was telling us  
9 to apply for an entertainment endorsement.

10 CHAIRPERSON ANDERSON: I can't -- I didn't  
11 hear the last thing you said.

12 MR. WILLIAMS: We thought he was telling us  
13 to apply for an entertainment endorsement because he  
14 originally said no, he was not going -- he was going to  
15 protest it so we withdrew our application. And then we  
16 had discussed an entertainment endorsement again, and he  
17 said that we could get some sort of special  
18 entertainment endorsement that was a special number of  
19 events per year. And so that's when we reapplied. And  
20 then -- then it got all confusing.

21 MS. NJOROGÉ: I would like to introduce an  
22 exhibit.

1 CHAIRPERSON ANDERSON: Which one is that?

2 MS. NJOROGE: I don't think you have it, but

3 it's --

4 CHAIRPERSON ANDERSON: You need to identify  
5 it for the record. So you need to tell us what it is,  
6 show it to him, and then if you want to ask questions.  
7 So remember this is being recorded and the transcriber  
8 is there. So for the record to be clear so you need to  
9 tell us what exhibit it is that you would like to  
10 introduce.

11 MS. NJOROGE: I would like to introduce an  
12 e-mail as an exhibit from Alex to Adrian.

13 CHAIRPERSON ANDERSON: All right. Is it --  
14 hold on. Is it -- all right. Is it part of -- is it  
15 part of the -- is it part of your PIF?

16 MS. NJOROGE: No, it's not.

17 CHAIRPERSON ANDERSON: Well, why don't you  
18 show -- I'm not -- I'm -- I mean well, you can show it  
19 to him. It's not a part of the record. I'm not going  
20 to -- and I'm probably not going to -- you can -- you  
21 can show to him. Even before asking the question you  
22 can show it to him.

1 MR. PADRO: So even the -- before looking at  
2 it I'm going to object to the exhibit on the basis that  
3 it was not provided to us in advance and it was not  
4 included in the PIF as --

5 MR. SHORT: Please speak up.

6 MR. PADRO: It was not included in the PIF  
7 as -- as required and --

8 CHAIRPERSON ANDERSON: You don't have to --

9 MR. PADRO: I could take a moment to read  
10 through it. But you know --

11 CHAIRPERSON ANDERSON: You don't have to say  
12 any -- you don't have to say anything else. It's -- I'm  
13 not going to allow it. I mean you can ask him questions  
14 if you want ask him questions about what's in it. But  
15 it's not going to -- I'm not -- I am not going to --  
16 it's not going to be a part of the record. But it --  
17 but there are ways you can move around that if you want  
18 to ask him questions about communications that he has  
19 had with Mr. Padro. But I'm not going to allow that --  
20 that's not going to be a part of the record.

21 MS. NJOROGGE: Okay. Thank you.

22 Mr. Williams, have you had any e-mails from Alex

1 regarding the entertainment endorsement.

2 MR. WILLIAMS: Yes.

3 MS. NJOROGÉ: In that e-mail did Mr. Alex  
4 state that he will not support your application?

5 CHAIRPERSON ANDERSON: Well, I'm -- and I'm  
6 doing this for you. What e-mail are you talking about?  
7 You need to -- you need to put a time frame. You need  
8 to -- and I -- my assumption is that there are many  
9 e-mails that he might have had. So you need to be a  
10 little bit more -- you need to -- I'm giving you some --  
11 but you need to put him in a box so you can define it.  
12 But I'm not going to have you ask him broad questions.  
13 So if you're going to ask broad questions, I'm not going  
14 to allow to continue. I know that I should not -- that  
15 -- I know that you're competent in a sense, but I'm  
16 not -- all right. Okay. So I'll let you know that you  
17 cannot ask that question because it's too broad. I  
18 don't know what you're talking about. I don't know what  
19 period you're talking about. This is -- I guess  
20 basically these are two folks who have had  
21 communications back and forth. And so there probably  
22 have been e-mails, maybe thousands of e-mails. I don't

1 know. So we can't ask him that question. So you know  
2 what's in the e-mail. If you want to ask him a  
3 question, you need to ask him a question specifically  
4 about an e-mail and let him answer. If not, move on.

5 MS. NJOROGE: Mr. Williams, had you  
6 received -- had any complaints of noise inside the  
7 restaurant?

8 MR. WILLIAMS: Have we heard any noise  
9 complaints?

10 CHAIRPERSON ANDERSON: You need to speak  
11 closer to the microphone. I can't hear you.

12 MR. WILLIAMS: Have we heard any noise  
13 complaints from inside the restaurant, is that what  
14 you --

15 MS. NJOROGE: Yes. Has anybody complained  
16 about noise?

17 MR. WILLIAMS: We had -- when we first  
18 opened we had one complaint from across the street, and  
19 we addressed it. And that is the last noise complaint  
20 that I've received or heard of since then.

21 MS. NJOROGE: Was that inside or outside?

22 MR. WILLIAMS: It was from -- I'm not sure.

1 MS. NJOROGE: Was it sidewalk cafe or inside  
2 the restaurant?

3 MR. WILLIAMS: Sidewalk cafe.

4 MS. NJOROGE: Thank you. I have no further  
5 questions.

6 CHAIRPERSON ANDERSON: Mr. Padro, your  
7 witness.

8 MR. PADRO: Thank you. Mr. Williams, your  
9 testimony this afternoon or is it evening is that you do  
10 not plan to have any speakers or any outdoor  
11 entertainment taking place in the sidewalk cafe area.  
12 But have you modified your application for the  
13 entertainment endorsement to clarify that the only  
14 entertainment that you are proposing to present will be  
15 inside the establishment?

16 MR. WILLIAMS: We have discussed it with you  
17 specifically that it was only inside the -- the  
18 restaurant.

19 MR. PADRO: But have you communicated that  
20 to ABRA, and is that part of your application or does --  
21 is your application silent as to whether or not there  
22 would be any entertainment or any amplification of

1 entertainment outside of the building?

2 MR. WILLIAMS: As a -- when we applied for  
3 the entertainment endorsement it was for entertainment  
4 inside the restaurant.

5 MR. PADRO: Is there anywhere in your  
6 application where that is stated?

7 MR. WILLIAMS: I do not know. I'm not sure  
8 that's relevant.

9 CHAIRPERSON ANDERSON: Well, that's not --  
10 if a question is asked, sir, you have to answer the  
11 question. You can't -- you can't give an answer that I  
12 don't think it's relevant. So either I don't know or I  
13 can't answer, but you can't say --

14 MR. WILLIAMS: I -- I don't know.

15 CHAIRPERSON ANDERSON: But you can't say  
16 it's not relevant. Okay. That -- that's for your  
17 representative to -- to object, and then I'll make a  
18 ruling whether or not it's relevant. But you can't say  
19 well, it's not relevant.

20 MR. WILLIAMS: Okay. Sorry.

21 CHAIRPERSON ANDERSON: All right. And I --  
22 and one thing I'll say, sir, remember you're applying --

1 you're asking us to do something. So you need to give  
2 us enough information so we'll make a determination  
3 whether or not we're going to grant you what is it  
4 you're asking for. So if you don't give it to us -- and  
5 I know Mr. Padro -- his -- his -- his goal is to tell  
6 The Board that you don't deserve to get it.

7 MR. WILLIAMS: I was just -- I was assuming  
8 I was going to make a statement to you guys from that  
9 side, not from this side. That's all.

10 CHAIRPERSON ANDERSON: Well -- well, because  
11 you're at a hearing and I'm not sure if it was explained  
12 to you, you can't make a statement. The statements are  
13 made because your representative asked you a question,  
14 and then you -- you make a statement during the --  
15 during it. I'm sorry. You make quote, unquote a  
16 statement, but your statement is answering a question.

17 MR. WILLIAMS: Okay.

18 CHAIRPERSON ANDERSON: So you're not --  
19 you're not going to stand up and make a statement. So  
20 your -- your representative needs to ask you a question.  
21 And so weave the question in a sense that you can quote,  
22 unquote make your statement. But your statement is in

1 the form of an answer. Okay. Go ahead.

2 MR. PADRO: Mr. Williams, in your interview  
3 with Investigator Jones you stated that you do not want  
4 to be -- you do not want Chaplin to be a club or a  
5 lounge. How are you distinguishing a lounge from the  
6 operation that you are proposing to engage in when you  
7 have entertainment of the types that you have stated  
8 that you plan to offer?

9 MR. WILLIAMS: On -- in my book a lounge and  
10 a club are the same thing. And what I'm imposing to  
11 engage in is a restaurant that has events and with some  
12 sort of music occasionally for those events.

13 MR. PADRO: So how is a --

14 MR. WILLIAMS: But it's not a club.

15 MR. PADRO: So how is an ABC establishment  
16 that is offering, you know, alcoholic beverages, is  
17 offering music and other types of entertainment  
18 different from a lounge?

19 MR. WILLIAMS: Well, because Karaoke is  
20 singing into a microphone, it's a traditional Japanese  
21 pastime. And it has nothing to do with a club and  
22 dancing and everything.

1 MR. PADRO: So lounges and clubs don't offer  
2 Karaoke.

3 MR. WILLIAMS: Clubs, not in my -- not the  
4 ones I've been to.

5 MR. PADRO: So that's your -- that's your  
6 statement. So -- so your statement is that you do not  
7 plan to have any -- any amplification outdoors of the  
8 entertainment that you're offering inside?

9 MR. WILLIAMS: Yes.

10 MR. PADRO: That is correct. Okay. So when  
11 we were in the mediation sessions we discussed --

12 CHAIRPERSON ANDERSON: All right.  
13 Mr. Padro, we can't talk about what was discussed in the  
14 mediation.

15 MR. PADRO: Okay.

16 CHAIRPERSON ANDERSON: So you need to  
17 rephrase your -- you know, mediations are confidential.  
18 And clearly since it wasn't mediated people might say  
19 things during mediation that they change their mind here  
20 today, but we can't talk about it. So you probably have  
21 to find another way to ask it. But don't -- don't tell  
22 me that you had a discussion in mediation. Okay?

1 MR. PADRO: All right.

2 CHAIRPERSON ANDERSON: But you can -- I  
3 think you're smart enough to figure it out to get the  
4 same thing without saying it happened during mediation.

5 MR. PADRO: One of the concerns that has  
6 been expressed is that -- that sound from the  
7 entertainment that would be presented inside of your  
8 establishment would escape from the building envelope  
9 when doors and windows are open to allow patrons to  
10 enter and exit from the sidewalk cafe area. You know,  
11 how would you propose to prevent that noise and sound of  
12 music and other types of entertainment from escaping  
13 from the building and having a negative impact on  
14 residents nearby?

15 MR. WILLIAMS: Well, our windows don't open.  
16 So they won't be escaping through there. Doors open  
17 occasionally when customers come in and out. But the  
18 entertainment would usually be upstairs in the  
19 restaurant. So it wouldn't -- it would have to travel  
20 through a floor, around a corner, and out a door.

21 MR. PADRO: The -- I'm familiar with the  
22 establishment. There are openings between the second

1 floor and the first floor. There is a stairway between  
2 the first floor and the second floor. Is it your  
3 suggestion that no sound is going to migrate from the  
4 second floor to the ground floor?

5 MR. WILLIAMS: Not with the entertainment  
6 we're trying to do.

7 MR. PADRO: You do -- you will have  
8 amplification for the entertainment?

9 MR. WILLIAMS: It was my understanding to  
10 have music to have an entertainment endorsement.

11 MR. PADRO: So -- but -- but it's not going  
12 to be, you know, acoustic music. You're going to  
13 have --

14 MR. WILLIAMS: Well, to have speakers in  
15 your bar or your restaurant.

16 MR. PADRO: Exactly. So -- so how can you  
17 assure us that sound is not going to be allowed to  
18 escape from the doors when they open and close just  
19 because the sound is on -- is being generated on the  
20 second floor?

21 MR. WILLIAMS: We use small little Sonos  
22 speakers.

1 MR. PADRO: So -- so it's your contention  
2 that it would be impossible to hear the entertainment  
3 that you are providing on the second floor on the first  
4 floor?

5 MR. WILLIAMS: Correct. No. Outside.

6 MR. PADRO: No. I'm asking about whether it  
7 would be audible on the first floor.

8 MR. WILLIAMS: Will it be audible on the  
9 first floor? Yes. I mean it's a restaurant.

10 MR. PADRO: So if it would be audible on the  
11 first floor and the doors are opening and closing, what  
12 would prevent that sound from being heard outside?  
13 Women ever.

14 MR. WILLIAMS: Because from the second floor  
15 to the first floor to outside it's generally decreasing.

16 MR. PADRO: But you just told me that it  
17 would be audible on the first floor.

18 MR. WILLIAMS: A little bit. Yes.

19 MR. PADRO: So you can't -- you could not  
20 guarantee that the noise from the entertainment would  
21 not be audible from outside when doors are opening and  
22 closing?

1 MR. WILLIAMS: I can guarantee you that it  
2 won't be loud because we're not a club or a lounge.

3 MR. PADRO: So -- but -- but still it would  
4 be audible?

5 MR. WILLIAMS: Not in my book. No.

6 MR. PADRO: Have you considered enclosing  
7 the doors to the outdoor seating area so that sound  
8 would not be able to be transmitted when people are  
9 entering and exiting through that door?

10 MR. WILLIAMS: It's a fire door. I can't  
11 block it.

12 MR. PADRO: So you have not considered that,  
13 any means of trying to prevent sound from escaping from  
14 those doors?

15 MR. WILLIAMS: I'm not sure I understand the  
16 question.

17 MR. PADRO: You could establish a vestibule  
18 where doors -- you have a double set of doors that would  
19 prevent sound from escaping from inside the building to  
20 the exterior when people are going out.

21 MR. WILLIAMS: There's actually no room for  
22 a vestibule in the building. But okay.

1 MR. PADRO: No. But -- but you have not  
2 explored that possibility?

3 MR. WILLIAMS: I've explored the fact -- oh,  
4 yes, I have actually.

5 MR. PADRO: And you -- and so --

6 MR. WILLIAMS: Because I've explored from --

7 MR. PADRO: Why have you decided not to  
8 pursue that?

9 MR. WILLIAMS: I can't.

10 MR. PADRO: So that is an option for you?

11 MR. WILLIAMS: No, it's not.

12 MR. PADRO: I'm sorry. I heard -- I heard  
13 you say that you can. You said you can't?

14 MR. WILLIAMS: Can't. Can't.

15 MR. PADRO: Okay. So -- so you cannot.

16 CHAIRPERSON ANDERSON: You can't what? I'm  
17 not -- I'm not following. I mean --

18 MR. ALBERTI: Can't construct a vestibule.

19 CHAIRPERSON ANDERSON: All right. I just  
20 want to make sure that I'm -- one -- one thing I'll ask  
21 is that let him ask -- let him ask the question before  
22 you answer, and you let him finish -- Mr. Padro, let him

1 finish answering before you ask another question.

2 And -- and although this is not a real formal -- we're  
3 not in a court of law, but there are some formalities  
4 that occurs here. So I -- I mean I just want us to try  
5 to follow the formalities in a sense of give clear  
6 concise answers if you can and -- and just allow each  
7 person to ask a question -- answer the question the best  
8 of your ability so at least The Board can follow along  
9 what it is. I mean I am trying to follow along with  
10 what is going on here. Okay. All right. Go ahead.

11 MR. PADRO: So have you considered enclosing  
12 the outdoor seating area so that sound would not be able  
13 to escape from the entertainment that is being provided  
14 indoors?

15 MR. WILLIAMS: Yes. I have looked into  
16 enclosing part of the sidewalk cafe at some point in  
17 time.

18 MR. PADRO: That's right. But that's not  
19 something that you're contemplating doing at this time?

20 MR. WILLIAMS: I -- I have been  
21 contemplating doing it.

22 MR. PADRO: So --

1 MR. WILLIAMS: We actually talked about it.

2 MR. PADRO: Yes. But we discussed it in  
3 mediation. So we -- I'm trying to ask you to elaborate  
4 on that. So is this something that -- that you would be  
5 prepared to do in order to abate the potential for  
6 disturbing the neighbors with noise generated by the  
7 entertainment that you provided inside the  
8 establishment?

9 MR. WILLIAMS: You're asking me if I would  
10 build an outdoor enclosure to keep -- yes, I have looked  
11 into that.

12 MR. PADRO: So -- and that is something that  
13 you are currently, you know, still considering doing?

14 MR. WILLIAMS: Yes.

15 MR. PADRO: Okay. You are aware that there  
16 are operable windows at the alley side of the building?

17 MR. WILLIAMS: Operable windows?

18 MR. PADRO: Windows that open.

19 MR. WILLIAMS: There's a door in the back  
20 alley.

21 MR. PADRO: And are there not windows on the  
22 second story?

1 MR. WILLIAMS: In a fire staircase?

2 MR. PADRO: No windows, operable -- openable  
3 windows --

4 MR. WILLIAMS: In the -- in the fire  
5 staircase?

6 MR. PADRO: -- on the second story -- on the  
7 second story of the building. I can't tell you what's  
8 inside the building. But, you know, from the outside of  
9 the building are there windows that lead to the outside  
10 of the building on the east side of the building?

11 MR. WILLIAMS: East side is --

12 MR. PADRO: Facing the alley.

13 MR. WILLIAMS: No. No, there's not.

14 MR. PADRO: So you're saying that there are  
15 no windows -- there are no operable windows on that  
16 facade?

17 MR. WILLIAMS: There's a window in a fire  
18 escape -- in a fire staircase, but not in the  
19 restaurant.

20 MR. PADRO: So I would now move Exhibit  
21 Number 3 from the PIF, a series of photographs of the  
22 establishment and the environs.

1                   CHAIRPERSON ANDERSON: Well, I think what I  
2 would prefer that you do is to show the witness the  
3 document, ask him about the document. He might testify  
4 differently, and then you move it. Because I'm not  
5 quite sure what is it that you're moving -- what is it  
6 you're moving into evidence and why. So I would -- so I  
7 would suggest you show him the document, ask him some  
8 questions about the document, and then you can ask to --  
9 to move into the -- into evidence. So first of all ask  
10 him -- ask him what is it, have him identify it, and  
11 then move on from there.

12                   MR. PADRO: Mr. Williams, there are two  
13 photographs on the page that I just handed to you. The  
14 photograph on the bottom, can you describe what is on --  
15 what is depicted in that photograph?

16                   MR. WILLIAMS: It looks like the -- it's the  
17 alley, and on one side is a bush that has a rat's nest  
18 underneath it, part of the senior living building. And  
19 then there is Chaplin's patio, and then there is the  
20 common area fire staircase for the residents upstairs in  
21 the restaurant, and then there is Chaplin's in front.

22                   MR. PADRO: So I'm asking specifically about

1 the facade of the building that's facing the alley --

2 MR. WILLIAMS: Uh-huh.

3 MR. PADRO: -- and the elements of the  
4 facade.

5 MR. WILLIAMS: Yes.

6 MR. PADRO: Are there windows that open on  
7 that facade?

8 MR. WILLIAMS: Part of the building? There  
9 are windows in that fire staircase, yes.

10 MR. PADRO: Okay. So I would now enter --

11 MR. WILLIAMS: It's not part of Chaplin's  
12 though.

13 MR. PADRO: -- request entering Exhibit --

14 CHAIRPERSON ANDERSON: Well, hold -- hold on  
15 a minute. You're -- it's Exhibit --

16 MR. PADRO: Exhibit 3.

17 CHAIRPERSON ANDERSON: Three. And is that  
18 Page 1?

19 MR. PADRO: That is Page 3 of Exhibit 3.

20 CHAIRPERSON ANDERSON: Okay. So Exhibit --  
21 Exhibit 3, Page 3, that's the document that -- that you  
22 just showed the --

1 MR. PADRO: That's correct.

2 CHAIRPERSON ANDERSON: All right. All  
3 right. And -- all right.

4 MR. PADRO: Retrieve that.

5 CHAIRPERSON ANDERSON: And so you're --  
6 you're asking for us to move --

7 MR. PADRO: That exhibit with the  
8 photographs which will be, you know, referred to in its  
9 entirety in our case in chief.

10 CHAIRPERSON ANDERSON: So you're asking us  
11 to move -- well, so why don't you -- if you're going  
12 to -- if you're going to utilize it later on, why don't  
13 you then just ask us to move it when you present your  
14 case?

15 MR. PADRO: So I don't need to do that even  
16 though I presented it to Mr. Williams to question him?

17 CHAIRPERSON ANDERSON: No, you -- no, you  
18 don't have to do that. I -- but you have to remember  
19 before you close your case to do that. So that's fine.

20 MR. PADRO: Thank you for -- for the  
21 clarification. So, Mr. Williams, in the -- the  
22 photograph you noted the alley that is at the rear of

1 Chaplins -- between Chaplins and 801 P Street NW. Do  
2 you know how wide the alley is?

3 MR. WILLIAMS: Twelve feet.

4 MR. PADRO: It's actually ten feet, but --

5 MR. WILLIAMS: I just measured it.

6 MR. PADRO: According to the -- the records  
7 of the District of Columbia it's a ten-foot alley. Are  
8 there windows on the facade of 801 P Street that face  
9 the alley and face Chaplin?

10 MR. WILLIAMS: I think there are windows  
11 that are boarded up on that side. I'm not sure though.  
12 I think they have plywood over them.

13 CHAIRPERSON ANDERSON: You need to show her  
14 first the document you're -- so at least she'll know  
15 what document that you are -- it's not for her to agree  
16 or disagree. You just need to show her the document so  
17 she'll know what it is you're showing the witness. And  
18 then you show the witness, and then you have him  
19 identify it. Okay.

20 MR. WILLIAMS: Okay. So some of them are  
21 plywooded.

22 CHAIRPERSON ANDERSON: So what -- but

1 what -- what document is this?

2 MR. PADRO: So this is Exhibit 3, Page 4.

3 MR. WILLIAMS: Okay.

4 MR. PADRO: And, Mr. Williams, I will ask  
5 you to look at that photograph which shows the west wall  
6 of 801 P Street facing -- the alley that faces Chaplins.  
7 Can you see any windows on that facade?

8 MR. WILLIAMS: Yes.

9 MR. PADRO: Okay. So can you count how many  
10 windows there are and tell us how many windows you see  
11 there.

12 MR. WILLIAMS: I can see eight.

13 MR. PADRO: Okay. So those are eight  
14 windows to apartments at 801 P Street NW that are  
15 exposed to Chaplin. And -- and what is across the alley  
16 from --

17 MR. WILLIAMS: Is that a question?

18 MR. PADRO: Yeah. No. I'm about to ask you  
19 a question. So directly across the alley from those  
20 windows is what part of your establishment?

21 MR. WILLIAMS: The trash area.

22 MR. PADRO: And is there not a seating area

1 for outdoor seating?

2 MR. WILLIAMS: Directly across from these  
3 windows is a trash area and not our -- and then part of  
4 its not our property.

5 MR. PADRO: The seating that is gated --

6 MR. WILLIAMS: The seating in your picture  
7 that's gated is not directly across from those windows.

8 MR. PADRO: It's across from the -- it is  
9 across the alley from the building, is it not?

10 MR. WILLIAMS: Across the alley from the  
11 building is the trash and parking space.

12 MR. PADRO: So -- but you do acknowledge  
13 that there is outdoor seating that is ten feet away from  
14 the property across from the alley?

15 MR. WILLIAMS: There is -- our patio is ten  
16 feet away from the front yard to that building. Yes.

17 MR. PADRO: Thank you. So, Mr. Williams, do  
18 you know how many residents are in the building at 801 P  
19 Street NW?

20 MR. WILLIAMS: No.

21 MR. PADRO: Okay. But -- and what -- but do  
22 you know what type of -- of individuals demographically

1 in terms of ages are residents of the building?

2 MR. WILLIAMS: I heard it's a senior living.

3 MR. PADRO: Okay. So senior citizens. So  
4 would you not be appreciative of the fact that -- that  
5 senior citizens could be disturbed by noise emanating  
6 from the building when entertainment is being offered as  
7 your patrons are entering and exiting the -- the outdoor  
8 seating that is ten feet away from their building?

9 MR. WILLIAMS: No.

10 MR. PADRO: You do not -- you do not believe  
11 that -- that any noise would be emanating from those  
12 doors opening and closing?

13 MR. WILLIAMS: No. Not more than there is  
14 already.

15 MR. PADRO: So you do not believe that  
16 having entertainment inside your building is going to  
17 generate any noise that could be heard outside of the --  
18 the property, outside of the establishment when your  
19 customers in the -- in the outdoor seating area go in  
20 and out of the outdoor seating area, when they go to the  
21 bathrooms inside, when they are entering the -- the  
22 seating area, when they are exiting the seating area?

1 MR. WILLIAMS: Not any more than there  
2 already is presently from the business that's already  
3 there.

4 MR. PADRO: Mr. Williams, what is Chaplin's  
5 procedure for dealing with any complaints that may be  
6 presented related to noise that is generated by the  
7 establishment?

8 MR. WILLIAMS: We would address it  
9 accordingly if we received any.

10 MR. PADRO: How would -- okay. Again, what  
11 would be the procedure? Who would be responsible for  
12 taking the complaint? Who would be responsible for  
13 responding to -- to the complainant?

14 MR. WILLIAMS: Probably Ari.

15 MR. PADRO: And Ari is?

16 MR. WILLIAMS: Ari Wilder sitting next to  
17 you.

18 MR. PADRO: And his position is?

19 MR. WILLIAMS: Beverage director.

20 MR. PADRO: All right. And -- and if there  
21 were, you know, complaints, what would, you know, the  
22 likely action be on the part of Chaplins to address

1 complaints of noise if someone called at let's say, you  
2 know, 1:00 in the morning?

3 MR. WILLIAMS: We would make sure that  
4 everybody quiets down and doesn't make noise to cause a  
5 problem for anybody. I mean we're pretty compliant for  
6 the neighborhood. We don't really cause any noise.

7 MR. PADRO: So -- so if someone is  
8 calling -- I'm sorry -- did you complete your answer?

9 MR. WILLIAMS: Uh-huh.

10 MR. PADRO: Okay. If someone is calling and  
11 saying there's -- you know, I'm hearing music coming out  
12 of your building, it's 1:00 in the morning, I live  
13 across the street from you, what would be Chaplin's  
14 response?

15 MR. WILLIAMS: We'd turn it down.

16 CHAIRPERSON ANDERSON: Just on an unrelated  
17 point, Mr. Padro, remember I told you each side had 90  
18 minutes to present their case. You know, you're in --

19 MR. PADRO: We haven't -- we haven't started  
20 presenting our case --

21 CHAIRPERSON ANDERSON: You're --

22 MR. PADRO: -- our case in chief.

1                   CHAIRPERSON ANDERSON: But you're eating  
2 into your time in the cross examination that you're  
3 taking. So I just want to let you be aware of that,  
4 that you do have -- because in -- in presenting your  
5 case this is part of presenting your case. So just be  
6 mindful that you're eating into your own time in a sense  
7 that you have five witnesses. And I think that you have  
8 probably done as what Mr. -- Board Member -- Board  
9 Member Alberti said that you're probably eating into  
10 like 45 minutes of your time.

11                   MR. PADRO: Okay.

12                   CHAIRPERSON ANDERSON: So just -- just -- I  
13 just wanted to -- to be fair so you're mindful of that,  
14 sir.

15                   MR. PADRO: I -- I appreciate the  
16 admonition.

17                   CHAIRPERSON ANDERSON: No. It's just to let  
18 you know I don't want -- I want you to have an  
19 opportunity to present your whole case --

20                   MR. PADRO: Absolutely.

21                   CHAIRPERSON ANDERSON: -- and without  
22 telling you that you need to hurry up because you're

1 running out of time. That's all.

2 MR. PADRO: Absolutely. So I have no other  
3 questions.

4 CHAIRPERSON ANDERSON: And that was not that  
5 intent. I just -- and that was not that intent. But I  
6 just want you to be -- to be mindful. Before -- before  
7 having Board questions do you have any follow-up --  
8 well, no, let me -- you know, let me ask The Board  
9 first. Let me let The Board comment, then you'll have  
10 two bites of the apple. Do we have any questions by  
11 board members? I think Board Member Alberti has been  
12 burning to ask some questions. So go ahead.

13 MR. ALBERTI: Well, I'm not necessarily  
14 burning. But in trying to be fair to both sides I'm  
15 going to ask a bunch of questions. All right. And this  
16 is only out of fairness. Because, again, I'm just going  
17 to be quite blunt with you because you may be here again  
18 in a protest. I don't know. But I am disappointed in  
19 the fact that you have really brought much -- very  
20 little information to us. So I really need to know why  
21 noise isn't going to escape from your establishment. I  
22 mean seriously. I mean you can tell me it's not going

1 to, but I -- you know, I just -- I can't accept that. I  
2 have -- I have to have -- you know, it's trust but  
3 verify. I have to have evidence. So --

4 MR. WILLIAMS: Okay.

5 MR. ALBERTI: -- I'm trying to be helpful.  
6 And probably more helpful than the protestants going to  
7 be happy with. I'm just putting that out there. So  
8 first of all, your sidewalk cafe, you're not going to  
9 have entertainment there?

10 MR. WILLIAMS: No.

11 MR. ALBERTI: And you're willing to  
12 stipulate that?

13 MR. WILLIAMS: Yes.

14 MR. ALBERTI: So if we put that in the Board  
15 Order, no -- no entertainment at the sidewalk cafe, that  
16 will be -- that will not be a harm to the business model  
17 that you're trying to establish here?

18 MR. WILLIAMS: Yes.

19 MR. ALBERTI: Okay. Great. So noted. And  
20 these are in no particular order, but why can't you --  
21 why can't you -- you said I can't put in an a vestibule.  
22 Why can't you put in a vestibule?

1 MR. WILLIAMS: Well, there's no -- I mean  
2 there's no room inside the restaurant to put a vestibule  
3 in.

4 MR. ALBERTI: What about outside? A  
5 vestibule can extend past the doorway to the outside.

6 MR. WILLIAMS: It's public space.

7 MR. ALBERTI: Yeah. Oh, so you can't have  
8 anything permanent there, that's public space. Okay. I  
9 got you. All right. All right. So I'm looking at  
10 these -- I'm looking -- so you're -- you talk -- tell me  
11 about the interior of this -- of your restaurant. I've  
12 never been there. So you've got two floors I take it.

13 MR. WILLIAMS: That's right.

14 MR. ALBERTI: That's what I've heard. All  
15 right. So tell me what's on the first floor.

16 MR. WILLIAMS: So we have a basement which  
17 is our kitchen.

18 MR. ALBERTI: Okay.

19 MR. WILLIAMS: And then we have a first  
20 floor which is dining and a bar, and then we have a  
21 second floor which is dining and another small bar.

22 MR. ALBERTI: Another small what?

1 MR. WILLIAMS: A bar.

2 MR. ALBERTI: All right. What's your --  
3 what's your intent on where to feature entertainment?

4 MR. WILLIAMS: It would be upstairs in the  
5 front side where the -- most likely where the -- the  
6 other small bar is with other seating. There's --

7 MR. ALBERTI: Front side --

8 MR. WILLIAMS: -- the dining room.

9 MR. ALBERTI: -- facing which -- facing  
10 which street? I know nothing about your establishment.

11 MR. WILLIAMS: Facing 9th Street. Sorry.

12 MR. ALBERTI: Facing 9th Street. Okay. Is  
13 that -- I'm trying to orient. So let's -- let's go to  
14 -- do you have the exhibits that -- that Commissioner  
15 Padro gave you?

16 MR. WILLIAMS: He took them back. He took  
17 them back.

18 MR. ALBERTI: Can we make sure he has those  
19 because that will be helpful.

20 CHAIRPERSON ANDERSON: You can -- you can  
21 wait there, sir.

22 MR. ALBERTI: You can wait. He'll -- I'm

1 sure he'll be --

2 CHAIRPERSON ANDERSON: He's supposed to  
3 bring them to you.

4 MR. ALBERTI: He'll be courteous enough to  
5 bring them to you.

6 MR. WILLIAMS: All right.

7 MR. PADRO: I'm just making sure I'm getting  
8 the -- the correct ones. So --

9 MR. ALBERTI: So it's Page 3 and Page 4 I  
10 think are the two that I'd like to -- since they have  
11 been offered and been shown to the witness before I --  
12 they've been -- been introduced, I'll -- I'll use those.  
13 So 9th Street is where in relationship to the Page --  
14 Exhibit 3, Page 3 the bottom picture, where's 9th in  
15 relationship to the -- the side of the building that  
16 we're looking at here?

17 MR. WILLIAMS: From there from the alley is  
18 about 120 feet.

19 MR. ALBERTI: So 9th Street -- so that  
20 sidewalk cafe is facing which street, P Street or 9th  
21 Street?

22 MR. WILLIAMS: That is facing P Street.

1 MR. ALBERTI: That's facing P Street. Okay.  
2 How many -- so where are your main entrance doors for  
3 your establishment?

4 MR. WILLIAMS: The main entrance is on 9th  
5 Street.

6 MR. ALBERTI: On 9th Street. Okay. But  
7 there's an entrance to the sidewalk cafe on P Street.  
8 Is that on the P Street side?

9 MR. WILLIAMS: P Street, yes.

10 MR. ALBERTI: Okay. So now do you have  
11 windows that open onto that side of the building?

12 MR. WILLIAMS: No.

13 MR. ALBERTI: Okay. First of all, let me --  
14 let me get -- let me -- looking -- I'm focusing on this  
15 one picture because it's the only thing I have right  
16 here. So I look at this picture and I see -- I'm  
17 looking at sort of a brick portion that is adjacent  
18 to -- it's a two-story brick portion that's adjacent --

19 MR. WILLIAMS: Yes.

20 MR. ALBERTI: -- to your trash area, right?  
21 And then I see a more modern facade.

22 MR. WILLIAMS: Yes.

1 MR. ALBERTI: All right.

2 MR. WILLIAMS: The modern facade is the  
3 second story of our restaurant. The two-story brick  
4 part that you were referring to is a fire staircase.

5 MR. ALBERTI: Okay. So the third story, is  
6 that part of your establishment, the third story there  
7 that I see with that modern facade?

8 MR. WILLIAMS: No. That is a residence.

9 MR. ALBERTI: Pardon? That's residence?

10 MR. WILLIAMS: That is a residence.

11 MR. ALBERTI: Okay. And so the sidewalk  
12 cafe -- where's the entrance to the sidewalk cafe if you  
13 can sort of describe from that picture.

14 MR. WILLIAMS: It's about in the middle of  
15 the building.

16 MR. ALBERTI: Pardon?

17 MR. WILLIAMS: About in the middle of --  
18 right there in --

19 MR. ALBERTI: That -- in the middle of the  
20 modern facade?

21 MR. WILLIAMS: Right at -- where that modern  
22 facade starts --

1 MR. ALBERTI: Uh-huh.

2 MR. WILLIAMS: -- it's right underneath  
3 there.

4 MR. ALBERTI: Underneath the -- okay. I got  
5 you. All right. And so that two-story structure,  
6 that -- that portion of the building is just emergency  
7 staircase?

8 MR. WILLIAMS: Yes.

9 MR. ALBERTI: Okay. Do you use that door at  
10 all, the emergency staircase?

11 MR. WILLIAMS: For -- that door?

12 MR. ALBERTI: Well, the door -- I see a door  
13 that enters on the emergency staircase at the first  
14 level. Is that a door?

15 MR. WILLIAMS: No, that's a window.

16 MR. ALBERTI: Oh, that's a window.

17 MR. WILLIAMS: A blacked out window.

18 MR. ALBERTI: All right. Do any of those  
19 windows open?

20 MR. WILLIAMS: No, we -- they're --

21 MR. ALBERTI: Are they operable? Are they  
22 able to open those?

1 MR. WILLIAMS: I'm not sure.

2 MR. ALBERTI: All right. Do you have  
3 control over them?

4 MR. WILLIAMS: Yes. They are -- I mean I  
5 could get to them. Yes.

6 MR. ALBERTI: All right.

7 MR. WILLIAMS: Somebody broke into one of  
8 them on Thanksgiving.

9 MR. ALBERTI: All right. So you -- you  
10 actually have -- you can -- you have the authority to go  
11 and open and close them if you wanted to?

12 MR. WILLIAMS: If they worked, yes. Yes.  
13 I've never opened them. They would never have any  
14 reason to be open.

15 MR. ALBERTI: All right. Are there any  
16 operable windows on the other modern facade there?

17 MR. WILLIAMS: No. Those are all --

18 MR. ALBERTI: Stationary windows with no --  
19 they can't open or close?

20 MR. WILLIAMS: Yeah.

21 MR. ALBERTI: All right. Do you -- okay.  
22 So where do you intend to have entertainment?

1 MR. WILLIAMS: The second --

2 MR. ALBERTI: Well, I mean what's your  
3 desire? Is it the whole establishment, just the second  
4 floor, just the first floor? What's your desire?

5 MR. WILLIAMS: My desire -- I mean the way  
6 the restaurant is is it's -- if we were to have it, it  
7 would most likely be on the second floor in the front of  
8 the building.

9 MR. ALBERTI: Most likely, but you wouldn't  
10 rule out the first floor?

11 MR. WILLIAMS: No. It would be second floor  
12 front of the building. I -- there's no room to do  
13 anything on the first floor. It's just not feasible.

14 MR. ALBERTI: So would you pipe music  
15 from -- if you had entertainment upstairs, say a DJ, a  
16 band, a small band, whatever you're going to have --

17 MR. WILLIAMS: Music would be this --

18 MR. ALBERTI: -- would you pipe it down to  
19 the -- the first level?

20 MR. WILLIAMS: No.

21 MR. ALBERTI: Okay. All right. Just FYI,  
22 if you did, we'd consider to be entertainment on the

1 first level as well as the second level. Just --

2 MR. WILLIAMS: Okay.

3 MR. ALBERTI: -- for your information. All  
4 right. All right. So if the board said to you look,  
5 you can only have entertainment -- you can confine  
6 entertainment to your second level, is that going to  
7 cause a problem?

8 MR. WILLIAMS: Perfect.

9 MR. ALBERTI: Is that going to be a  
10 detriment to your business plan?

11 MR. WILLIAMS: No.

12 MR. ALBERTI: Okay. Hopefully I'm asking  
13 questions that will also help the other side think about  
14 what they want to present to us. I'm trying to be fair  
15 to both sides here. Why don't you think the noise from  
16 upstairs would -- I mean -- okay. Structurally -- if  
17 you think in terms of what the structure looks like  
18 inside, why do you think noise will not escape, not --  
19 not the volume? Because I can't trust anyone to keep  
20 the volume down. I have to assume at some point the  
21 volume's going to be so loud that there's the potential.  
22 Why -- why do you think that -- or that -- that there's

1 a possibility unless someone can tell me well, the  
2 structure is going to prevent it this way or that way.  
3 So why do you think it would be contained in the second  
4 level?

5 MR. WILLIAMS: Because as I really, really  
6 want to emphasize we are a restaurant. We do not plan  
7 on having large DJ parties. We do not plan on turning  
8 into a club. We do not plan on turning into a lounge.  
9 We are strictly a restaurant and a Japanese restaurant  
10 for that matter.

11 MR. ALBERTI: Okay. That's not very  
12 helpful. But that's all right. That's your answer.  
13 All right. So --

14 MR. WILLIAMS: No. I mean we just --

15 MR. ALBERTI: Seriously I mean I don't know  
16 why -- why won't it escape those windows?

17 MR. WILLIAMS: It's they're two plane  
18 windows and we don't plan on having --

19 MR. ALBERTI: Two plane, what do you mean?

20 MR. WILLIAMS: Or two pane windows.

21 MR. ALBERTI: Double pane.

22 MR. WILLIAMS: Double pane.

1 MR. ALBERTI: Okay.

2 MR. WILLIAMS: Two pane, and we -- we don't  
3 plan on having loud ruckus parties. We just wanted to  
4 have events and --

5 MR. ALBERTI: All right.

6 MR. WILLIAMS: -- noise doesn't -- there's  
7 not a lot of noise that gets outside from the inside of  
8 the building.

9 MR. ALBERTI: Okay. So the last question  
10 I'm going to ask is how -- what's the seating capacity  
11 upstairs where the -- not seating capacity. What's the  
12 total capacity of patrons upstairs?

13 MR. WILLIAMS: Upstairs is 60.

14 MR. ALBERTI: Okay. All right. And I need  
15 to know because I need to know what's the size of the  
16 crowd. So you're -- you're pretty sure your seat --

17 MR. WILLIAMS: 49. Yeah. 49.

18 MR. ALBERTI: What -- any -- any idea what  
19 your CFO says for each floor?

20 MR. WILLIAMS: 89.

21 MR. ALBERTI: Pardon?

22 MR. WILLIAMS: It's -- it doesn't say per

1 floor. It says it for the whole --

2 MR. ALBERTI: So what's it for the whole?

3 MR. WILLIAMS: 89.

4 MR. ALBERTI: Seats or total patrons?

5 MR. WILLIAMS: Seats.

6 MR. ALBERTI: Seats. Do you know what the  
7 occupancy load is?

8 MR. WILLIAMS: I think -- no. Actually the  
9 occupancy is -- no, it's 89.

10 MR. ALBERTI: Okay. I will -- I'll -- we'll  
11 -- we'll take a look at your -- -- your CFO is in our --  
12 in our records.

13 MR. WILLIAMS: I don't -- I just see the --

14 MR. ALBERTI: Your CFO is in our records,  
15 and I -- I can take administrative note of that. Okay.  
16 That's all I have right now. Thank you.

17 CHAIRPERSON ANDERSON: Ms. Miller.

18 MS. MILLER: Okay. Hi.

19 MR. WILLIAMS: How you doing?

20 MS. MILLER: Okay. So I want to follow up  
21 on some of those questions as well. So the pictures  
22 that we have here I think is that smaller building

1 that's next to the modern building, that's part of your  
2 restaurant?

3 MR. WILLIAMS: No.

4 MS. MILLER: No. It's an emergency stairway  
5 for somebody else?

6 MR. WILLIAMS: Yes. For the residents  
7 upstairs.

8 MS. MILLER: Is -- okay. So is that across  
9 the alley from the residential building?

10 MR. WILLIAMS: Yes.

11 MS. MILLER: The assisted living residential  
12 or another one?

13 MR. WILLIAMS: Yes.

14 MS. MILLER: Okay. So to me that looks like  
15 somewhat of a buffer.

16 MR. WILLIAMS: Yes.

17 MS. MILLER: Okay. Have -- you've been in  
18 operation for two years, is that --

19 MR. WILLIAMS: Yes.

20 MS. MILLER: Okay. Do you know any of these  
21 neighbors? Do they come to your restaurant?

22 MR. WILLIAMS: Yes.

1 MS. MILLER: Have you had complaints from  
2 them about noise in general?

3 MR. WILLIAMS: Not to my knowledge.

4 MS. MILLER: Okay. The event -- do you have  
5 any idea as to like how many events you want to have or  
6 envision having like per week or --

7 MR. WILLIAMS: We could have an event a  
8 couple of times a month, four times a month. We could  
9 have no events a month. It's not -- it's not something  
10 for, you know --

11 MS. MILLER: Okay.

12 MR. WILLIAMS: -- that we have -- that we  
13 wanted to do -- I mean I know like -- I don't -- I know  
14 everybody keeps saying they don't -- I just want to harp  
15 on the fact that we're not a club. We don't want to  
16 have like a specific party set like on a specific day  
17 every week or something like that. That's not -- that's  
18 not our intention.

19 MS. MILLER: Okay. So why did not you  
20 articulate your intention like what -- what kind of  
21 events you envision or why you want to be able to have  
22 events.

1 MR. WILLIAMS: What we envisioned was, you  
2 know, to have events for -- you know, we get phone calls  
3 for people that, you know, would like to have a 20, 30,  
4 40 person party, a wedding reception. We've done a  
5 couple of those. We've gotten a couple fund-raiser  
6 requests. We had a Cherry Blossom Festival request.  
7 Various things that customers want to, you know, come in  
8 and have a specific event and use us. And, you know,  
9 sometimes they request to have a -- you know, a DJ  
10 playing music for that event. Or not many -- we've had  
11 one request for a band, not very often. But I mean  
12 there has been a request for a live band before. And  
13 things like that, that we would -- you know, to do  
14 certain events that we would like to do.

15 MS. MILLER: Are you open for lunch?

16 MR. WILLIAMS: We are open on Saturday and  
17 Sunday for brunch, but during the week we are not open  
18 for lunch.

19 MS. MILLER: Okay. But you're not seeking  
20 entertainment for that period?

21 MR. WILLIAMS: No. And we're not --  
22 we're -- yeah. Again, we're -- we're only seeking

1 entertainment for inside, not for outside at all, and we  
2 don't have speakers outside or play music outside or  
3 anything.

4 MS. MILLER: Do you -- speaking of speakers,  
5 you have speakers inside already?

6 MR. WILLIAMS: We -- I have like a little  
7 Sonos speaker.

8 MS. MILLER: Are you going to have bigger  
9 speakers when you get -- if you get your entertainment  
10 endorsement?

11 MR. WILLIAMS: No. I -- like just like the  
12 normal size speakers. Not like huge speakers.

13 MS. MILLER: So let me ask you -- but you  
14 can control the volume on those speakers, correct?

15 MR. WILLIAMS: Yes.

16 MS. MILLER: Okay. So if you did get a  
17 complaint from a resident in the evening while you had  
18 entertainment, what would you do?

19 MR. WILLIAMS: Oh, we would turn it down.  
20 And I'm not even sure you would even be talking about  
21 amplified speakers.

22 MS. MILLER: Okay.

1 MR. WILLIAMS: Again, like that's not our  
2 intention.

3 MS. MILLER: Did you say -- I'm just curious  
4 is Karaoke related to Japanese traditions? Is it a  
5 Japanese thing?

6 MR. WILLIAMS: It is a Japanese thing. They  
7 really like to -- I used work at a Karaoke restaurant  
8 for 11 years.

9 MS. MILLER: Okay.

10 MR. WILLIAMS: DuPont.

11 MS. MILLER: Oh, I guess with respect to the  
12 residences nearby, did -- are they -- did you talk to  
13 them about this application?

14 MR. WILLIAMS: Yes.

15 MS. MILLER: Who did you talk to?

16 MR. WILLIAMS: We -- we talked to 801 P  
17 Street, the -- the like the City of O Building, and  
18 we -- we petitioned customers and stuff and -- for --  
19 for signatures and everything.

20 MS. MILLER: Oh, right. Okay. Okay. And  
21 what was -- what's their sentiment?

22 MR. WILLIAMS: The general consensus was

1 that -- was people were very supportive of it. I mean  
2 we -- we are very supportive of the neighborhood, and we  
3 get a lot of support from the neighborhood. We give 50  
4 percent discounts to everybody in the neighborhood. And  
5 we -- we do a lot to try to clean up the neighborhood  
6 and make sure it's -- you know, there's a presence there  
7 so it's safe and everything.

8 MS. MILLER: So you haven't had any -- it  
9 doesn't sound like it, any incidents of violence or  
10 anything from your patrons --

11 MR. WILLIAMS: No.

12 MS. MILLER: -- or anything? Are you -- I  
13 think this kind of question came up as to how busy you  
14 are in general. Do you have a lot of patrons during the  
15 week in the evening or the weekends?

16 MR. WILLIAMS: We're fairly -- I mean we're  
17 a fairly busy restaurant. Yes.

18 MS. MILLER: So -- so have they created any  
19 kind of noise outside, you know, as their living or  
20 anything like that that's -- that's been a problem?

21 MR. WILLIAMS: No. Not -- not that I've  
22 seen a problem with.

1 MS. MILLER: Okay. Oh, do you have any  
2 particular type of clientele other than the people in  
3 the neighborhood? You know, like younger people or  
4 older people or the --

5 MR. WILLIAMS: Generally we're -- our crowd  
6 is usually like a professional crowd. I mean we're not  
7 the cheapest place in the area, but we're not the --  
8 we're not the most expensive either. So I mean it's  
9 definitely not like a college hangout or like, you know,  
10 a very young crowd.

11 MS. MILLER: Okay.

12 MR. WILLIAMS: It's not rowdy at all if  
13 that's the kind of -- if that's the question you're  
14 asking. It's not rowdy at all.

15 MS. MILLER: It's not rowdy. But [inaudible  
16 2:49:57].

17 MR. WILLIAMS: No. It's not like a young  
18 rowdy like that kind of crowd. No.

19 MS. MILLER: Right. Okay. Okay. And if  
20 you -- if your hours were increased a half an hour  
21 later, how would they fit in with the other restaurants  
22 that are in your vicinity?

1 MR. WILLIAMS: It would be the same as the  
2 rest of the restaurants.

3 MS. MILLER: Okay. Okay. That covers it  
4 for me. Thank you.

5 CHAIRPERSON ANDERSON: Thank you,  
6 Ms. Miller. Mr. Short.

7 MR. SHORT: Good evening, Mr. Williams.

8 MR. WILLIAMS: How you doing?

9 MR. SHORT: Mr. Williams, you said your  
10 seating is upstairs where you want to have  
11 entertainment.

12 MR. WILLIAMS: Yes.

13 MR. SHORT: How much -- how many of your  
14 seats are fixed and how many can be moved -- are  
15 moveable?

16 MR. WILLIAMS: Like fixed as in?

17 MR. SHORT: Do you have any that are affixed  
18 to the floor or to the wall or side tables or --

19 MR. WILLIAMS: We have a couple booths that  
20 are -- that are fixed.

21 MR. SHORT: You have booths?

22 MR. WILLIAMS: We have two booths -- three

1 booths upstairs that are fixed there.

2 MR. SHORT: What is the square footage  
3 upstairs approximately?

4 MR. WILLIAMS: 1,500. Approximately 1,500.

5 MR. SHORT: That's pretty big --

6 MR. WILLIAMS: Yeah. 12 to 1,500. Yeah.

7 MR. SHORT: -- for a restaurant.

8 MR. WILLIAMS: Yes.

9 MR. SHORT: So -- and so if you were to have  
10 a wedding, you only have two booths that are affixed.

11 MR. WILLIAMS: It'd be a very small wedding.

12 MR. SHORT: Okay. I understand that. But  
13 now, at a wedding reception everybody wants to dance.  
14 What would you do with those tables and chairs?

15 MR. WILLIAMS: We could move them.

16 MR. SHORT: So if you had an entertainment  
17 endorsement, it would be very easy for you to move your  
18 tables and chairs and set up for a dancing rather than a  
19 restaurant and eating?

20 MR. WILLIAMS: Not that easy.

21 MR. SHORT: Well, I mean but you could.

22 MR. WILLIAMS: They'd be piled up in a --

1 and it -- if -- there's not a lot room in that  
2 restaurant to maneuver things around and --

3 MR. SHORT: That's why I was asking you  
4 about your fixed seating and your tables.

5 MR. WILLIAMS: Yeah.

6 MR. SHORT: So again, Mr. -- Mr. Alberti did  
7 ask you about your occupancy and -- and you were saying  
8 you have -- I just happen to know a little about that.  
9 I know DCRA normally gives you -- the fire department  
10 gives you seating as a certain number of people you can  
11 have. And then if the tables and chairs are moved out,  
12 then there is another number. Are you familiar with  
13 those two different numbers?

14 MR. WILLIAMS: Our numbers -- I'm -- the  
15 only number I've -- I've ever -- I see on our C of O is  
16 89.

17 MR. SHORT: Okay. All right. All right.  
18 Okay. So again, and -- and you were saying basically if  
19 you were allowed, to have entertainment you would want  
20 it as the same hours as your neighbors?

21 MR. WILLIAMS: No. We were actually  
22 requesting -- I mean ideally, yes. But we were actually

1 requesting 6 to 1.

2 MR. SHORT: At 1:00 the entertainment would  
3 be over?

4 MR. WILLIAMS: 1:00 -- 1 a.m., yes.

5 MR. SHORT: And there would be nothing  
6 outside ever?

7 MR. WILLIAMS: No.

8 MR. SHORT: And you -- okay. Well, have you  
9 discussed that with anyone other than your -- your --  
10 your business associates?

11 MR. WILLIAMS: Alex Padro.

12 MR. SHORT: Huh?

13 MR. WILLIAMS: Alex.

14 MR. SHORT: You've discussed it already? In  
15 your application for your entertainment endorsement,  
16 what's on that application? What are the hours on the  
17 application?

18 MR. WILLIAMS: Six so one.

19 MR. SHORT: 6 p.m. to one?

20 MR. WILLIAMS: 1 a.m.

21 MR. SHORT: 1 a.m. And no entertainment  
22 downstairs at all?

1 MR. WILLIAMS: No.

2 MR. SHORT: Your stairways between upstairs  
3 and downstairs, are they open or closed?

4 MR. WILLIAMS: Open.

5 MR. SHORT: So the music could very easily  
6 be heard downstairs, the entertainment?

7 MR. WILLIAMS: You -- you could probably  
8 hear it. Yes.

9 MR. SHORT: So if there's no door that  
10 closes up --

11 MR. WILLIAMS: Yeah.

12 MR. SHORT: -- of course it's going to come  
13 down. So -- so you have -- you have a bunch of people  
14 or families downstairs eating, somebody wants to have --  
15 rent your upstairs for a wedding reception. So the  
16 noise up there won't affect the people downstairs at  
17 all?

18 MR. WILLIAMS: We -- well, I mean for us I  
19 mean that would be the thing, that we don't want to --  
20 we're not going to affect our other customers by doing,  
21 you know, certain events. So we're very conscious on,  
22 you know, the other side of it too. So we're not going

1 to do something that's going to effect the people  
2 downstairs.

3 MR. SHORT: Okay. The reason why -- why  
4 we're asking these questions is -- and you've heard it  
5 earlier -- someone mentioned it earlier in our testimony  
6 that we've had other businesses in Washington D.C. that  
7 are restaurants and then something happens and they  
8 morph -- morph into nightclubs because they found out  
9 they can make more money selling alcohol than selling  
10 food.

11 MR. WILLIAMS: That's not us.

12 MR. SHORT: You're not going to do anything  
13 like that?

14 MR. WILLIAMS: No. I'm -- we're in it for  
15 the long haul longevity of the business. We would like  
16 to be there as a staple of the neighborhood for years to  
17 come.

18 MR. SHORT: My last question, you -- you are  
19 a Japanese restaurant?

20 MR. WILLIAMS: Yes.

21 MR. SHORT: So you only have tables and  
22 chairs. You don't have the --

1 MR. WILLIAMS: That's sitting at --

2 MR. SHORT: -- a couple tables where you can  
3 sit around them?

4 MR. WILLIAMS: No. We specialize in ramen,  
5 like Japanese soups.

6 MR. SHORT: Japanese soups?

7 MR. WILLIAMS: Uh-huh.

8 MR. SHORT: Okay. All right. That's all I  
9 have. Thank you very much.

10 MR. WILLIAMS: You're welcome.

11 CHAIRPERSON ANDERSON: All right. Ms. -- do  
12 you have any questions for -- you can -- questions based  
13 on the questions that were asked by The Board or  
14 questions that were asked by Mr. Padro?

15 MS. NJOROGE: Yes. Mr. Williams, have you  
16 had any complaint from anyone regarding any part of your  
17 operations?

18 MR. WILLIAMS: Complaints of what side of  
19 the operations?

20 MS. NJOROGE: Like noise or sitting out  
21 late, people --

22 MR. WILLIAMS: No. As I've said, we had one

1 complaint at the beginning when we opened for -- there  
2 were some people on the sidewalk being loud, and we  
3 addressed it with the -- the people, and we cleared it  
4 up.

5 MS. NJOROGE: Do you use the -- the  
6 emergency exit at all?

7 MR. WILLIAMS: To take out the trash.

8 MS. NJOROGE: Okay. How old is the  
9 building?

10 MR. WILLIAMS: Four years old -- three and a  
11 half years old.

12 MS. NJOROGE: I have no further questions.

13 CHAIRPERSON ANDERSON: Now, I'm trying to  
14 see because you started this. That's why I'm trying to  
15 figure out if I need to give you another bite of the  
16 apple. So I'll just -- I'll give you -- not -- not for  
17 a lot of questions but basically questions based on what  
18 were asked of The Board. So you can ask him a couple of  
19 questions based on what were -- based on the questions  
20 the board members asked and that's it.

21 MR. PADRO: Thank you, Mr. Chairman.

22 Mr. Williams, who specifically did you speak with at 801

1 P Street and at City Market at O regarding the  
2 entertainment endorsement?

3 MR. WILLIAMS: Melanie.

4 MR. PADRO: So that's Melanie Howell at City  
5 Market at O and who at 801 P Street?

6 MR. WILLIAMS: Referred to as the --  
7 actually I don't know who we -- we talked to 801. I  
8 never said 801 actually.

9 MR. PADRO: A board member asked, and you  
10 said that you did speak to --

11 MR. WILLIAMS: I said eight -- 800 P, the  
12 City of O.

13 MR. PADRO: You said that seniors from 801 P  
14 Street are your customers?

15 MR. WILLIAMS: I was asked if we know the  
16 people in the building. Yes.

17 MR. PADRO: So -- but you specifically said  
18 yes, they're our customers. So the senior citizens at  
19 801 P Street you say are your customers?

20 MR. WILLIAMS: Well, the -- the mayor of --  
21 he calls him the mayor of Shaw, he's been in our  
22 establishment. So yes.

1 MR. PADRO: The -- you initially testified  
2 that the door on the alley side was not able to be  
3 opened, but then you subsequently acknowledged the  
4 question from The Board that it is used to take out  
5 trash. So that is a door that can be opened?

6 MR. WILLIAMS: I never said it couldn't be  
7 opened.

8 MR. PADRO: I guess the -- the record  
9 would -- would state otherwise.

10 MR. WILLIAMS: I'm sure it wouldn't.

11 MR. PADRO: There was a question about the  
12 spaces -- the openings between the first floor and the  
13 second floor. So approximately how large is that space  
14 that is above the first floor bar?

15 MR. WILLIAMS: What space?

16 MR. PADRO: There is an opening in the floor  
17 or the ceiling if you're looking at it from the first  
18 floor.

19 MR. WILLIAMS: Uh-huh.

20 MR. PADRO: How big is that space?

21 MR. WILLIAMS: Ten feet by three feet.

22 MR. PADRO: That's all I have.

1                   CHAIRPERSON ANDERSON: All right. All  
2 right. Thank you. Do you have any other -- well, no,  
3 you don't have any other witness to -- all right. Are  
4 there documents that you want to introduce as part of  
5 the record?

6                   MS. NJOROGÉ: No.

7                   CHAIRPERSON ANDERSON: You have no  
8 documents? There are documents in your PIF. Do you  
9 want to make those a part -- are you -- are you -- do  
10 you intend to introduce those?

11                  MS. NJOROGÉ: Yes. I would like to --

12                  CHAIRPERSON ANDERSON: Well, let me help you  
13 a little bit. Can you ask him to identify -- since he's  
14 on the -- can you ask him to identify what the document  
15 is. Ask your witness to identify what the document --  
16 tell us what the document is please. Just ask him  
17 what -- ask him to identify the document.

18                  MS. NJOROGÉ: Yeah. What document -- do you  
19 recognize that document?

20                  MR. WILLIAMS: Yes. It is the -- the  
21 petition for the entertainment endorsement and change of  
22 hours and in the future that we were -- when we wanted

1 to do a patio enclosure.

2 CHAIRPERSON ANDERSON: All right.

3 MR. WILLIAMS: And that's signature.

4 CHAIRPERSON ANDERSON: You can step down,  
5 sir. So you're -- you're asking -- you're asking us to  
6 move that into the -- into the evidence?

7 MS. NJOROGE: Yes.

8 CHAIRPERSON ANDERSON: Mr. Padro, do you  
9 have any objection to the document?

10 MR. PADRO: I don't have objections, but I  
11 have questions for Mr. Williams about it.

12 MR. ALBERTI: What -- what -- may I ask what  
13 the document is? I'm trying to find it.

14 MR. PADRO: It's a petition -- a petition,  
15 yes.

16 MR. ALBERTI: Signed by whom?

17 MS. NJOROGE: By the people who reside  
18 within the ANC.

19 MR. ALBERTI: All right. All right. Fine.

20 CHAIRPERSON ANDERSON: What's the question  
21 you wanted to ask, Mr. --

22 MR. SHORT: I just want to -- she said --

1 are all those names on the petition persons who live  
2 within the ANC or the District of Columbia?

3 MS. NJOROGÉ: The ANC.

4 MR. ALBERTI: There are -- there are no  
5 addresses. I would just point out there are no  
6 addresses on this petition.

7 CHAIRPERSON ANDERSON: All right.

8 MR. ALBERTI: If that's helpful to the other  
9 side. Because I don't know what questions you wanted to  
10 ask. But I'm trying to make this most efficient. So I  
11 will point out that -- just for everyone -- there are no  
12 addresses. You have a list of names, people who sign  
13 it, and I have no -- other than believing that -- that  
14 -- that the purpose for what they signed it was -- was  
15 valid I have no idea, you know, where they live, what  
16 their connection to the establishment is. So I will  
17 weigh that when I look at the petition.

18 CHAIRPERSON ANDERSON: Okay. You can step  
19 down, sir. Thank you very much.

20 MS. MILLER: But can I ask a question. I --  
21 I just want to know the context of this petition. Like  
22 who took the petition? I mean who -- you know, who

1 brought it to people and, you know, where was it taken,  
2 in buildings, in your restaurant?

3 MR. WILLIAMS: Yeah. We walked around the  
4 neighborhood.

5 MS. MILLER: Around the neighborhood?

6 MR. WILLIAMS: Yeah.

7 MS. MILLER: And who did -- who took it  
8 around?

9 MR. WILLIAMS: A bunch of different -- Joyce  
10 did. Some of our managers did.

11 MS. MILLER: Who's Joyce?

12 MR. WILLIAMS: Joyce.

13 MS. MILLER: Oh, I'm sorry. Okay. I only  
14 know your last name. Okay. Okay. Thank you. I just  
15 wanted to get some general context.

16 CHAIRPERSON ANDERSON: You can step down,  
17 sir. Thank you.

18 MR. ALBERTI: Good. It's worthless.

19 MS. MILLER: Well, I don't think.

20 CHAIRPERSON ANDERSON: Does the applicant --  
21 does the applicant rest -- rest their case? All right.  
22 Mr. Padro, do you wish to call your first witness?

1 MR. PADRO: Thank you very much. I call  
2 Kevin Chapple.

3 CHAIRPERSON ANDERSON: Can you raise your  
4 right hand, sir, please. Do you swear or affirm -- do  
5 you swear or affirm to tell the truth and nothing but  
6 the truth?

7 MR. CHAPPLE: I do.

8 CHAIRPERSON ANDERSON: Have a seat please.  
9 Your witness.

10 MR. PADRO: Mr. Chapple, where do you  
11 reside?

12 MR. CHAPPLE: I reside at 438 S Street NW.

13 MR. ALBERTI: Would you have him identify  
14 himself and spell his name for the record just so we  
15 have it.

16 MR. PADRO: Mr. Chapple would you be so kind  
17 as to identify yourself and spell your name for the  
18 record.

19 MR. CHAPPLE: Kevin Chapple. My last name  
20 is spelled C-H-A-P-P-L-E.

21 MR. ALBERTI: It's just a formality.

22 MR. CHAPPLE: I understand.

1 MR. PADRO: And how long have you lived at  
2 that address, Mr. Chapple?

3 MR. CHAPPLE: Lived at that address since  
4 October of 2000. So it will be 16 years.

5 MR. PADRO: And you are an advisory  
6 neighborhood commissioner?

7 MR. CHAPPLE: I am.

8 MR. PADRO: And how long have you been a  
9 commissioner?

10 MR. CHAPPLE: This will be my tenth year.

11 MR. PADRO: Does ANC 6E have any guidelines  
12 related to outdoor seating and entertainment  
13 endorsements?

14 MR. CHAPPLE: Yes.

15 MR. PADRO: Is it true that in the Shaw  
16 portion of the commission's jurisdiction the commission  
17 has never approved outdoor seating after midnight in  
18 cases earlier?

19 MR. CHAPPLE: That is true.

20 MR. PADRO: Is it true that until recently  
21 ANC 6E did not support applications for entertainment  
22 endorsements following the problems associated with the

1 former Mood Lounge?

2 MR. CHAPPLE: That is true.

3 MR. PADRO: In June 2014 did ANC 6E vote to  
4 approve a settlement agreement with Mandalay Restaurant  
5 at 1501 9th Street NW related to hours of operation and  
6 summer garden hours?

7 MR. CHAPPLE: That did happen.

8 MR. PADRO: Mr. Chapple, I'm going to  
9 present you with a document, and let's see. It is ANC  
10 6E's Exhibit Number -- it's Exhibit Number 1. Please  
11 look at -- at this exhibit. Is this the agreement that  
12 the Commission approved?

13 MR. CHAPPLE: Yes, this is the agreement.

14 MR. PADRO: Okay. Are you aware that the  
15 agreement was never filed with ABRA?

16 MR. CHAPPLE: I found out subsequently after  
17 this agreement was agreed to that it was not filed with  
18 ABRA.

19 MR. PADRO: And are you familiar with the  
20 circumstances related to the agreement not having been  
21 filed?

22 MR. CHAPPLE: Yes, I am.

1 MR. PADRO: Okay. Are you concerned that  
2 Chaplin which purchased Mandalay's ABC license now  
3 allows outdoor seating after midnight every night?

4 MR. CHAPPLE: Yes, I am.

5 MR. PADRO: Do you believe that this will  
6 result in noise including the sound of voices, glasses,  
7 dishes, et cetera that could disturb residential  
8 neighbors and exacerbate any noise that might be coming  
9 from inside the building resulting from the  
10 entertainment endorsement if it was approved?

11 MR. CHAPPLE: Yes, I am.

12 MR. PADRO: Are you familiar with the  
13 location of Chaplin?

14 MR. CHAPPLE: Yes. I am familiar with its  
15 location.

16 MR. PADRO: I am introducing Exhibit Number  
17 4. And, Mr. Chapple, please look at the -- the exhibit  
18 which is a map -- an aerial map of the site. Are you  
19 aware of a new residential building under construction  
20 across P Street from Chaplin at 880 P Street NW as part  
21 of the City Market of O development?

22 MR. CHAPPLE: Yes, I am.

1 MR. PADRO: Are you aware that there will be  
2 200 apartment units in that building?

3 MR. CHAPPLE: Yes, I am.

4 MR. PADRO: Are you concerned that noise  
5 from entertainment at Chaplin coming from the outdoor  
6 seating and open doors and windows could disturb  
7 residents of that apartment building?

8 MR. CHAPPLE: That does concern me.

9 MR. PADRO: In your opinion would noise from  
10 entertainment both inside and outside Chaplin combined  
11 with noise from patrons seated in the patio make the  
12 potential for disturbing the sleep of residents of that  
13 apartment building greater than if the entertainment  
14 endorsement was not granted?

15 MR. CHAPPLE: Yes, I am.

16 MR. PADRO: Okay. Any other, you know,  
17 concerns that -- that you might have about either the  
18 entertainment endorsement or the request for change of  
19 hours of operation?

20 MR. CHAPPLE: Well, as a commissioner I get  
21 complaints all the time from my constituents. This --  
22 this restaurant is not in my single member district.

1 But I do have restaurants that are in my single member  
2 district that I receive complaints about their amplified  
3 noise or amplified music or entertainment that they  
4 have. And I am always very concerned when a restaurant  
5 wants to have a entertainment endorsement. And that is  
6 something that I pay particular attention to because  
7 like most of my colleagues we don't like to receive  
8 these complaints. So we try to head it off before it  
9 becomes a problem.

10 MR. PADRO: And lastly, this is Exhibit  
11 Number 2. Can you identify that document?

12 MR. CHAPPLE: This is the agreement between  
13 the ANC 6E and Beau Thai.

14 MR. PADRO: And, you know, where is Beau  
15 Thai located in relation to Chaplins?

16 MR. CHAPPLE: Beau Thai is on 7th and -- 7th  
17 and P.

18 MR. PADRO: And can you tell me what time  
19 the outdoor seating ends at Beau Thai per that  
20 agreement?

21 MR. CHAPPLE: On Sunday through Saturday it  
22 ends at midnight.

1 MR. PADRO: Thank you very much. No other  
2 questions for this witness.

3 CHAIRPERSON ANDERSON: Your witness, ma'am.

4 MS. NJOROGE: Mr. Kevin -- I can -- I'm not  
5 able to pronounce your last name. I have a question for  
6 you. How long you -- you said you've been ANC  
7 commissioner for ten years.

8 MR. CHAPPLE: This will be my tenth year.

9 MS. NJOROGE: Okay. That's good service to  
10 the community. Now, I have a question for you. Have  
11 you -- do you know Queen of Sheba?

12 MR. CHAPPLE: Yes.

13 MS. NJOROGE: Do they have entertainment  
14 endorsement?

15 MR. CHAPPLE: Yes, they do.

16 MS. NJOROGE: What time -- do you know the  
17 times for their entertainment endorsement?

18 MR. CHAPPLE: I believe we entered into a  
19 voluntary agreement with them, and it -- it ends at  
20 midnight.

21 MS. NJOROGE: Is there -- is there a  
22 settlement agreement -- you have a settlement agreement

1 with them?

2 MR. CHAPPLE: I believe so. It's not in my  
3 district, but it's -- yeah. I think I went over the  
4 entertainment endorsement --

5 CHAIRPERSON ANDERSON: Sir, if you don't  
6 know --

7 MR. CHAPPLE: I -- I don't. I don't know.

8 CHAIRPERSON ANDERSON: -- say you don't  
9 know. Don't try to speculate. If you don't know, you  
10 don't know.

11 MS. NJOROGE: Mr. Kevin, can you tell us how  
12 the noise from proposed upcoming building will affect  
13 our entertainment endorsement on the second floor?  
14 How -- how would that noise affect the residents who are  
15 not even there at the moment?

16 MR. CHAPPLE: How -- how will the noise  
17 affect the residents that are not there?

18 MS. NJOROGE: Yeah. They're not there.  
19 It's a building under construction.

20 MR. CHAPPLE: I don't know how the noise  
21 will affect residents who are not there.

22 MS. NJOROGE: You just said -- you just

1 answered his question that there's building coming up,  
2 200 residents that are going to be affected by the noise  
3 coming from second floor if we get a second floor  
4 entertainment endorsement --

5 MR. CHAPPLE: Yes.

6 MS. NJOROGÉ: -- plus people sitting out on  
7 the sidewalk cafe, they'll affect 200 people who are  
8 coming. How are they going to be affected?

9 MR. CHAPPLE: Well, what the question was is  
10 do I have any concerns that the residents of that  
11 building that will be coming would be disturbed by  
12 the -- the -- the noise that emanates from the  
13 restaurant.

14 MS. NJOROGÉ: Do you know how many -- do you  
15 know who is -- do you know what kind of material they're  
16 using for their building for their windows?

17 MR. CHAPPLE: I -- when you say they, you  
18 mean the --

19 MS. NJOROGÉ: The -- the people -- the  
20 property company, the one that is building, do you have  
21 any knowledge of the material they're using?

22 MR. CHAPPLE: I do not.

1 MS. NJOROGÉ: Do you know -- you don't know  
2 anything about that building?

3 MR. CHAPPLE: Well, I mean I know the  
4 design. I know the occupancy. I can't tell you what  
5 material they will be using for their windows though.

6 MS. NJOROGÉ: Mr. Kevin, are you familiar  
7 with most modern buildings, the buildings that are  
8 coming up, that most of them have modern equipment,  
9 noise shielding windows, and stuff like that? Are you  
10 aware of that?

11 MR. CHAPPLE: I -- I have no knowledge of  
12 that.

13 MS. NJOROGÉ: But you're concerned about the  
14 noise, about the building that is coming up that you do  
15 not know the material they are going to use? Is that a  
16 correct statement?

17 MR. CHAPPLE: I do have concerns whenever  
18 there is amplified noise close to a residential building  
19 and it goes on until the early morning hours.

20 MS. NJOROGÉ: But that -- okay. So are you  
21 concerned about time or are you concerned about noise?

22 MR. CHAPPLE: I'm concerned about the noise

1 and the time that the noise will be emanating from the  
2 building.

3 MS. NJOROGE: How do you know there is  
4 noise?

5 MR. CHAPPLE: Well, if there's amplified  
6 music or any type of amplification, there will be noise.

7 MS. NJOROGE: But if it's not amplified  
8 music, then there's no -- there's no noise that comes.  
9 If it's not open windows, it's on the second floor, and  
10 it's not amplified, and there are windows and those  
11 windows aren't open to the -- to the outside where the  
12 building is, how is that noise going to -- to come out?

13 MR. CHAPPLE: Well, noise can travel through  
14 material. I have a restaurant that's in my district,  
15 Shaw Tavern, they had Karaoke, and there was a lot of  
16 problems with that. We had a meeting with the residents  
17 and the management, and they agreed to do certain noise  
18 abatement. And if they did not do the noise abatement,  
19 the noise would travel through that building and disturb  
20 the residents. So just because it's inside a building  
21 doesn't mean the noise won't come outside of the  
22 building.

1 MS. NJOROGÉ: Do you know how big those  
2 windows are going to be?

3 MR. CHAPPLE: What windows?

4 MS. NJOROGÉ: The windows for the -- for the  
5 building that is coming up.

6 MR. CHAPPLE: I do not.

7 MS. NJOROGÉ: Do you know how big the  
8 speakers we are going to use if we are approved?

9 MR. CHAPPLE: I -- I don't know the size of  
10 your speakers, ma'am.

11 MS. NJOROGÉ: So is it correct that -- to  
12 say that you're assuming that there's going to be loud  
13 noise?

14 MR. CHAPPLE: Well, when there's  
15 amplification usually there is loud noise or it would  
16 not be amplified. I'm basing it on my experience with  
17 my constituents and -- and restaurants. I mean any time  
18 something is amplified volumes go up and down, and who  
19 knows where that will end, I mean how high the volume  
20 will go. So I can't make any predictions, but I do have  
21 concerns.

22 MS. NJOROGÉ: Have you been out -- happened

1 to be out around that area at the hours from about  
2 between 12 and closing time?

3 MR. CHAPPLE: When you say that area --

4 MS. NJOROGE: Yeah. I'm talking about the  
5 9th Street -- 9th Street where Chaplin, Queen of Sheba  
6 is located, that -- that location. Have you been around  
7 there between the hours of 12 and let's say one or two?

8 MR. CHAPPLE: I haven't been in those  
9 establishments at those hours. But I've been on 9th  
10 Street between the hours of one and two on my way home.

11 MS. NJOROGE: Okay. You mentioned that you  
12 were -- I'm going to introduce this document to you.

13 CHAIRPERSON ANDERSON: What -- what document  
14 is that?

15 MS. NJOROGE: This is a minutes of the  
16 meeting they had for the ANC on December 11th, 2015.

17 MS. MILLER: Is that in here? I think it  
18 was in here.

19 CHAIRPERSON ANDERSON: Is it in your PIF?

20 MS. MILLER: It sounds familiar.

21 CHAIRPERSON ANDERSON: Is it -- is it in  
22 your PIF?

1 MS. NJOROGE: [Inaudible 3:18:06].

2 CHAIRPERSON ANDERSON: Well, you cannot --  
3 all right. The way this works is that you need to --  
4 one -- one of the purpose of having the PIF is seven  
5 days prior to the hearing you disclose the documents or  
6 witnesses that you're going to rely on. Now, unless you  
7 are -- unless someone says something and that you have  
8 an ah-ha moment, meaning that you're -- you're going  
9 to -- you have something to rebut something that they  
10 testified to and so you want to say no, this is not  
11 true, you cannot use a document. So if the document was  
12 not disclosed seven days prior -- if it's not in your  
13 PIF, then you cannot -- unless you're trying to confront  
14 a document to say that this is some -- this is something  
15 that -- unless you want to use it as rebuttal to rebut  
16 some testimony they had given before and you have  
17 contrary evidence to testimony, no. So please put that  
18 document away because it cannot -- you cannot utilize  
19 that document. And I -- I'm going to say it for the  
20 last time, if you have documents there that you want to  
21 ask folks about, if it was not disclosed seven days ago,  
22 you cannot pull the document and utilize the document.

1 Now, if you have a document, if you want to ask a person  
2 about statements in a document, that's -- you can be  
3 creative and ask questions. But you -- you can't show  
4 them the document, you can't use the document. The only  
5 way I will allow you to utilize a document is if you're  
6 using it to -- to rebut or to contradict some testimony  
7 that they had given before and you have testimony, you  
8 have a document that says that's not true because that's  
9 not what you had testified to or that's not factual.  
10 But any documents that has not been disclosed is not  
11 allowable, and I don't -- it's not allowable, and I can  
12 not allow you to continue doing that.

13 MS. NJOROGÉ: Mr. Chairman --

14 CHAIRPERSON ANDERSON: Yes, ma'am. I'm  
15 listening to you.

16 MS. NJOROGÉ: -- this document I would like  
17 to ask a question because it has been used by Alex  
18 regarding --

19 CHAIRPERSON ANDERSON: You can ask  
20 whatever -- this is what I've said to you, you can  
21 formulate questions to ask him. You can show him the  
22 document to ask him about what's in the document. So

1 therefore you can look at the document if you want to  
2 formulate a question that you want to ask. But it can't  
3 be that okay, explain this document you want to show  
4 him. So if you want to ask him a question, you can ask  
5 him whatever question you can ask him. If you want to  
6 say to him I mean did you attend a meeting at the ANC on  
7 June 1, 2000 first and -- and you made the statement or  
8 something like that, but not that, okay, I want to show  
9 you a document. No. You can utilize a document to  
10 formalize questions to ask. But because the document  
11 was not disclosed seven days ago, you cannot show him  
12 the document. And I'm not even going to ask Mr. Padro  
13 whether or not he has a problem with it. I know he's  
14 going to have a problem with it because it was not  
15 disclosed. We started off this hearing in a sense that  
16 your PIF was a day -- a day late. He objected to it,  
17 but I -- I allowed that one document in because I said  
18 it was a day late and I didn't believe that he was  
19 prejudiced by a day late. But I also allowed you to  
20 have Mr. Williams testify although Mr. Williams wasn't  
21 disclosed. But I think that it was clear -- it should  
22 be clear to everyone that since Mr. Williams was the

1 applicant, Mr. Williams would be testifying. So  
2 therefore there's not a surprise to him. However, I  
3 will not allow documents, witnesses, or anyone that has  
4 not been disclosed. And so I'm letting you know that  
5 we're going to have other hearings with -- it's my  
6 understanding we're going to have other hearings with  
7 this establishment and now you know the rules. So  
8 therefore I am not going to be lenient. I'm not going  
9 to -- I am not going to be lenient because you know the  
10 rules. If you're -- if you are presenting cases in  
11 front of this agency, you have to know the rules because  
12 I do not want the protestant to say that I'm being  
13 unfair to them by -- by -- by being unfair to them. And  
14 so the answer is no. So if you want to -- if you want  
15 to ask him a question -- if you have a document and you  
16 want to look at the document and want to ask him a  
17 question, but it can't be about okay, I want to show you  
18 this document for you to say whether or not it's true or  
19 whatever. Okay.

20 MS. NJOROGÉ: Yes. Thank you. Mr. Kevin --

21 MR. CHAPPLE: Yes.

22 MS. NJOROGÉ: -- were you an ANC member in

1 the year 2012?

2 MR. CHAPPLE: Yes.

3 MS. NJOROGÉ: Were you at a meeting on  
4 November 12, 2012?

5 MR. CHAPPLE: I -- I believe. There's very  
6 few meetings that I've missed. I don't know if that was  
7 one that I missed, but I -- I believe I was there.

8 MS. NJOROGÉ: Do you recall voting for  
9 Mandalay, the restaurant there was there?

10 MR. CHAPPLE: Mandalay.

11 MS. NJOROGÉ: Yeah. Voting for it's license  
12 -- for a new license for Mandalay?

13 MR. CHAPPLE: I don't recall it offhand  
14 because I've taken many votes. That -- that is  
15 possible.

16 MS. NJOROGÉ: Do you recall during that  
17 meeting passing a motion or agreeing to a motion that  
18 there was no reason to enter into a [inaudible 3:24:20]  
19 agreement with the applicant because there was no  
20 objectionable conditions threatening peace, order, and  
21 quiet?

22 MR. CHAPPLE: Do I remember voting for --

1 MS. NJOROGE: That motion.

2 MR. CHAPPLE: -- the motion?

3 MS. NJOROGE: Uh-huh.

4 MR. CHAPPLE: I -- I don't have any memory  
5 of that. I mean after doing this for ten years I've  
6 taken votes, many votes, and I can't tell you -- I just  
7 don't have any specific memory of that.

8 MS. NJOROGE: I have no -- no further  
9 questions.

10 CHAIRPERSON ANDERSON: All right. Does The  
11 Board have any questions for this witness? Yes,  
12 Ms. Miller.

13 MS. MILLER: Good evening, Mr. Chapple.

14 MR. CHAPPLE: Good evening.

15 MS. MILLER: I'm not sure what -- what date  
16 counsel was questioning you on your vote. But the ANC  
17 filed a -- filed a petition in this case, and they  
18 reflected that the vote was four to two.

19 MR. ALBERTI: Has that been introduced? Has  
20 that document been introduced?

21 MS. MILLER: I'm sorry. This was in the  
22 PIF.

1 MR. ALBERTI: Well, we can't unless its  
2 been --

3 MS. MILLER: I can use it.

4 MR. ALBERTI: No. Unless -- unless its  
5 been --

6 MS. MILLER: It's not in evidence. Why  
7 can't I use it the same way she used it?

8 MR. ALBERTI: It's not -- the PIF isn't in  
9 evidence unless its been introduced by -- by the -- by  
10 either side.

11 MS. MILLER: Mr. Chairman, isn't it the same  
12 as they're using the documents without putting them in  
13 evidence?

14 CHAIRPERSON ANDERSON: I mean she -- we have  
15 the document. She can ask him questions about the  
16 document. I mean it's not -- currently they're not a  
17 part of the record, but -- because they haven't been --  
18 but she can -- they can ask questions about whatever  
19 documents that were disclosed.

20 MS. MILLER: It's also a public record in  
21 our files. So my question is first --

22 CHAIRPERSON ANDERSON: And Ms. --

1 Ms. Miller, could you direct someone to -- since you  
2 have the document could you --

3 MS. MILLER: Oh, okay.

4 CHAIRPERSON ANDERSON: Can you direct  
5 someone to show him the document so at least he'll know  
6 what -- what you're referencing?

7 MS. MILLER: You know, Mr. Chairman, I think  
8 they have the document if we have it.

9 CHAIRPERSON ANDERSON: You're not listening.  
10 Ms. -- Ms. Miller --

11 MS. MILLER: Okay.

12 CHAIRPERSON ANDERSON: What I'm saying is  
13 that have someone give him the document so he will know  
14 what your reference is. So what document is it? Whose  
15 PIF is it in? Who's PIF? Who's PIF?

16 MS. MILLER: It -- it's not in a PIF. It's  
17 in our files. It's in our files, the petition that was  
18 filed by the ANC in this case. It's the public record,  
19 and it's our -- it's in our --

20 MR. ALBERTI: It's not public record. It's  
21 their public record, not ours.

22 MS. MILLER: It's a public record. It's

1 filed to get this -- have a protest they filed their  
2 petition.

3 CHAIRPERSON ANDERSON: Hold on. Hold on a  
4 minute. I'm lost. Is -- is the document that you're  
5 reference is, Ms. Miller, is it in this folder that I  
6 have?

7 MS. MILLER: Yes. It's in our binder.

8 CHAIRPERSON ANDERSON: Which one of the  
9 documents is it?

10 MS. MILLER: In our binder which --

11 CHAIRPERSON ANDERSON: Which one of the  
12 documents, what number?

13 MS. MILLER: Number 2, protest letter,  
14 resolutions.

15 CHAIRPERSON ANDERSON: Where --

16 MS. MILLER: This is a public document.

17 MR. ALBERTI: Oh, this is a -- are you  
18 referring to the document -- you're not referring to the  
19 document Ms. Njoroge had?

20 MS. MILLER: No. I don't know what  
21 Ms. Njoroge had really.

22 MR. ALBERTI: You're actually referring

1 to -- all right. Just to be clear she's referring to  
2 the document that the ANC -- the protest letter that the  
3 ANC submitted to The Board.

4 CHAIRPERSON ANDERSON: All right.

5 MR. ALBERTI: I was not aware of that  
6 personally.

7 CHAIRPERSON ANDERSON: And -- and that's  
8 why -- so what I want -- and I'm not sure if the witness  
9 has a copy of the document.

10 MS. MILLER: Right.

11 CHAIRPERSON ANDERSON: So why don't someone  
12 provide him the document. So therefore when you ask him  
13 the question, then he'll know what document you're  
14 referencing. That's all I would say.

15 MR. ALBERTI: I thought she was talking  
16 about the letter Mr. Njoroge was referencing.

17 CHAIRPERSON ANDERSON: I knew what she was  
18 talking about. But I thought -- okay. So you can  
19 ask -- you can go ahead, Ms. Miller.

20 MS. MILLER: Okay. So I just want to -- for  
21 context I -- I wanted to ask you did you vote -- were  
22 you in the four in favor or the two opposed to this,

1 filing the petition?

2 MR. CHAPPLE: Well, this is one meeting I  
3 was not --

4 MS. MILLER: Oh, you weren't there?

5 MR. CHAPPLE: Not there. So we have seven  
6 commissioners. I was the one commissioner that was not  
7 there at this particular meeting.

8 MS. MILLER: Okay. Okay. Was --

9 MR. CHAPPLE: Yes. I was in Brazil  
10 actually.

11 MS. MILLER: Would you know -- you weren't  
12 there so you might not know. But is this the meeting  
13 where they would have had a presentation about this  
14 protest?

15 MR. CHAPPLE: I could not tell you.

16 MS. MILLER: You don't know. Okay. Okay.  
17 Do you know whether the single member district  
18 commissioner for this commission voted in favor or -- or  
19 against?

20 MR. CHAPPLE: You mean Mr. Padro?

21 MS. MILLER: Oh, is that -- you're the  
22 single member?

1 MR. CHAPPLE: That's Mr. Padro.

2 MS. MILLER: Okay. Never mind. You're  
3 here. Okay. Never mind. I didn't -- I -- because I  
4 was going to ask you why isn't he here. Okay. Thank  
5 you. All right. So what's your familiarity with this  
6 restaurant?

7 MR. CHAPPLE: My -- I've been to Mandalay.  
8 I've not been to the -- the new restaurant that's taken  
9 over for Mandalay. I -- I can just tell you that I  
10 enjoyed my time at Mandalay, I enjoyed the food. But  
11 not -- I know the layout of the restaurant if they have  
12 not changed it. But I don't know much more than that.

13 MS. MILLER: So would you -- would you  
14 personally experience like noise? Like did you -- when  
15 you -- oh, you weren't even at this restaurant. When  
16 you were at the other restaurant, the same layout, same  
17 doors and stuff, did you -- did you hear noise from the  
18 restaurant?

19 MR. CHAPPLE: When I was there there wasn't  
20 any entertainment going on on that particular time that  
21 I was there.

22 MS. MILLER: So without entertainment do you

1 hear noise outside from like people talking, laughing,  
2 whatever?

3 MR. CHAPPLE: Well, you know, I wasn't  
4 really -- if I was there, I just came inside and I left.  
5 I mean the people who have better knowledge of that are  
6 the people who live around there, not someone who just  
7 is inside and then leaves and goes, you know, quickly  
8 exited the vicinity. So --

9 MS. MILLER: So -- so is your knowledge from  
10 what you're testifying today based on your experience  
11 with other restaurants that have amplified music?

12 MR. CHAPPLE: Yes.

13 MS. MILLER: Okay. Not this particular  
14 place?

15 MR. CHAPPLE: Not this particular place.

16 MS. MILLER: So do you have -- having been  
17 an ANC commissioner for ten years and with the city, et  
18 cetera do you have knowledge of different experiences  
19 with restaurants that have music? Like are some noisier  
20 than others or you know?

21 MR. CHAPPLE: Some -- I know of some that  
22 get complaints and some that -- that do not or at least

1 complain to me.

2 MS. MILLER: So let's take the ones that  
3 get -- that don't get complaints. How are they able to  
4 have music and -- and not get complaints?

5 MR. CHAPPLE: Well, I'm thinking at this  
6 point in my -- in my district I can think of one that  
7 has amplified music, and that's Shaw Tavern. I know  
8 they've gotten complaints. I can't think at this point  
9 other restaurants at this time that has a entertainment  
10 endorsement, although there are several online that are  
11 seeking it. I can think of one, Ivy and Coney, they --  
12 they have it. But before they got the entertainment  
13 endorsement we had a meeting with the residents around  
14 that establishment, and Ivy and Coney was proactive and  
15 they addressed all the concerns that the residents had.  
16 And thus far I haven't heard any complaints from  
17 residents.

18 MS. MILLER: What's the name of that place?

19 MR. CHAPPLE: Ivy and Coney, it's on 7th  
20 Street.

21 MS. MILLER: And I'll switch with you. And  
22 what did they do, do you know to address concerns?

1 MR. CHAPPLE: It's a sports bar. They --  
2 they have an outdoor rooftop patio, and they put up  
3 walls so the patrons won't be able to look in the  
4 windows of the residents that are in back of -- of their  
5 establishment. And they -- the walls are dampening of  
6 the sound.

7 MS. MILLER: So what -- what is it that  
8 you're concerned about with respect to this particular  
9 restaurant? I mean this isn't an outdoor rooftop,  
10 right? I'm not sure what Shaw's has, but is there  
11 something that concerns you that you would ask them to  
12 mitigate in a certain way that would alleviate your  
13 concerns or --

14 MR. CHAPPLE: Well, to be in line with all  
15 the other restaurants in the area, to comply with the  
16 same hours of operation for their outdoor part of their  
17 establishment, to enter into some type of agreement  
18 regarding the -- the level of amplification.

19 MS. MILLER: What -- can you -- can you just  
20 maybe address that question a little bit. Like what  
21 do -- what's like -- what's non-amplified music versus  
22 amplified music?

1 MR. CHAPPLE: Non-amplified music would be  
2 like an acoustic guitar --

3 MS. MILLER: Okay.

4 MR. CHAPPLE: -- that's not amplified. And  
5 if they have a mic, then its broadcasting speakers, that  
6 is amplified.

7 MS. MILLER: Okay. And would it -- what if  
8 the speakers were turned down to a low level?

9 MR. CHAPPLE: What's the question?

10 MS. MILLER: Would -- would -- what if the  
11 speakers -- if you have speakers, it's amplified. So --  
12 but what if it -- you can turn it down?

13 MR. CHAPPLE: Yeah. Anything you can adjust  
14 the volume, but what's the question about?

15 MS. MILLER: I said -- oh, I guess my  
16 question is if it were -- if the music was turned down  
17 low, would that address your concerns?

18 MR. CHAPPLE: Well, anything that can be  
19 turned down low can turn right back up. I mean so  
20 just -- just turning something down low would not  
21 address a problem if, you know, after someone calls you  
22 turn it down, but give it 30 minutes and you turn it

1 back up. I mean that -- that really doesn't address the  
2 problem. If you have an agreement that it won't go  
3 above a certain level --

4 MS. MILLER: Uh-huh.

5 MR. CHAPPLE: -- that would address the  
6 problem. But then low is -- is a relative term. What  
7 you call low other people may not call low.

8 MS. MILLER: Right. I mean is that -- I  
9 just kind of searching here because I've heard them say,  
10 you know, they -- they would turn it down if it's going  
11 to bother somebody. But do you know is there a certain  
12 level you would even be able to articulate that it -- it  
13 couldn't go above that would address your concerns or --

14 MR. CHAPPLE: Well, you know, with Shaw  
15 Tavern we -- we had a certain level that it would not go  
16 above. I don't -- I don't even remember what that level  
17 was.

18 MS. MILLER: Okay.

19 MR. CHAPPLE: But they did put in their  
20 agreement that they won't turn the volume up above a  
21 certain level.

22 MS. MILLER: Okay. Okay. And are you

1 only -- are you opposed to the hours only in connection  
2 with -- no, I don't know. What -- are you opposed to  
3 the extra hour -- half an hour that they're applying  
4 for?

5 MR. CHAPPLE: Or what?

6 MS. MILLER: To stay open and serve.

7 MR. CHAPPLE: I'm not that familiar with the  
8 extra hour --

9 MS. MILLER: Okay.

10 MR. CHAPPLE: -- that they're asking for.

11 MS. MILLER: So you're just concerned about  
12 the entertainment?

13 MR. CHAPPLE: Yes.

14 MS. MILLER: Okay. Okay. Thank you.

15 CHAIRPERSON ANDERSON: Mr. Alberti.

16 MR. ALBERTI: Yes. I sort of want to ask  
17 Commissioner Padro sort of an administrative question.  
18 Are -- and this has to do with what questions I asked  
19 Mr. -- Commissioner Chapple. Chapple?

20 MR. CHAPPLE: Chapple.

21 MR. ALBERTI: Chapple. I'm sorry. Excuse  
22 me. It's a long day and I -- so are you going to

1 testify?

2 MR. PADRO: No.

3 MR. ALBERTI: Okay. And the reason I ask is  
4 because I --

5 MR. PADRO: I didn't know that that was an  
6 option.

7 MR. ALBERTI: No. No. That's fine. That's  
8 fine. That's fine. I just -- then I'll ask  
9 Mr. Chapple, and if he doesn't know the answer to my  
10 questions because this -- this is not a single member  
11 district, that's fine.

12 CHAIRPERSON ANDERSON: Hold on. Hold on.  
13 You could testify, but you would have to have someone  
14 ask you questions. You'd go on the stand, and someone  
15 would ask you questions. So that's how -- in the future  
16 if you want to testify, you could prepare the question  
17 and maybe Commissioner Chapple would take your role and  
18 ask you the questions. But that's something that you  
19 can do in the future if you want to testify. Okay. Go  
20 ahead.

21 MR. ALBERTI: So Commissioner Chapple, I  
22 know you're not -- this is not your single member

1 district, but you've given me the impression that you're  
2 familiar with the neighborhood. So what else is in that  
3 building where -- where this establishment is? Where --  
4 where Chaplin is, what else is in that building?

5 MR. CHAPPLE: I think they have residents  
6 there. I'm not sure. I'm not sure.

7 MR. ALBERTI: Okay. So you don't know  
8 whether there's residents above and within that  
9 building?

10 MR. CHAPPLE: I believe -- I believe that  
11 there is, but I'm not sure.

12 MR. ALBERTI: Okay. And the building behind  
13 them, we've heard that that's senior living. Is that  
14 what I've heard, and do you know? Is it residential,  
15 the building behind them on P Street? If it would --  
16 helpful if we gave a map?

17 MR. CHAPPLE: It would be.

18 MR. ALBERTI: It would be helpful if I  
19 showed you a map?

20 MR. CHAPPLE: Yes, it would be.

21 MR. ALBERTI: Okay. I am going to show them  
22 the aerial view that was -- it's Exhibit 4 in I guess

1 the protestants. Can I see Exhibit 4 of the -- the  
2 aerial map? All right. So this won't -- this won't  
3 take long. So can you just -- just so I know where  
4 we're at, so can you identify where Chapple (sic) is in  
5 this -- in this -- on this map -- where Chaplins is?  
6 I'm sorry. I'm not doing well. It's late.

7 MR. CHAPPLE: Yes.

8 MR. ALBERTI: Can you sort of describe?  
9 There's a -- there's a red -- red dot with ten foot next  
10 to it. So is -- are you pointing just to the left of  
11 that?

12 MR. CHAPPLE: You said there's a red dot  
13 that --

14 MR. ALBERTI: Right in the center there's a  
15 red dot that says ten feet on it.

16 MR. CHAPPLE: Okay.

17 MR. ALBERTI: Just to the left of that, is  
18 that where Chaplins is? Is that where you're pointing?

19 MR. CHAPPLE: It's -- it's -- it's right  
20 above that.

21 MR. ALBERTI: Okay. All right. To the left  
22 of the alley.

1 MR. CHAPPLE: If -- if we're holding it this  
2 way?

3 MR. ALBERTI: Yeah. Yeah. No. Holding it  
4 the other way. I'm sorry. Because we have it --

5 MR. CHAPPLE: This way?

6 MR. ALBERTI: Yeah. That's the top. Yeah.

7 MR. CHAPPLE: Okay. Yes, to the left.

8 MR. ALBERTI: All right. I'm sorry. So to  
9 the right of that on the opposite of Chaplins on the  
10 alley is a building. Do you know what's in that  
11 building? All right. I -- that's okay. Mr. Chapple,  
12 if you --

13 MR. CHAPPLE: I'm not sure. I'm not sure.

14 MR. ALBERTI: Mr. Chapple, if you don't  
15 know, maybe -- well, if I have a chance I'll ask  
16 somebody else.

17 MR. CHAPPLE: Okay.

18 MR. ALBERTI: I have no further questions.  
19 Thank you. Thank you for your service as a  
20 commissioner.

21 CHAIRPERSON ANDERSON: Mr. Short, do you  
22 have any questions?

1 MR. SHORT: No questions.

2 CHAIRPERSON ANDERSON: All right. All  
3 right. You're -- you're excused. And thank you very  
4 much because they asked -- The Board asked. Thank you  
5 for your service and thank you for your testimony, sir.  
6 Mr. Padro, do you have another witness?

7 MR. PADRO: Yes. I call Jackie Hart.

8 CHAIRPERSON ANDERSON: Ms. Hart, can you  
9 raise your right hand please.

10 MS. HART: Yes.

11 CHAIRPERSON ANDERSON: Do you swear or  
12 affirm to tell the truth and nothing but the truth?

13 MS. HART: I do.

14 CHAIRPERSON ANDERSON: Thank you. Have a  
15 seat please. Your witness, sir.

16 MR. PADRO: Ms. Hart, where do you live?

17 MS. HART: My residence is at 1548 8th  
18 Street NW. However, I am currently residing with my  
19 mother who lives at 801 P Street NW.

20 MR. PADRO: And how long have you lived in  
21 the neighborhood?

22 MS. HART: I've been there since 1989.

1 MR. PADRO: You mentioned that you're  
2 currently living at 801 P Street NW with your mother.  
3 Who are the residents in that building?

4 MS. HART: There are 16 seniors that live in  
5 that building. They are from age 70 to 95.

6 MR. PADRO: So you would characterize them  
7 as frail seniors?

8 MS. HART: One gentleman just died last  
9 week. There are two seniors that have cancer. There's  
10 one that have diabetes, and they all suffer from some  
11 ailment.

12 MR. PADRO: Are you concerned about the  
13 proximity of the outdoor seating at Chaplin ten feet  
14 away from the seniors' windows?

15 CHAIRPERSON ANDERSON: Mr. Padro, there --  
16 we're not discussing the outdoor. I mean I think the  
17 applicant just made it --

18 MR. PADRO: I can withdraw the question.

19 CHAIRPERSON ANDERSON: All right.

20 MR. PADRO: Are you concerned about the  
21 impact of noise that could be generated by the  
22 entertainment endorsement at Chaplins affecting the

1 seniors whose windows are ten feet away from the  
2 establishment?

3 MS. HART: I am.

4 MR. PADRO: Are you concerned that the sound  
5 of music and other entertainment from Chaplin's patio  
6 combined with the same sounds coming from doors and  
7 windows to the building when opened would be a nuisance  
8 and disturb the sleep of the seniors at 801 P Street NW?

9 MS. HART: That's a double edged sword. May  
10 I have -- give a little statement on that? I parked on  
11 9th Street right in front of Chapman's (sic) on Monday  
12 night, beautiful day, beautiful evening. And I  
13 purposely stood on the steps at 801 P Street because the  
14 weather's changing and the people are now beginning to  
15 be on the sidewalk. And there was a moderate amount of  
16 noise. But from the basement, the first floor, the  
17 second floor that noise, if their windows are open, they  
18 could hear it. So with additional noise I'm almost for  
19 certain that they would hear it.

20 MR. PADRO: In your opinion would loss of  
21 sleep due to noise emanating from Chaplins ten feet from  
22 the seniors' windows at 801 P Street potentially

1 exacerbate the seniors' health issues?

2 MS. HART: That I'm not for certain about.  
3 I can't say yes or no. However, many of the seniors go  
4 to bed around there about 10:00 p.m.

5 MR. PADRO: Do you think that the negative  
6 impacts on the seniors could be reduced if Chaplin was  
7 not given the ability to have, you know, an  
8 entertainment endorsement, music indoors?

9 MS. HART: That's a -- that's a hard call.  
10 I -- I need to say as a former professor teaching  
11 entrepreneurship I believe in entrepreneurship, and I --  
12 I don't want to try to curbe anybody's ability to grow  
13 businesses. However, I am concerned about the noise as  
14 well as the rats that have been coming from that area.  
15 He made a statement about a rat nest at the senior  
16 building. But there is a rat nest that's over there  
17 that causes an enormous amount of problems.

18 MR. PADRO: Are there any other observations  
19 or concerns that you'd like to share about either the  
20 change in hours at the establishment or the potential  
21 entertainment endorsement at the establishment?

22 MS. HART: Yes. He made another statement

1 that the mayor of Shaw who happens to be Mr. Valentine  
2 who lives in the same building on the ground floor, he  
3 made a complaint about Sheba's noise. And if that's  
4 right next door to Sheba with his apartment facing the  
5 west side as does Mrs. McKnight's and my mother's,  
6 that's going to be additional noise for them as well.

7 MR. PADRO: All right. No other questions.

8 CHAIRPERSON ANDERSON: Your -- your witness,  
9 ma'am. You can ask questions.

10 MS. NJOROGE: Hi. How are you?

11 MS. HART: I'm fine. How are you?

12 MS. NJOROGE: I'm fine.

13 MS. HART: Good.

14 MS. NJOROGE: Could you say your name one  
15 more time.

16 MS. HART: My name is Jackie or Jacqueline  
17 R. Hart, H-A-R-T.

18 MS. NJOROGE: Is it okay if I call you  
19 Jacqueline?

20 MS. HART: Yes, you may. You may call me  
21 Jackie.

22 MS. NJOROGE: Okay. Thank you. Now, I have

1 a quick question for you. You say you live at 1548 8th  
2 Street NW?

3 MS. HART: That's correct. In the middle of  
4 the block.

5 MS. NJOROGE: Okay. When you lived in your  
6 residence did you experience any noise from Chaplin or  
7 any other restaurant within the area?

8 MS. HART: Yes, Dacha. And that is the --  
9 the foundation for which I am here tonight. And they  
10 promised one thing, but when they got there they  
11 delivered something totally different once they were  
12 approved.

13 MS. NJOROGE: Did you file a complaint?

14 MS. HART: Yes. I testified before at the  
15 community meetings as did several other residents.

16 MS. NJOROGE: Did you contact the owner of  
17 the business?

18 MS. HART: Yes. They were aware of who I  
19 was and who I am.

20 MS. NJOROGE: You say you reside with your  
21 mother at --

22 MS. HART: I am residing with my mother

1 currently because my house is being renovated for the  
2 second time, and I've been there since January.

3 MS. NJOROGE: Okay. So you currently reside  
4 at 801 P Street?

5 MS. HART: I am now.

6 MS. NJOROGE: Have you experienced any noise  
7 coming from Chaplin?

8 MS. HART: Yes. On Monday night.

9 MS. NJOROGE: How -- you say you have been  
10 there since January?

11 MS. HART: Yes.

12 MS. NJOROGE: But that's the only day you  
13 have --

14 MS. HART: Only because you've only started  
15 serving on the outside, and, you know, I've gone past  
16 here. I've come -- I've parked in front of Chaplins  
17 maybe two or three times because I can't find a parking  
18 space. And -- right in front of your door. So there's  
19 noise out there. There is a professional crowd that  
20 seem to go there. It does not seem to be a lot of ill  
21 repute people there. But that does not speak to  
22 anything. I think that your business plan has become

1 much more than what they had anticipated -- anticipated  
2 initially. And the growth that your -- he's  
3 experiencing at this point in time is leading to what  
4 he's asking for now. But just like Dacha's, I think  
5 that it would create a problem.

6 MS. NJOROGÉ: When you say you -- on Monday  
7 you heard some noise, what kind of noise was it? People  
8 sitting or people sitting outside? What time was it?

9 MS. HART: The people that were sitting  
10 outside -- it was approximately 9:45 p.m., and I parked  
11 in front of -- right in front of Queen of Sheba and  
12 Chaplins, walked around, and there were laughter and  
13 people talking. And as a matter of fact, I've noticed  
14 that they've even hired one of the young people from the  
15 neighborhood which I applaud.

16 MS. NJOROGÉ: Thank you. Now, if we can --  
17 back to the noise. So you say this noise was just  
18 there, or was this like extraordinarily noise, people  
19 drinking and shouting, or was it like conversational  
20 noise where we can be sitting, we are talking, how was  
21 your day, bla-bla-bla, or was it the loud noise of drunk  
22 people?

1 MS. HART: We're having a normal  
2 conversation. It was beyond normal conversation.

3 MS. NJOROGE: Did you take any action? Did  
4 you report to the facility?

5 MS. HART: No, I did not.

6 MS. NJOROGE: Was it -- was it such an  
7 extent that it attracted your attention and said wow,  
8 it's 9:45 and everybody's asleep and this place is just  
9 another world? Is that kind of the experience you got,  
10 or it's 9:45, it's a good day outside and people are out  
11 there enjoying this weather? It's 9:45, not 2:45.

12 MS. HART: It was 9:45, people were having a  
13 very good time. They were enjoying their meals. They  
14 were drinking, and there was -- there was a lot of  
15 laughter. Youth -- they were youths, you know, enjoying  
16 themselves. I've been there. Nevertheless, you know --  
17 you know, I'm -- I'm also concerned about my mother and  
18 the people that live in the 801 P Street. So I stood on  
19 the step knowing that I was going to be here. I had to  
20 make sure that I -- what I was going to be speaking  
21 about. And what I'm saying is that with the additional  
22 license that you are, you know, putting in an

1 application for I do believe that it will be more than I  
2 heard Monday night.

3 MS. NJOROGE: But this was outside. The  
4 entertainment endorsement we are -- we are requesting is  
5 on the inside on the second level. How will that affect  
6 801 P Street?

7 MS. HART: I think I've made reference to  
8 Dacha's that was on -- that's on 7th and Q Street NW.  
9 They are there -- the people who live on the 1600 block  
10 that's right behind them -- a person that lives right on  
11 the corner of 8th and Q, they're getting ready to move  
12 their family now because they cannot stand this noise  
13 that Dacha's is presenting. Now, when they have had  
14 certain events or certain parties or something like  
15 that, yes, I can hear around on 8th Street at my home.

16 MS. NJOROGE: Okay. But you -- you said  
17 you're a retired professor?

18 MS. HART: Yes, I am.

19 MS. NJOROGE: So -- and you mentioned you  
20 are in support of entrepreneurs. And my -- my question  
21 to you is whether that -- not that. But let's come back  
22 to the noise. You heard the noise this one time on

1 Monday and you live there --

2 MS. HART: That wasn't the first -- that was  
3 the night I stood outside and listened.

4 MS. NJOROGE: But that was --

5 MS. HART: Because I knew I was coming.  
6 That was Monday, and then -- it was Monday evening and  
7 it was really nice, and it was the first time that I  
8 really paid attention to how much noise was really  
9 coming from outside.

10 MS. NJOROGE: Okay. So --

11 MS. HART: But I have been past there on a  
12 couple of occasions and coming back home like on a  
13 Friday night or a Saturday night. And there -- you  
14 know, there's the Uber cabs, there's, you know, people  
15 trying to get in and out, little gridlock of cars trying  
16 to get around where they're letting people in and out.  
17 And then there's also a little noise that's going on at  
18 that particular time of people going in and out.

19 MS. NJOROGE: You have lived there since,  
20 January but you only heard this noise on Monday. And --

21 MS. HART: I think I just cleared that up.

22 MS. NJOROGE: Yeah. But have you -- we --

1 there was a meeting last -- this month I believe the  
2 5th. Did you attend that ANC meeting?

3 MS. HART: No, I did not.

4 MS. NJOROGE: Did you try to e-mail -- if  
5 this noise -- you've been there since January. So have  
6 you tried to get in contact with the owners of this  
7 business and let them know hey, there's some noise that  
8 -- that it's kind of affecting us. You know, you could  
9 have done it if it was really that bad. I'm not  
10 minimizing. But based on your testifying that there is  
11 noise, I would believe -- if it was my mother, I would  
12 be like okay, that noise is a little bit too loud.

13 MR. ALBERTI: Is there a question? Is there  
14 a question here?

15 MS. NJOROGE: Yeah. My question is did you  
16 try to contact the owners of the business and tell them  
17 this is too much noise?

18 MS. HART: No.

19 MS. NJOROGE: Okay. And my other question  
20 is I would -- this particular business is different from  
21 Dacha, and --

22 MS. HART: Not when it comes to the watering

1 hole, you know, people staying there and drinking.

2 MS. NJOROGE: My question rather is --

3 CHAIRPERSON ANDERSON: She hadn't asked her  
4 question yet. So let --

5 MS. HART: Excuse me.

6 CHAIRPERSON ANDERSON: Let her -- let her  
7 finish asking the question. I know you're excited to  
8 testify and answer her questions, but --

9 MS. HART: No. I'm not so much excited. I  
10 just want to get it over with.

11 CHAIRPERSON ANDERSON: All right. I -- I  
12 enjoy having you here. So --

13 MS. HART: Thank you very much. I enjoy all  
14 of you board members.

15 CHAIRPERSON ANDERSON: Yes, ma'am. Go ahead  
16 and ask the question.

17 MS. NJOROGE: Okay. My question is could  
18 you differentiate -- how can you differentiate noise  
19 coming from Queen of Sheba and noise coming from  
20 Chaplin? How did you differentiate this is Sheba's and  
21 this is Chaplin? And you're on the same -- I'm in the  
22 car and I'm hearing noise, how do I say this one is from

1 this, but on the street it's all coming from inside?

2 How did you differentiate the two?

3 MS. HART: Well, there is a woman by the  
4 name of Nina Masonson who happens to be an attorney that  
5 lives right next to 801 P Street. Unfortunately she is  
6 not here tonight. With her stopping me and telling me  
7 that you all were trying to get this endorsement, she  
8 felt that she was opposed to it because of not only the  
9 rats which she incensed about but also the noise. Then  
10 there's Mr. Valentine. Now, I'm a spokesperson which I  
11 shouldn't probably be for three people who have talked  
12 to me about the noise. There are 16 seniors that's in  
13 the building. And if I can paint the picture that they  
14 are 70 to 95 years old. They do not want to create any  
15 problems. They are very intimidated. They are -- their  
16 education level is probably 8th grade to 12th grade, and  
17 they're not going to sit and talk or complain about  
18 anything that's going on. They will subject themselves  
19 to whatever is being done in the community without  
20 speaking out. So I'm here now to speak on behalf of the  
21 people in the building as well as my mother and the  
22 other people that live around that have pointed it out

1 to me.

2 MS. NJOROGE: Do you -- are you the  
3 administrator of -- do you -- do you know who owns the  
4 building --

5 MS. HART: Yes.

6 MS. NJOROGE: -- that building?

7 MS. HART: The -- the building is owned by  
8 the tenants. It's a cooperative, but it's being managed  
9 by Oaks Management.

10 MS. NJOROGE: Have -- so have you raised  
11 this complaint with the management?

12 MS. HART: I have not, but Mr. Valentine has  
13 as well as Ms. Masonson who lives right next door. She  
14 constantly complains about Queen of Sheba with their  
15 noise, with their music. Not only about the noise, but  
16 she's incensed about the rats.

17 MS. NJOROGE: Do you know -- does this --  
18 the senior citizens who live there, you said they are  
19 frail. Do they -- would you know if they have hearing  
20 aids?

21 MS. HART: None of them have hearing aids.  
22 I have a 103 year-old aunt. She has a hearing aid, but

1 she's still can hear a lot of loud music.

2 MS. NJOROGE: I have no other questions for  
3 you.

4 MS. HART: Okay. Fine.

5 CHAIRPERSON ANDERSON: No. We're not done  
6 yet with you. The -- we're -- these ladies and  
7 gentlemen up here might want to further take --

8 MR. ALBERTI: We want to torture you even  
9 further.

10 CHAIRPERSON ANDERSON: Go ahead, Mr. Short.

11 MR. SHORT: Good evening.

12 MS. HART: Good evening.

13 MR. SHORT: Can I call you Professor Hart?

14 MS. HART: No. You can call me -- well,  
15 yes, you may.

16 MR. SHORT: Professor Hart --

17 MS. HART: Yes.

18 MR. SHORT: -- you -- you -- you say you --  
19 you live in two different residences?

20 MS. HART: Yes.

21 MR. SHORT: So how long have you resided at  
22 1548 8th Street NW?

1 MS. HART: I purchased my home in 1989.

2 Yes.

3 MR. SHORT: You got a good -- you got a good  
4 bargain.

5 MS. HART: Drugs on every corner at that  
6 time, and we fought to get rid of all of that.

7 MR. SHORT: You got a good bargain.

8 MS. HART: Pardon me?

9 MR. SHORT: You got a good bargain.

10 MS. HART: I certainly did. You just don't  
11 know how good.

12 MR. SHORT: Well, at any rate we -- we thank  
13 you for your testimony today. It's been quite  
14 compelling, and I -- I was glad to hear you say you  
15 want -- that the entrepreneur at -- at spirt, you want  
16 to see business thrive in Washington D.C.

17 MS. HART: Yes.

18 MR. SHORT: And we all want to see  
19 businesses drive.

20 MS. HART: Right.

21 MR. SHORT: But there's got to be a  
22 correction between the community and the businesses

1 where everybody's comfortable while everybody thrives.

2 Do you agree with that?

3 MS. HART: Exactly. Yes, I do. I agree.

4 MR. SHORT: Okay. Do you have any

5 suggestions on how this business can stay where they are

6 and be better neighbors or good neighbors or however you

7 consider it?

8 MS. HART: He made reference about the

9 building. You know, he could not -- I don't know

10 whether or not you've looked at it or not, but how you

11 might be able to build a barrier so that the noise is

12 not going to be coming across. Because on that ground

13 floor there is a community room. But then there's

14 Ms. Heinz and this Ms. B. Mr. Morgan is on the back.

15 Mr. Cooper, he just died within the last week so that

16 will be another apartment there. And then there's

17 people -- in that little alcove where the trash can is,

18 the dumpster is music -- it's like an acoustic barrier.

19 I mean you can hear music coming in that -- that alcove

20 right -- right in there. So if you can find some

21 barrier that you're going to put there so that they

22 don't hear it, it will probably be fine.

1 MR. SHORT: Professor Hart, also I'd like to  
2 thank you and commend you for taking care of your mother  
3 and the other seniors being a senior myself and having a  
4 love for my mother.

5 MS. HART: I'm the go-to person now that I'm  
6 in the building.

7 MR. SHORT: We have -- yeah. We have to do  
8 that. But at any rate I'm quite sure that you're ready  
9 to give a good report tomorrow, and hopefully the  
10 business will understand. And maybe they'll just do  
11 some things and maybe try to get a little closer to the  
12 people in that building. I think that would be a great  
13 idea.

14 MS. HART: Yes. He did not mention --

15 MR. SHORT: A partnership.

16 MS. HART: -- that he knew Mrs. Wright who  
17 is the property manager. You know, if you didn't  
18 know -- if you did not know her, you don't know people  
19 in that building.

20 MR. WILLIAMS: I know Mrs. Wright.

21 MR. SHORT: What a lot of businesses do I've  
22 seen since I've been on The Board is they -- they kind

1 of cotton up to the people in the community and they get  
2 the people in the community to buy into their great idea  
3 about entertainment endorsements or whatever else so  
4 it's not a adversarial kind of thing. It's a -- it's  
5 something everybody can enjoy and everybody can live  
6 with.

7 MS. HART: Yes. Yes.

8 MR. SHORT: Again, I thank you very much for  
9 your compelling testimony and -- and the time you spent  
10 with the seniors. You've been for a while today.

11 And --

12 MS. HART: Yes.

13 MR. SHORT: We're going to try to get you  
14 out as soon as possible.

15 MS. HART: Thank you.

16 MR. SHORT: Thank you again and bless you.

17 That's all I have, Mr. Chair.

18 MS. HART: That it?

19 CHAIRPERSON ANDERSON: No.

20 MR. ALBERTI: Unfortunately not.

21 CHAIRPERSON ANDERSON: Well, I'm not going  
22 to ask any questions. So -- so you're spared. But I

1 can't speak for any of the board members. So I -- but I  
2 would just since -- Dr. Hall, right?

3 MS. HART: No.

4 CHAIRPERSON ANDERSON: Hart -- Professor  
5 Hart --

6 MS. HART: Thank you.

7 CHAIRPERSON ANDERSON: -- wants to leave.  
8 So I would ask the board members to be cognizant of  
9 that. Mr. Alberti.

10 MR. ALBERTI: And I will, I will try to keep  
11 this short, Ms. Hart. And thank you for sticking with  
12 us. So you mentioned a couple times -- several times  
13 that there were people who complained about music  
14 emanating from Queen of Sheba; is that correct?

15 MS. HART: That's correct.

16 MR. ALBERTI: All right. And were those  
17 people residents of 801 P Street?

18 MS. HART: Two were, and one right next door  
19 to 801 --

20 MR. ALBERTI: Next door meaning where?

21 MS. HART: Which is Ms. Masonson next door  
22 to 801 P Street. She's on 8th Street.

1 MR. ALBERTI: Okay. Going north?

2 MS. HART: Yes.

3 MR. ALBERTI: Okay.

4 MS. HART: Going north. But her back is  
5 almost diagonally to --

6 MR. ALBERTI: Okay. Great.

7 MS. HART: -- Queen of Sheba.

8 MR. ALBERTI: Now, what -- I'm trying to  
9 understand where you -- where you -- where you come by  
10 this knowledge. Did -- is this knowledge derived from  
11 speaking with these people or is it someone told you  
12 that they were complaining?

13 MS. HART: I have been in that neighborhood  
14 since 1989.

15 MR. ALBERTI: Uh-huh.

16 MS. HART: And I have been an associate --  
17 a -- I have been a part of growing Shaw. I did not know  
18 what we were growing. Part of the convention center,  
19 MCI, and the -- and the rest. Most of the people who  
20 used to live in the neighborhood especially in the 1500  
21 block, they're either dead or either they have moved  
22 out. Those that are left, they still confer with me or

1 stop me and talk about something. Mr. Padro, when he  
2 first came into the neighborhood we all gathered around  
3 him to try to get him to run for ANC. And he's done a  
4 remarkable job for the people in the community. So when  
5 I see a Nina, when I see a Harold Valentine who was  
6 very -- a part of UPO and trying to keep jobs for the  
7 people in the neighborhood and everything, they will  
8 stop and they will talk about development and what has  
9 taken place there. The new people that have moved into  
10 the neighborhood that I have still gone out to meet, and  
11 they will talk about it. So my knowledge base as far as  
12 what's happening in my -- in my community I am well  
13 aware of.

14 MR. ALBERTI: Okay. So these people have  
15 actually told you that they -- they heard music coming  
16 from --

17 MS. HART: Yes. Yes.

18 MR. ALBERTI: Okay.

19 MS. HART: And I'm sure that Ms. Masonson  
20 has done some complaining at some point in time, but I  
21 don't know why it hasn't gotten -- I know Queen of  
22 Sheba.

1 MR. ALBERTI: Okay. Okay. So I'm just  
2 trying to see how -- how -- how close to firsthand we  
3 are to -- to having knowledge of noise emanating from --  
4 music emanating from Queen of Sheba. So do you know  
5 anything about the building where this -- where this  
6 license is, where Chaplin's is?

7 MS. HART: I do. And the building that they  
8 were talking about -- Mr. Chapple was talking about  
9 that's just gone up, my mother used to be able to look  
10 out her back window and see Shiloh Baptist. She no  
11 longer can do that. Now, those people are not in the  
12 building as of yet, nor are the people who live -- who  
13 have recently -- there's a nine-unit condo building that  
14 used to be a halfway house, and they're just moving in.

15 MR. ALBERTI: Where is that located?

16 MS. HART: Don't know if -- that's 15 --  
17 that's two -- two buildings away from where Ms. Masonson  
18 lives. I don't know the addresses.

19 MR. ALBERTI: But where is -- where is it --  
20 just sort of where it --

21 MS. HART: It's -- it's going north of their  
22 building.

1 MR. ALBERTI: On?

2 MS. HART: 8th Street.

3 MR. ALBERTI: On 8th Street.

4 MS. HART: And their back faced the west  
5 side which is the east side of their building.

6 MR. ALBERTI: Okay. So it's on 8th Street  
7 sort of two doors north -- it would -- two doors north  
8 of -- of where their property would back up to, right?  
9 Is that what you're telling me?

10 MS. HART: Yes.

11 CHAIRPERSON ANDERSON: Okay.

12 MS. HART: Yes.

13 MR. ALBERTI: And those are new condos?

14 MS. HART: Yes, they are. Nine.

15 MR. ALBERTI: Do you know if they're --  
16 what -- do you know if there are residents in -- in the  
17 building that Chaplin's in?

18 MS. HART: They're -- pardon me? Do I know  
19 the residents that are in --

20 MR. ALBERTI: Do you know if there are -- if  
21 there are residents? We have no -- no one's confirmed  
22 to me that there are even residents above Chaplin's or

1 in that building.

2 MS. HART: The owner used to --

3 MR. ALBERTI: And -- and I'm trying to find  
4 out.

5 MS. HART: Used to be in Mandalay, but I  
6 don't know who's in there now. I haven't even been --

7 MR. ALBERTI: But are there -- I don't care  
8 who's there. I don't care their names. Are there  
9 residents in there? So the simple -- just --

10 MS. HART: I don't know. I don't know now.

11 MR. ALBERTI: You don't know if those are  
12 businesses or whether they're residents or --

13 MS. HART: Above them, no, I do not know.

14 MR. ALBERTI: And you don't know that.  
15 Okay.

16 MS. HART: No. As of -- no.

17 MR. ALBERTI: Okay. Great. All right.  
18 Thank you. That's all I have. Thank you.

19 CHAIRPERSON ANDERSON: Ms. Miller.

20 MS. MILLER: Good morning -- good  
21 afternoon -- good evening, whatever -- good evening.

22 MS. HART: Good evening.

1 MS. MILLER: And thank you for hanging in  
2 here because it's very, very important to us to hear  
3 from people like you because what we're trying to do is  
4 consider their application in the context of making sure  
5 neighbors aren't going to be hurt by it. And I wanted  
6 to clarify, you talked about hearing noise Monday,  
7 right? The noise that you were referring to, was it  
8 outdoor noise, noise on the patio, sidewalk cafe?

9 MS. HART: Yes.

10 MS. MILLER: Okay. So what I want to just  
11 tell you in case you don't know that at issue here  
12 tonight in this case is only entertainment inside.

13 MS. HART: Uh-huh.

14 MS. MILLER: Not outside at all. And -- and  
15 then if they can stay open a half an hour later.

16 MS. HART: Uh-huh.

17 MS. MILLER: Okay. So I mean I -- I -- you  
18 know, I was familiar with another case before I came on  
19 The Board in which the residents and the establishment  
20 got together and actually tested the noise. Because  
21 what we're talking about is do we think that you're  
22 going to be able to hear the noise they play with the

1 doors and windows closed inside when you're inside and  
2 all -- and the others -- and the seniors are inside.  
3 And it's kind of -- you know, everybody seems to be  
4 speculating a little bit. I guess I would ask you  
5 though have you -- could you say that you've heard noise  
6 when you're inside your residence from noise that's  
7 inside their establishment?

8 MS. HART: I've not heard noise from them  
9 because they don't have the amplifier or either the  
10 entertainment that they're requesting.

11 MS. MILLER: Okay.

12 MS. HART: But from Queen of Sheba from the  
13 back I have been able -- from my mother's if I open her  
14 window, I can hear sometimes.

15 MS. MILLER: So let's ask it -- let me ask  
16 you if you know anything about their operation, like  
17 what they do that might influence what -- what we do in  
18 this case to -- to protect against noise in the event  
19 they get their entertainment endorsement. So in -- in  
20 that case do you know if they had their windows open or  
21 if they had -- do you know why you could hear their  
22 noise some -- their -- their music?

1 MS. HART: They were playing it loudly.

2 MS. MILLER: Loudly. Okay. Yeah. Okay.

3 Do you know what kind of -- did they have a -- did they  
4 have a band or did they have a DJ or did they -- do you  
5 know?

6 MS. HART: What kind of music I'm not for  
7 certain --

8 MS. MILLER: Okay.

9 MS. HART: -- whether it was coming from a  
10 band --

11 MS. MILLER: Okay.

12 MS. HART: -- or not. They could have a --  
13 just a -- you know, a record player. I don't know.

14 MS. MILLER: Right. Okay. But you could  
15 hear it. So if they played music and you couldn't hear  
16 it, would it be a problem?

17 MS. HART: Sorry. Would you repeat that.

18 MS. MILLER: If they had music inside and  
19 you couldn't hear it when you were inside your building,  
20 would that raise any problems for you?

21 MS. HART: No, not at all. Like I said, my  
22 concern is the noise.

1 MS. MILLER: Uh-huh.

2 MS. HART: My concern is once they have --  
3 had more than enough to drink how they would be, if they  
4 would impede the alleyway and create more noise there.  
5 I know that has been a problem for over a 1600 with the  
6 other drinking establishment. But otherwise no, I would  
7 like to see them flourish, I really would.

8 MS. MILLER: Okay.

9 MS. HART: You know, however, they must  
10 understand that, you know, they're new in the  
11 neighborhood, that they need to make sure that -- like  
12 he said which I don't understand what he's done, you  
13 know -- at least meet with the community, you know, talk  
14 to the people. That list that you all talked about, I  
15 didn't recognize a name of any of those people, you  
16 know. So -- and the people I'm talking about along --  
17 there's a bed and breakfast that's over there on one  
18 side so you couldn't have gotten anything from them.  
19 You know, and I know from the rest of the people. So,  
20 you know, just meeting with the people and letting them  
21 know what it is that you're planning on doing, you know,  
22 and kind of joining forces and trying to keep things at

1 bay. You know, to be a friendly -- customer friendly  
2 type of establishment it would work wonders.

3 MS. MILLER: Have you been to the -- have  
4 you been to the restaurant?

5 MS. HART: Yes, once. Had some noodles with  
6 my neighbor.

7 MS. MILLER: Okay. Do you -- this -- would  
8 the seniors like the Karaoke?

9 MS. HART: Like I said, they go to bed about  
10 10. I don't -- I doubt very seriously if they would  
11 like anything new. You've got to understand the kind of  
12 personalities that's in that building. I call them my  
13 mother's inmates.

14 MS. MILLER: Okay. All right. Thank you  
15 very much.

16 MS. HART: Okay.

17 MS. MILLER: Thank you.

18 MS. HART: All right.

19 MS. MILLER: Do they get to question? Wait  
20 a minute.

21 CHAIRPERSON ANDERSON: We're fair. So all.  
22 Now, you know when you have your class your students

1 just can't leave because they feel like, and this is my  
2 classroom.

3 MS. HART: Pardon me. I didn't hear the  
4 last part.

5 CHAIRPERSON ANDERSON: I said you know when  
6 you have your classroom your students just can't walk  
7 out because they feel like.

8 MS. HART: No.

9 CHAIRPERSON ANDERSON: You let them know  
10 when the class is over they can leave. Well, this is my  
11 classroom.

12 MS. HART: Okay. Excuse me.

13 CHAIRPERSON ANDERSON: And so I'm not done  
14 with you yet.

15 MS. HART: Okay, Mr. Chair.

16 CHAIRPERSON ANDERSON: No. No. I have to  
17 have -- ask both sides whether or not they have any  
18 questions based on the questions that were asked.

19 MS. HART: Okay.

20 CHAIRPERSON ANDERSON: So the first thing is  
21 to ask Mr. -- no, I'll ask -- yeah -- the applicant  
22 first if they have any questions of you based on the

1 questions that The Board asked.

2 MS. HART: I see. More. All right.

3 CHAIRPERSON ANDERSON: Yeah.

4 MS. HART: Uh-huh.

5 MS. NJOROGE: Have you been inside of Queen

6 of Sheba?

7 MS. HART: No, I have not.

8 MS. NJOROGE: So you wouldn't know -- I've

9 been there once and my question is --

10 MR. ALBERTI: Yeah. You're testifying.

11 CHAIRPERSON ANDERSON: Go ahead and ask the

12 question.

13 MS. NJOROGE: -- if you could hear noise

14 from Queen of Sheba, did they have some windows open at

15 the back? Because at the back is their kitchen. Could

16 you hear the noise?

17 MS. HART: Yes. Like I said, my mother's

18 windows open. I could hear the music that was coming

19 from there, and it happened to be on a Saturday --

20 Saturday night or something like that I think it was.

21 MS. NJOROGE: Do you know the difference

22 between different restaurant? For example, the one you

1 said it's, the Dacha.

2 MS. HART: Uh-huh.

3 MS. NJOROGE: They have a lot of sitting  
4 outside.

5 MS. HART: They have a lot of standing  
6 outside.

7 MS. NJOROGE: So do you think -- why do you  
8 think that it's going to be the same with this  
9 particular establishment?

10 MS. HART: My concern --

11 MR. ALBERTI: Wait. Wait. Wait. Same as  
12 what.

13 MS. NJOROGE: The same noise.

14 MR. ALBERTI: I -- I don't understand the  
15 question. Same as --

16 MS. NJOROGE: My question --

17 MR. ALBERTI: Same as what?

18 MS. NJOROGE: The same noise. That there's  
19 going to be the same noise.

20 MR. ALBERTI: The same noise as --

21 MR. Williams: Dacha Beer Garden.

22 MS. NJOROGE: Dacha Beer Garden.

1 MR. ALBERTI: Okay. Thank you for  
2 clarifying that.

3 MS. NJOROGÉ: Sorry.

4 MS. HART: Because alcohol is involved.

5 MS. NJOROGÉ: I have no other questions.

6 CHAIRPERSON ANDERSON: Mr. Padro, you have  
7 one last.

8 MR. PADRO: No further questions for this  
9 witness.

10 CHAIRPERSON ANDERSON: Thank you very much  
11 for your testimony.

12 MS. NJOROGÉ: Thank you.

13 CHAIRPERSON ANDERSON: And you are -- you're  
14 finally excused. But I -- in all seriousness though I  
15 do want to thank you. I know you have been here for a  
16 long period of time and I do want to thank you for  
17 taking the time to come here and express and -- what  
18 you're views are. And The Board will consider your  
19 views. And I just want to let you know that whatever  
20 decision that The Board makes I'm not sure if you're  
21 going to like it. I don't know what we're going to do.  
22 But I just want to let you know that your testimony --

1 we value your -- your testimony and the time that you --  
2 you decide to come here and -- and speak.

3 MS. HART: Well, thank you. And I want the  
4 young man to know -- Mr. Williams, I -- I do sincerely  
5 wish you well with your business.

6 MR. WILLIAMS: Well, thank you.

7 MS. HART: I really do.

8 CHAIRPERSON ANDERSON: And I think -- I  
9 think he heard you because you have spoken to him. And  
10 I would hope that he would take some instructive --  
11 listen to what you say and if he wants to be in the  
12 neighborhood, to get to know the residents. I -- I -- I  
13 was looking at when you were speaking to him directly,  
14 and it appears and I hope that he takes that to heart.  
15 So -- so for that you might have accomplished a whole  
16 lot by being here today.

17 MS. HART: That was the intent.

18 CHAIRPERSON ANDERSON: All right. Thank you  
19 very much. All right. Do you have any other witnesses,  
20 sir?

21 MR. PADRO: Yes. I call Brian Peters.

22 CHAIRPERSON ANDERSON: Do you have -- how

1 many more witnesses do you have?

2 MR. PADRO: Just two.

3 CHAIRPERSON ANDERSON: Okay. All right.

4 All right. Mr. Peters, could you raise your right hand.

5 Do you swear or affirm to tell the truth and nothing but

6 the truth?

7 MR. PETERS: I do.

8 CHAIRPERSON ANDERSON: Your witness.

9 MR. PADRO: Mr. Peters, where do you reside?

10 MR. PETERS: I reside at 1609 8th Street NW.

11 MR. PADRO: And how long have you lived in

12 the neighborhood?

13 MR. PETERS: Since the middle of the 2008.

14 MR. PADRO: And are there any ABC

15 establishments in close proximity to your residence?

16 MR. PETERS: Yes. Quite close. Directly

17 behind our property on 7th Street. So behind our -- our

18 home across the alley is Uptown Ethiopian. There is

19 another licensee to the address to the immediate south.

20 I think that's -- so Uptown is 1608. This new licensee

21 coming in with an outdoor summer garden is 1606, and

22 then at 1600 and 1602 is the Dacha Beer Garden.

1                   MR. PADRO:  And how wide is the alley that  
2 separates your home from these establishments?

3                   MR. PETERS:  So in the case of Uptown it's  
4 actually less than ten feet.  If you go and look at it,  
5 somehow many years ago they actually built out into the  
6 alley.  So there's less space there, and they have  
7 windows at the second story level that look back out  
8 over to the residences that are my neighbors and myself.

9                   MR. PADRO:  And do -- have you or your  
10 family observed noise emanating from either of these  
11 establishments?

12                  MR. PETERS:  Yes.  In the case of Uptown  
13 I've heard music all the way in my own bedroom which is  
14 on the front side of our house, so facing 8th Street to  
15 the west.  At first one night actually I thought for  
16 some reason my -- my daughter -- or actually my son at  
17 the time had somehow gotten ahold of a radio, and he's  
18 in the back room -- he was in the back room then.  And I  
19 went back and discovered that it was actually Uptown  
20 whose music was coming through our closed windows.  And  
21 so there have been a number of occasions where we've  
22 heard that.  And then neighbors have also complained

1 about Uptown. So this is an establishment with music  
2 indoors where -- where they either hear it coming out of  
3 open windows, open doors, closed. I'm not sure.  
4 Sometimes it's hard to tell. The big problem we've had  
5 obviously is -- The Board probably is aware -- is the  
6 Dacha Beer Garden, many hundreds of people packed into  
7 this lot. It has been frankly a nightmare and really,  
8 really challenging.

9 MR. PADRO: So you would say that the -- the  
10 combination of sound emanating from in this -- in an  
11 establishment that has an entertainment endorsement even  
12 when doors and windows are closed, you know, combined  
13 with the noises emanating from outdoor seating of  
14 another establishment are -- are, you know, causing a  
15 greater nuisance than if they were not in combination?

16 MR. PETERS: Absolutely.

17 MR. PADRO: So do you have -- you're  
18 familiar with Chaplins and the proximity of 801 P Street  
19 to that establishment?

20 MR. PETERS: Correct. Yes, I am familiar.

21 MR. PADRO: Do you have concerns about  
22 similar noise transmission issues from entertainment --

1 potential entertainment at Chaplins if this  
2 entertainment endorsement is authorized and its impact  
3 on those neighbors ten feet away?

4 MR. PETERS: Speaking from our own  
5 experience, yes, I would urge them to have similar  
6 concerns.

7 MR. PADRO: So you are also an officer of  
8 the neighborhood association?

9 MR. PETERS: Correct. I am the current  
10 serving president of the Central Shaw Neighborhood  
11 Association. I'm also an elected executive committee  
12 member of the Ward 6 Democrats, and that's it -- a dad  
13 as well.

14 MR. PADRO: That's your most important job.

15 MR. PETERS: Mostly.

16 MR. PADRO: So, you know, in that capacity  
17 I'm sure you hear, you know, complaints about ABC  
18 establishments and entertainment endorsements.

19 MR. PETERS: Quite a few.

20 MR. PADRO: Okay. If you -- you know, if  
21 you had the opportunity to try to suggest any measures  
22 that might reduce the negative impact from an

1 entertainment endorsement at an establishment like the  
2 ones that you've mentioned, what might those be?

3 MR. PETERS: So I think there are a limited  
4 number of circumstances where a variety of venues,  
5 whether it been a coffee shop, a tavern, a restaurant,  
6 may want to actually have entertainment for events like  
7 weddings or receptions and things like that. And so I  
8 think on an ad hoc basis or an a set number of  
9 permissible events during certain hours that should be  
10 allowable. And -- and I think generally my sense of  
11 what the ANC has strived to do over the years is -- is  
12 to have that allow -- allowable without just giving a --  
13 a blanket entertainment endorsement that could be used  
14 for anything down the road should a licensee change its  
15 plans or should they sell their license and their  
16 establishment to somebody else who would do something  
17 else with it that we then thereafter would have very  
18 little control over.

19 MR. PADRO: So you are basically echoing  
20 Commissioner Short's observation, you know, of the  
21 potential for a business morphing from one type of  
22 business that has less of an impact with their

1 entertainment endorsement to a more serious impact on  
2 the neighbors using that same entertainment endorsement?

3 MR. PETERS: Yes. And if I can give a  
4 little further background. I don't want to monopolize  
5 any of your time and get us all out of here sooner than  
6 later. You know, my -- my -- you know, I've been doing  
7 this now kind of on behalf of the association and -- and  
8 the neighbors for -- for a few years, and we've had a  
9 lot of sometimes very contentious discussions with  
10 entrepreneurs and businesses coming to the neighborhood,  
11 all of whom we very much welcome, we actively promote  
12 online and social media, and -- and with whom we've come  
13 to agreement and are a co-signer of one settlement  
14 agreement. You know, I think it's -- it's tough because  
15 we have a -- an interest in getting to a place that  
16 works for these businesses but -- but also need to have  
17 kind of a community principle and a norm that works.  
18 And that's -- that's tough to -- to uphold without an  
19 actual agreement or something in the license issued by  
20 The Board. That's really the only thing we can depend  
21 on. And if that isn't there, then we've seen in  
22 particular -- particularly in the case of Dacha their

1 agreements and promises really did not hold any water at  
2 all. And so we depend on this Board for enforcing those  
3 agreements and -- and that's really all we have.

4 MR. PADRO: Do you have any other  
5 observations or recommendations that you can make  
6 related to this particular set of circumstances both  
7 with the request for increased hours of operation as  
8 well as an entertainment endorsement in such close  
9 proximity to residents?

10 MR. PETERS: I think that the applicant  
11 should consider a limited kind of endorsement. Like I  
12 was discussing earlier, I think that hours should  
13 reflect what is generally followed in the neighborhood.  
14 I know there might be some exceptions that may have some  
15 sort of historical precedent. But in order for all of  
16 us to co-exist those are good principles that seem to be  
17 working for some quite successful businesses in the  
18 community. So with respect to the entertainment  
19 endorsement it should be nuanced if given at all. The  
20 hours should be similar both for the indoor and outdoor  
21 operations to what you find elsewhere in the community.  
22 I know that many of the establishments that have been

1 discussed are those like Queen of Sheba that are  
2 immediately adjacent to the -- the applicant. But I --  
3 I think if you kind of expand that by an additional  
4 block, you'll see a lot of others that do have kind of a  
5 model way of operating that is commendable and I would  
6 point The Board's attention to.

7 MR. PADRO: Thank you. No other questions.

8 CHAIRPERSON ANDERSON: Your -- your witness,  
9 ma'am.

10 MS. NJOROGÉ: Hi.

11 MR. PETERS: Hey.

12 MS. NJOROGÉ: I have a quick question for  
13 you. Are you a ANC commissioner?

14 MR. PETERS: No.

15 MS. NJOROGÉ: Have you ever voted as an ANC  
16 commissioner?

17 MR. PETERS: No, ma'am.

18 MS. NJOROGÉ: Have you volunteered on a ANC  
19 committee?

20 MR. PETERS: I do serve as a member of the  
21 ANC 6E ABC licensing committee I think is -- I'm not  
22 sure what the technical title of it is, but yes. I'm

1 not an ANC commissioner though.

2 MS. NJOROGE: Do you recall some time last  
3 year last November did you vote in the committee for  
4 Chaplin license renewal? I mean a Chaplin application  
5 for entertainment endorsement and change of hours? Did  
6 you vote at that meeting?

7 MR. PETERS: I -- I believe we did, and I  
8 believe we voted to recommend that the ANC protest.

9 MS. NJOROGE: Do you remember mentioning  
10 that you are a volunteer and you didn't have the vote  
11 to -- the right to vote at that committee?

12 MR. PETERS: I'm sorry. I don't understand  
13 the question.

14 MS. NJOROGE: Do you remember making the  
15 notation that you were a volunteer at that committee and  
16 you didn't have the right to vote as an ANC committee  
17 member?

18 MR. PETERS: No. I don't remember every  
19 detail of the conversation that occurred at that  
20 meeting. But -- but as a supposition that is true, I --  
21 I don't have that right. I'm not elected by the  
22 community.

1 MS. NJOROGE: Have you -- have you -- you  
2 say you're the president of Central Shaw Neighborhood  
3 Association. Have you voted to protest any other  
4 license for the application of entertainment endorsement  
5 or change of hours except this one?

6 MR. PETERS: So we have held a number of  
7 meetings in which motions were considered to protest ABC  
8 establishments. I don't have a full list. We have  
9 engaged in kind of the formal protest process with one,  
10 two, three, four applicants previously. The  
11 neighborhood association recently entertained two  
12 motions with two other establishments.

13 MS. NJOROGE: You say you live at -- next  
14 door. You say you live at 1609 8th Street, and there is  
15 -- Uptown Ethiopia is 1608?

16 MR. PETERS: 7th Street, 1608 I believe. I  
17 may have my numbers off.

18 MS. NJOROGE: You said there was -- now did  
19 you make a complaint for that noise?

20 MR. PETERS: I have not made a complaint for  
21 Uptown.

22 MS. NJOROGE: But you said -- you just

1 mentioned -- testified that you could hear noise coming  
2 from this facility.

3 MR. PETERS: That's correct. That's true.

4 MS. NJOROGE: And you didn't file any  
5 complaint with the owner or with the ABC or anything?

6 MR. PETERS: I -- I have spoken with the  
7 owner on a couple of occasions about the noise and about  
8 closing his doors as well as discharging kitchen grey  
9 water into the alley.

10 MS. NJOROGE: Okay. Have you -- do you know  
11 anything -- or do -- did you protest Sheba renewal --  
12 Queen of Sheba renewal?

13 MR. PETERS: We did not.

14 MS. NJOROGE: Does it -- do -- does Queen of  
15 Sheba --

16 MR. PETERS: To be honest I don't know -- I  
17 don't know when their renewal was up, and if it is up  
18 now I have no idea.

19 MS. NJOROGE: Do you know whether Queen of  
20 Sheba has entertainment endorsement?

21 MR. PETERS: Based on the conversation this  
22 evening it appears they may.

1 MS. NJOROGE: Does your association follow  
2 up on all applications within that neighborhood, Central  
3 Shaw?

4 MR. PETERS: I think we take it on a case by  
5 case basis. If there is cause for certain, then --  
6 then, yes, we would -- we would try to address it  
7 through this process. If it can't be solved through  
8 conversation, then -- then this is a path.

9 MS. NJOROGE: So is it correct to say that  
10 -- okay. My -- what are the concerns that makes it or  
11 that allows you -- or that makes your organization  
12 protest? What are the concerns?

13 MR. PETERS: Sure. So the -- the  
14 association is responsive to its members. If somebody  
15 raises concerns about an ABC establishment or applicant,  
16 we'll try to deal with it. So those concerns can range  
17 from trash to rats -- rats is a common one -- noise,  
18 parking -- parking is common -- pedestrian problems,  
19 being able to get by on the sidewalk when there's a  
20 line. There -- you name it. I mean I can go down a  
21 long list of -- of issues that people have that usually  
22 trigger a conversation. And if -- if what we're seeing

1 now is a -- in this case a renewal, you know, that's --  
2 that's a point at which we can engage in that  
3 conversation.

4 MS. NJOROGE: Okay. Is Alex Padro an  
5 executive member of Central Shaw Neighborhood  
6 Association?

7 MR. PETERS: No, he is not. He's -- he's  
8 not an executive. I guess are you asking is on the --  
9 on the board --

10 MS. NJOROGE: Yes.

11 MR. PETERS: -- of the organization? No, he  
12 is not on the board.

13 MS. NJOROGE: Is he a member?

14 MR. PETERS: He is a member. He is in the  
15 geography of the association. He is a member.

16 MS. NJOROGE: Have you had any complaints  
17 regarding Chaplin application for entertainment  
18 endorsement? Have you any complaint -- have you  
19 received any complaints?

20 MR. PETERS: I have heard of complaints.  
21 I've heard them from Jackie. And I believe at a meeting  
22 -- I don't exactly recall which -- which meeting -- many

1 months ago somebody mentioned an increasing concern -- I  
2 think it was last fall -- over -- over the noise and the  
3 trash that they have been hearing and observing.

4 MS. NJOROGE: Do you know whether Dacha has  
5 a beer garden?

6 MR. PETERS: Excuse me?

7 CHAIRPERSON ANDERSON: Well, that's --  
8 that's not -- all right. Go ahead. Go ahead. You can  
9 ask your question.

10 MS. NJOROGE: Is Dacha an outdoor venue?  
11 Does it have an outdoor venue?

12 MR. PETERS: Yes, it does.

13 MS. NJOROGE: Okay. So when did you hear  
14 the noise from -- the complaint from Jackie? When did  
15 you learn about that, her concern about the noise for  
16 Chaplin?

17 MR. PETERS: Because I think -- because  
18 Jackie's mother is at 801, I've heard her talk about  
19 some of that in the past. Its -- its come up in  
20 neighborhood meetings, and I -- I -- I -- I'd have to  
21 go -- I don't know if I have a record of it, but --

22 MS. NJOROGE: But on Monday we asked the

1 same question. You said there was no member that had  
2 raised concern regarding noise for Chaplin. But today  
3 is Wednesday, you said Jackie complained. But she said  
4 she heard the noise on Monday.

5 MR. ALBERTI: Wait. Wait. Wait. If you're  
6 talking about a -- a conversation that happened during  
7 mediation --

8 MS. NJOROGE: No.

9 MR. ALBERTI: All right.

10 MS. NJOROGE: This was a public meeting on  
11 Monday.

12 MR. ALBERTI: Well, you have to ask him  
13 whether he said it. You just can't make the statement.  
14 I mean --

15 MS. NJOROGE: Okay. Do you remember on  
16 Monday --

17 MR. PETERS: I -- I told you that members  
18 had voiced concerns about noise, rats, and trash. Those  
19 three things is what I told you members of the  
20 association had voiced concerns regarding.

21 MS. NJOROGE: But on Monday did you say at  
22 the meeting that you had -- you didn't have any -- a

1 certain individual, you didn't have members you could  
2 identify that has complained about noise at Chaplin.

3 MR. PETERS: I don't recall the conversation  
4 transpiring like that at all.

5 MS. NJOROGE: Do you have minutes for the  
6 Monday meeting?

7 MR. PETERS: We do take notes, and there are  
8 minutes. They are not verbatim. There is no  
9 transcript. We don't have anybody recording.

10 MS. NJOROGE: So what is your immediate  
11 concern for Chaplin's application?

12 MR. PETERS: Well, I was asked to be a  
13 witness this evening with respect to the establishments  
14 that are close to my home and the experience that we  
15 have there. We as an association voted to protest  
16 Chaplin's renewal on the basis of peace, order, and  
17 quiet, trash, rats, and noise on Monday at our own  
18 meeting. That's a separate matter, and I assume we'll  
19 be here or maybe we won't. Hopefully we won't. So  
20 that's two -- two separate issues.

21 MS. NJOROGE: Who asked you to be a witness  
22 today?

1 MR. PETERS: The protestant.

2 MS. NJOROGE: So you have no -- do you have  
3 any direct complaint -- direct complaint regarding this  
4 application yourself as a witness?

5 MR. PETERS: So I don't -- as an association  
6 as The Board we don't operate any sort of a formal  
7 complaint logging system where we track this. I can  
8 only speak from my own personal experience based on what  
9 I've heard neighbors mention at times in the past. I --  
10 I can go back and look through my e-mail to see if there  
11 is an actual electronic record of it, but I don't have  
12 that here today.

13 MS. NJOROGE: Okay. I have one -- one last  
14 question, Mr. Brian. Now, last fall you said you  
15 learned about some noise, but you didn't -- your  
16 association didn't follow up and protest our  
17 entertainment endorsement nor -- it did not protest this  
18 particular application. Is there a specific reason you  
19 didn't protest this but you're protesting something  
20 else? Is there a different -- what's the difference?  
21 The same facility.

22 MR. PETERS: Yeah. When you asked that

1 question on Monday evening my response then is the same  
2 as it will be now which was that the -- the timing for  
3 actually noticing a protest vote to an applicant as well  
4 as the association members and actually conducting that  
5 kind of process with -- before our membership and then  
6 getting a protest timely filed is -- is somewhat narrow  
7 and -- and difficult, and we missed that opportunity.

8 MS. NJOROGÉ: But you voted to protest and  
9 your association missed the opportunity?

10 MR. PETERS: When your -- my understanding  
11 is there are two I guess requests or processes that the  
12 applicant -- that Chaplin has to go through. You're  
13 going through your -- your request that's the subject of  
14 tonight's hearing which is for a change in your hours  
15 and an entertainment endorsement. As I just mentioned  
16 we missed the opportunity to engage there. Perhaps we  
17 should have, perhaps we could have. We missed that  
18 chance. It's not easy to -- to line all this stuff up,  
19 right, in order to -- to get in the cue. With -- the --  
20 the other matter is the -- the licensee's -- the license  
21 renewal. And that is something that I think we are on  
22 the ball and able to engage there at least up to this

1 point.

2 MS. NJOROGE: I have no further questions  
3 for you. Thank you.

4 CHAIRPERSON ANDERSON: Do we have any  
5 questions by any board members?

6 MS. MILLER: Yes, I do.

7 CHAIRPERSON ANDERSON: Go ahead, Ms. Miller.

8 MS. MILLER: Good evening.

9 MR. PETERS: Hi.

10 MS. MILLER: Thanks for hanging in here.

11 MR. PETERS: No. Thank you for your  
12 service. I really appreciate what you guys do.

13 MS. MILLER: Thank you. I just want to  
14 clarify your association which would be Central Shaw  
15 Neighborhood Association, they didn't take a vote on  
16 this case, did they?

17 MR. PETERS: No, we did not. Correct.

18 MS. MILLER: Okay. It's not just that they  
19 didn't miss -- they missed the boat time-wise. They  
20 just -- they didn't.

21 MR. PETERS: No.

22 MS. MILLER: So you're testifying on behalf

1 of yourself and your own experience?

2 MR. PETERS: That's correct. My association  
3 has no involvement in this particular case.

4 MS. MILLER: Okay. And have you been to  
5 this establishment?

6 MR. PETERS: I have.

7 MS. MILLER: You have?

8 MR. PETERS: Yes.

9 MS. MILLER: Okay.

10 MR. PETERS: Actually I think they're  
11 running a great operation with respect to the food and  
12 the kind of the -- the -- the business I think, you  
13 know, with respect to the -- the potential for noise  
14 with -- with a crowd outside but also with an  
15 entertainment endorsement inside I can see how that  
16 could get challenging.

17 MS. MILLER: Okay. So outside isn't at  
18 issue. But I think to me anyway it's -- it's pretty  
19 obvious that outside noise can be a big problem, it's  
20 harder to contain. And I think the question here is --  
21 for me anyway -- is can music inside be contained so  
22 that it's not a problem for residents who live inside

1 other buildings basically? So do you have an opinion on  
2 that? And I also want to add to that because you said  
3 something that I thought was very important. I think  
4 that a lot of residents and ANCs, they try to get a  
5 settlement agreement because they want to get certain  
6 protections in that settlement agreement and then they  
7 can co-exist. And so what I often say or we often say  
8 is okay, well, you know, you didn't get that, but we  
9 consider the same things in this setting. I mean and --  
10 and then they have the force of law. And if they don't  
11 comply you have enforcement. So my question is since  
12 you are familiar with this restaurant, are there any  
13 conditions that you think would work to contain the  
14 noise so that residents wouldn't be disturbed?

15 MR. PETERS: Are you assuming an  
16 entertainment endorsement or not, or could -- could it  
17 say --

18 MS. MILLER: No -- or yes. If -- if The  
19 Board were -- are there circumstances under which The  
20 Board could grant them an entertainment endorsement for  
21 inside only -- are there conditions that you feel would  
22 mitigate the noise so that residents wouldn't be

1     disturbed in their buildings?

2                   MR. PETERS:  I think one thing I was eluding  
3     to earlier is the challenge that once that endorsement  
4     is granted it's hard to control after the fact.  And I  
5     know you're eluding to the possibility of the order  
6     itself having certain protections in place that could be  
7     enforceable.  You know, one challenge that -- that I  
8     personally have had and a lot of neighbors have had with  
9     enforcement -- and actually I think the world of your  
10    enforcers, they come out at all crazy hours, they deal  
11    with some -- some tough operators who in one case as you  
12    know malign their intent and -- and their -- their  
13    integrity.  So I have huge admiration for what they do.  
14    That being said, the enforcement process takes forever.  
15    You know, first of all the -- the person has to show up  
16    when something is going wrong, right?  When the doors  
17    opening you can hear the noise, and maybe when the  
18    enforcement officer comes an hour later it's not as bad.  
19    So catching an establishment in the act is -- is  
20    challenging.  And then let's say they are and a report  
21    is written up that goes through a -- a process here that  
22    takes many, many months to reach any kind of fruition.

1 And with all respect my sense of what -- what comes out  
2 of the end of that enforcement process is on an  
3 escalating basis quite mild in the beginning. And --  
4 and so it takes a long time and many, many violations  
5 for it to really matter. You know, even a -- a two, or  
6 three, or four, or \$5,000 fine to some of these  
7 operations can just be a drop in the bucket. I know  
8 the -- the fine you engaged with -- or levied on, you  
9 know, one licensee near us was significant and very  
10 high. But I think it's a drop in the bucket for them.  
11 I have no idea what their business looks like, but they  
12 seem to be doing quite well. Now, so that's on the  
13 enforcement question. I do -- I have some concerns  
14 about whether that's effective. And then again, the  
15 issue we have is on a principle basis is we don't know  
16 what kind of operator is going to come in later or  
17 whether the nature of the business may change. And so  
18 that's again a challenge. You know, I think what --  
19 what we like to do as people is -- is sit across from,  
20 you know, a neighbor and say let's have a handshake on  
21 this. We can have as much of an agreement on paper  
22 as -- as we can and get to where we -- we -- we hope to,

1 but, you know, unfortunately what I've seen is that that  
2 is usually not always rock solid. So I guess sorry to  
3 be longwinded, but I don't see a lot of areas where I  
4 think that that's going to work out. I think it would  
5 be preferable for The Board to have a very limited kind  
6 of endorsement, one that's nuanced that gets at what  
7 seems to be the intent of the operation. You know, if  
8 they want to have live entertainment or, you know, a DJ  
9 every night, that's different. That doesn't appear to  
10 be what they're asking for.

11 MS. MILLER: Uh-huh.

12 MR. PETERS: So if it's for events, then --  
13 then let's make it a nuance kind of endorsement which  
14 we've done in the past through settlement agreements.

15 MS. MILLER: So just to -- to pin you down a  
16 little bit more, if you want to be, nuance-wise I mean  
17 are there any -- are there any specific, you know, ideas  
18 that you think would make you -- would make it more  
19 likely to be less disturbing, you know, like no -- no  
20 live bands, you know?

21 MR. PETERS: Sure. I -- I would accede that  
22 there are qualifications to an entertainment endorsement

1 that would help. You know, no -- no dancing helps. Am  
2 I -- are you asking me to comment kind of theoretically  
3 for any establishment or for this one in particular?

4 MS. MILLER: Well, it's up to you if you're  
5 comfortable. I mean if you're not comfortable enough  
6 about this one, then don't go there. If you -- if you  
7 just want to talk about based on your experience what  
8 you think are good conditions, fine. But I mean we  
9 are -- we're focusing on this one to -- to the best we  
10 can. So, you know, it's just whatever -- whatever you  
11 want to say. If you don't -- if you're not sure, you  
12 hadn't thought about it through --

13 MR. PETERS: Sure. I think limitations  
14 around purpose can -- can help. I think limitations  
15 around frequency --

16 MS. MILLER: On what?

17 MR. PETERS: Frequency.

18 MS. MILLER: Frequency. Okay.

19 MR. PETERS: -- can help. I -- I mean in my  
20 sense that's kind of the -- those the two kind of  
21 variables, you know, intent and frequency that make some  
22 sense.

1 MS. MILLER: Okay. Great. All right.

2 Thank you very much.

3 CHAIRPERSON ANDERSON: All right. And in  
4 this line of questioning it's -- it's based on The Board  
5 questions. So do you have any questions, ma'am, based  
6 on the questions that The Board asked this witness? All  
7 right. Just based on the questions that were asked and  
8 more so by Ms. Miller. If -- if you have questions that  
9 are directly related to those, you can. If not, then  
10 you can't.

11 MS. NJOROGE: I have.

12 CHAIRPERSON ANDERSON: I'm sorry.

13 MS. NJOROGE: I have.

14 CHAIRPERSON ANDERSON: Okay.

15 MS. NJOROGE: Mr. Brian, I have one question  
16 for you. You said a limitation on frequency. What does  
17 that mean?

18 MR. PETERS: It would be the number of  
19 events that a entertainment endorsement would be  
20 necessary for. So frequency, would that be once a  
21 month?

22 MS. NJOROGE: How would you determine the

1 frequency? What factors would you to consider to  
2 determine okay, you're going to have one in August and  
3 three in December?

4 MR. PETERS: I think you don't necessarily  
5 have to make frequency kind of a regular frequency. It  
6 can be a certain number per year and space it out  
7 however the venue would like. If the venue would prefer  
8 to do it on a month by month basis, than that's  
9 something you can kind of work towards at least I think  
10 under a settlement agreement or perhaps with The Board.

11 MS. NJOROGE: How would limitation of  
12 frequency affect noise or affect the peace, order, and  
13 quiet?

14 MR. PETERS: Well, I think it's a matter of  
15 total -- total impact. If you're limiting the frequency  
16 from 365 days a year to 12 days a year, that's a  
17 significant improvement.

18 MS. NJOROGE: How is it an improvement if  
19 you can have one day and have music that is going all  
20 over and disturb people the whole night?

21 MR. PETERS: In my book generally, you know,  
22 any improvement beyond total discomfort is usually good,

1 and somewhere in there there's hopefully a balance.

2 MS. NJOROGE: What's the concern you have  
3 for dancing?

4 MR. ALBERTI: I will note that there is  
5 no -- there is no application for dancing endorsement.  
6 So that question really is not relevant to this hearing.

7 MR. PETERS: Shall I answer it?

8 MR. ALBERTI: You do not need to answer it.

9 MR. PETERS: I like dancing. I'm horrible  
10 at it.

11 MS. NJOROGE: No further questions. I have  
12 no further questions for you.

13 CHAIRPERSON ANDERSON: Yes, Mr. Padro.

14 MR. PADRO: Just one question. Mr. Peters,  
15 you mentioned limitations on an entertainment  
16 endorsement based on the number of events per year. In  
17 your capacity as a volunteer and full member of the ABC  
18 licensing committee for ANC 6E do you recall any  
19 specific licensees that these limitations had been  
20 applied to through a settlement agreement?

21 MR. PETERS: There have been a number. I  
22 think down in the City Vista part of ANC 6E -- what's

1 the -- Osteria establishment is -- is subject to  
2 something like that. There is the -- the Eric Ziebold  
3 establishment coming in along 7th Street across the  
4 street from the convention center. I forget the name of  
5 it. I'm sorry. It's not open yet. I believe that --  
6 in fact I know Ivy and Coney has agreed to that. I'm  
7 sorry, it's late. What's the name of the applicant  
8 directly behind our house? Trinity has agreed to that.  
9 I believe that The Passenger has agreed to something  
10 like that. Beau Thai has agreed to that. Le Gamme (ph)  
11 I believe has agreed to that. So -- and this is just  
12 off the top of my head. I think I'd have to go back  
13 through and kind of look at it on a detailed basis.  
14 But -- but there are others down towards City Vista I  
15 believe that I'm missing.

16 MR. PADRO: Is Kinship the name of the Eric  
17 Ziebold restaurant that you were --

18 MR. PETERS: Yes. Thank you.

19 MR. PADRO: -- eluding to?

20 MR. PETERS: Kinship has that kind of  
21 endorsement.

22 MR. PADRO: Thank you very much. No further

1 questions.

2 CHAIRPERSON ANDERSON: Thank you. I think  
3 Board Member Alberti has a final question before I  
4 release you, sir.

5 MR. ALBERTI: So, Mr. Peters, what would you  
6 think would be a reasonable frequency in this case?

7 MR. PETERS: My -- my -- my recommendation  
8 would be 12 times a year.

9 MR. ALBERTI: Okay. Thank you. I have no  
10 further questions.

11 CHAIRPERSON ANDERSON: Mr. Peters, thank you  
12 very much for your testimony. I know you've been here  
13 for a long time. I do appreciate your testimony, sir,  
14 and thank you. You're free to go. Thank you.

15 MR. PETERS: Thanks guys. I appreciate it.

16 MR. ALBERTI: All right. Do you have any  
17 more witnesses, sir?

18 MR. PADRO: Our final witness is Pleasant  
19 Mann.

20 CHAIRPERSON ANDERSON: What I -- Mr. Mann,  
21 come -- you can -- yeah. And can you raise your right  
22 hand please. Do you swear or affirm to tell the truth

1 and nothing but the truth?

2 MR. MANN: Yes, I do.

3 CHAIRPERSON ANDERSON: All right. I -- I  
4 know that Mr. Mann has been here for a very long period  
5 of time. And I -- I am not going to not allow him to  
6 testify. However I'm looking at your PIF, and you gave  
7 a profer of his testimony. You said analysis of  
8 petitions submitted by Chaplin as Exhibit 1. I mean we  
9 have already -- I don't know what Exhibit 1 is, you  
10 know, addresses. So I mean The Board is not going to  
11 say -- at least Mr. Alberti has stated that and because  
12 there are no addresses. So I know what the caption of  
13 the document states. But there's really no way for us  
14 to prove that these are residents of ANC 6E -- I'm sorry  
15 -- in this particular ANC as the caption of the document  
16 says. So -- so if he has testimony just to say that  
17 these folks don't live in the ANC, then I don't think  
18 that that's necessary here.

19 MR. PADRO: I think that with just one or  
20 two questions we can help you with that evaluation.

21 CHAIRPERSON ANDERSON: All right. But --  
22 but I -- but if -- he's going to provide analysis of the

1 petition, so you need to give me a lot to say how is he  
2 qualified to make that -- that type of determination  
3 because there -- all there are --

4 MR. PADRO: There were objective criteria  
5 that were used.

6 CHAIRPERSON ANDERSON: No. I'm just saying  
7 -- so I just want to -- so I think you need to present  
8 that first because these are names and no addresses. So  
9 there's really no way for -- for me to say or him to say  
10 that these people don't live in the neighborhood. So I  
11 just want to put that caveat there. But -- so I'll give  
12 you -- I'll give you some leeway to see where you're  
13 going. But I just want to let you know that that  
14 testimony is not necessarily needed or necessary. Okay.  
15 So go ahead.

16 MR. PADRO: Thank you, Mr. Chairman. Now,  
17 Mr. Mann, where do you reside?

18 MR. MANN: It's 1519 8th Street NW.

19 MR. PADRO: And how long have you lived in  
20 the neighborhood?

21 MR. MANN: Since October 1997.

22 MR. PADRO: You have seen the petition that

1 represents the licensees Exhibit Number 1 which is a  
2 petition that states that the signators live in ANC 6E  
3 01.

4 MR. MANN: Uh-huh. Yes.

5 MR. PADRO: Have you compared that list of  
6 names to The Board of Elections of -- Elections and  
7 Ethics of the District of Columbia's voter rolls for  
8 advisory neighborhood commission single member district  
9 6E 01?

10 MR. MANN: Yes, I have. Do you need any  
11 explanation of that, the process?

12 MR. PADRO: Please.

13 MR. MANN: Well, just that as everyone has  
14 observed because there are no addresses, it's difficult  
15 to determine if someone lives in that area as the  
16 petition states. So the only way that we thought was  
17 the decent way of getting an approximation was by going  
18 through the voter lists for the ANC because since the  
19 person signed that they were part of -- in that area,  
20 the ANC area. So we got the voter list and compared it  
21 with the -- with the petition list that we got.

22 MR. PADRO: And what was the conclusion that

1 you drew from that comparison?

2 MR. MANN: Out of the 112 signatures there  
3 were five that were on the voter list.

4 MR. PADRO: So what would be your, you know,  
5 conclusion based on that observation?

6 MR. MANN: Clearly either people didn't  
7 understand what they were signing or there were, you  
8 know, customers or people who were not -- clearly not --  
9 they were not -- there were not enough people there to  
10 say that people were canvassed to -- for the signatures  
11 of residences. It must have -- they must have been, you  
12 know, restaurant patrons. I mean that's a guess, but  
13 that seems to be the most likely explanation.

14 MR. PADRO: So your observation would be  
15 that this is not a representative sampling of residents  
16 of ANC Single Member District 6E's [inaudible 4:56:33].

17 MR. MANN: Yeah. Like I -- I said, if I had  
18 recognized a name that wasn't on the voter list that was  
19 still on the list here, I'd let you know. There is only  
20 one, and that was Anmit (ph) who owns the building where  
21 Chaplin resides in.

22 MR. PADRO: Any other observations?

1 MR. MANN: Yeah. Just that -- like I said,  
2 as I recognize it's hard validating it. But it seems  
3 like it's very -- whomever signed it, there were not  
4 many residents who signed it.

5 MR. PADRO: Okay. Thank you very much. No  
6 further questions.

7 CHAIRPERSON ANDERSON: Questions, ma'am?

8 MS. NJOROGE: Hi, how are you?

9 MR. MANN: Hi.

10 MS. NJOROGE: I didn't get your name. Could  
11 you say your name again?

12 MR. MANN: Pleasant -- Pleasant Mann.

13 MS. NJOROGE: How do you know Alex?

14 MR. MANN: Well, we're -- we live in the  
15 same place, we're partners.

16 MS. NJOROGE: No further questions.

17 CHAIRPERSON ANDERSON: All right. Any  
18 questions by any board members?

19 MR. ALBERTI: Well, I will ask a question  
20 just --

21 CHAIRPERSON ANDERSON: Why?

22 MR. ALBERTI: And I think I know the answer.

1 CHAIRPERSON ANDERSON: Why, Mr. Alberti?

2 MR. ALBERTI: Did you happen to notice any  
3 names -- did you happen to -- with your able to identify  
4 any names that lived outside of --

5 MR. MANN: No. No. That's the thing, I --  
6 I thought I would see maybe some people who lived across  
7 the street or yeah, no, there -- there were none that I  
8 recognized --

9 MR. ALBERTI: Okay.

10 MR. MANN: -- being in the neighborhood.  
11 Yeah.

12 MR. ALBERTI: No further questions. That  
13 was it. Thank you.

14 CHAIRPERSON ANDERSON: All right. Do you  
15 have any other witnesses, sir?

16 MR. PADRO: That concludes the presentation  
17 of our case.

18 CHAIRPERSON ANDERSON: All right. Are there  
19 any documents that you want to admit -- want to be  
20 admitted into the record?

21 MR. PADRO: Yes indeed. At this time I  
22 would like to enter into the records Exhibits 1, 2, 3,

1 4, and 6. One through 4 were included with the PIF, and  
2 6 was submitted at the beginning of this proceeding.

3 CHAIRPERSON ANDERSON: So it's five?

4 MR. PADRO: A total of five, yes. Number 5  
5 is not included in that [inaudible 4:58:36].

6 CHAIRPERSON ANDERSON: Oh, yeah. All right.  
7 So do you have any objections to 1 through 4 -- Exhibits  
8 1 through 4 and Exhibit 6?

9 MS. NJOROGE: No.

10 CHAIRPERSON ANDERSON: All right.  
11 They're -- they are part of the record, and the record  
12 is clear that Exhibit 5 is not a part of the record.  
13 All right.

14 MS. MILLER: Is it clear what Exhibit 1 is  
15 and what Exhibit 2 is and --

16 MR. PADRO: Yes. They are described in the  
17 PIF.

18 MS. MILLER: In the PIF. Okay.

19 MR. PADRO: The only one that is not  
20 included in the PIF again is Exhibit Number 6, and --

21 CHAIRPERSON ANDERSON: And I had -- and I'm  
22 sorry. That was presented earlier today, and they were

1 part of ABRA's records, and so I -- I included them. So  
2 I didn't have a problem with Exhibit 6. So we're fine  
3 with that. All right.

4 MS. MILLER: Which ones -- oh, trash is not  
5 here.

6 CHAIRPERSON ANDERSON: Yes. That's Exhibit  
7 5. So all right. You have an opportunity to make  
8 closing arguments. And closing arguments is -- what  
9 I -- what I expect from both sides is that I need the  
10 applicant to let me know why is it that they believe  
11 that what is -- what is being requested, and I need you  
12 to be clear and tell me what you're asking The Board to  
13 do and why you believe that it's appropriate for the  
14 area. So therefore I guess you're asking for an  
15 entertainment endorsement and also extended hours.

16 MR. ALBERTI: Why they believe based on the  
17 testimony that's been presented today.

18 CHAIRPERSON ANDERSON: Well, why -- why --  
19 well, why you believe based on the testimony that --  
20 that -- that you have established that the -- the  
21 application is appropriate for the area. And then after  
22 you have presented your closing argument then the

1 protestant has -- also has that opportunity to state why  
2 is it that they believe that the application is not  
3 appropriate for the -- for the area. And since in  
4 your -- in your opening statement you had -- Mr. Padro,  
5 you had stated that -- yeah. And I -- I'm going to --  
6 I'm going to get there.

7 MR. ALBERTI: Okay.

8 CHAIRPERSON ANDERSON: Yeah. And so in your  
9 opening statement since you had stated that if The Board  
10 is going to grant, what restrictions if any that -- you  
11 don't have to. I mean I'm asking you that because you  
12 had mentioned that in your opening. So you could also  
13 tell that in your closing. We can do that immediately,  
14 or do you need a couple of minutes to put your thoughts  
15 together to do an opening? You let me know.

16 MR. PADRO: I'm prepared to move on.

17 CHAIRPERSON ANDERSON: Well, I'll -- it's --  
18 all right. It's -- it's 9 -- it's 9:08. I know you're  
19 prepared. I guess some of us might -- so -- and counsel  
20 is asking or representative. So I'll give you --

21 MR. ALBERTI: Five minutes.

22 CHAIRPERSON ANDERSON: Yeah. Until 9:15.

1 9:15. Okay.

2 (Whereupon, a five-minute break was taken.)

3 CHAIRPERSON ANDERSON: All right. We're  
4 back on the record, and the applicant goes first. And  
5 five minutes. All right. You shouldn't do -- you have  
6 five minutes to do your closing. So please use it  
7 judiciously, and tell us what it is that you want, why  
8 is it that you have met your burden, and why is that you  
9 believe The Board should grant you this -- the change in  
10 hours and the entertainment endorsement.

11 MS. NJOROGÉ: Mr. Chairman and The Board, we  
12 would like you to approve our application for  
13 entertainment endorsement and change of hours because  
14 we -- Chaplin has proved to be a good restaurant in the  
15 sense that we have not had any violations. And based on  
16 tonight's witnesses there was no direct witness that has  
17 been able to identify that there is noise coming from  
18 the facility as of now. And it's only said -- people --  
19 the witnesses only said they heard or they assume or it  
20 might be. There was no direct witness that said I have  
21 witnessed noise from this facility inside. We are  
22 willing -- we are requesting The Board to approve our --

1 we only would like music upstairs only, and we would --  
2 entertainment endorsement only for the upstairs and to  
3 have limited -- the volume -- the application that maybe  
4 want the volume. We would also want to have -- be  
5 allowed a certain amount of volume, not loud volume but  
6 average, medium volume. And we will also be willing or  
7 looking in to see whether there was any way we can put  
8 any barriers at the door that is [inaudible 3:03] to  
9 make sure that there's no loud noise coming from the  
10 facility. But we just want slow music. We don't want  
11 loud music or anything. And regarding the hours we just  
12 want hours for -- the change of 30 minutes -- hours to  
13 be able to be on the same page with all our operation  
14 rather than have this team this week, new -- new  
15 employee, new servers, we tell them this way, then they  
16 quit. Then somebody comes, they're -- they're from  
17 another restaurant and they have different hours and  
18 it's kind of different. So we just want to have our  
19 hours of sale and hours of operation to be the same. We  
20 have -- I believe we have had enough testimony tonight,  
21 but I -- I do also believe that there was no one that  
22 has proved that there is noise and this is detrimental

1 to the community. The patron who come here, they either  
2 walk or come by public means, Uber. It's not having  
3 negative impact on the parking or any other thing on  
4 the -- on the facility. So we request The Board to  
5 approve our entertainment endorsement with conditions of  
6 the volume and condition of only on the second floor.  
7 And the hours of operation for the 30 minutes to have  
8 our sales -- our last call and our operations to be the  
9 same.

10 CHAIRPERSON ANDERSON: All right. Okay.

11 MS. NJOROGE: Thank you.

12 CHAIRPERSON ANDERSON: Thank you for your  
13 presentation. Yes, sir.

14 MR. PADRO: Thank you, Members of the Board,  
15 for your patience in hearing all of the testimony this  
16 evening. I appreciate that we will have been here  
17 for -- for five hours. This is a very sensitive  
18 location. As has been testified to we have 17 units  
19 in -- in the apartment building directly across -- ten  
20 feet from this establishment, you know, who are ANC 6E's  
21 greatest concern relating to this application. Because  
22 the weather has not been, you know, very warm, there

1 have not been many opportunities or reasons for  
2 complaints to be filed. We have frail seniors who are  
3 unlikely to pick up the phone and make a fuss as  
4 Professor Hart indicated. So we need to act in their  
5 defense understanding that they are the most likely to  
6 be affected. The fact that an additional 200 residents  
7 are going to be moving into the new apartment building  
8 that is going to be constructed directly cross P Street  
9 also adds to the long-term impact of any decision that  
10 you make related to both of these applications this  
11 evening. So in terms of the increasing hours having,  
12 you know, the operation serving patrons even later than  
13 it already does has the -- the potential to increase the  
14 likelihood that loud and inebriated -- potentially  
15 inebriated customers will be spilling out onto the  
16 streets where we have all of these sensitive residents  
17 immediately adjacent disturbing their sleep at late  
18 night hours. The -- the current hours of service are  
19 certainly more than sufficient to generate a strong  
20 profit for this establishment without causing an  
21 additional burden in terms of disruption to the peace,  
22 order, and quiet that these residential neighbors are

1 entitled to. We remain very concerned about the  
2 potential for noise from the indoor entertainment  
3 spilling out onto the street. I will note that in  
4 the -- on Page 3 of the investigator's report it says  
5 that Chaplin's proposed hours for entertainment are --  
6 and it lists the sidewalk cafe. So I think it is  
7 critical that if an entertainment endorsement is granted  
8 here, that it -- that The Board's decision very clearly  
9 stipulate that only indoor entertainment is being, you  
10 know, considered here. I think that a number of  
11 measures could potentially, you know, reduce the  
12 negative impact of the noise that may escape, you know,  
13 from the establishment. Some of those include some of  
14 the limitations that the licensee has suggested in terms  
15 of, you know, not having more than a specific volume  
16 level, you know, being projected by the speakers on the  
17 second floor, not having any speakers on the first  
18 floor, potentially only having acoustic music rather  
19 than amplified music. I would recommend that if indeed  
20 the intention is to be able to accommodate customers  
21 that want to have private events that are oriented, you  
22 know, towards weddings, you know, potentially, you know,

1 occasional Karaoke, that we, you know, have a limitation  
2 against the use of DJs and -- and promoters for this  
3 entertainment endorsement, and that there, you know, not  
4 be recorded music other than for the, you know, proposed  
5 Karaoke. I would further suggest again in terms of  
6 trying to minimize the late night impact on these  
7 sensitive neighbors that entertainment not be allowed  
8 after 11 p.m. on any night of the week. Another control  
9 could be a limitation on the number of events per year  
10 as are included in both the Kinship and Ivy and Coney  
11 settlement agreements referring to entertainment  
12 endorsements that ANC 6E has entered into and which The  
13 Board has accepted and issued orders on. Because the  
14 floor plan at this particular establishment has a  
15 significant gap between the first and second floors and  
16 an open stairway, you know, we are -- are very concerned  
17 that there will definitely be transmission of sound from  
18 this entertainment beyond the building envelope when  
19 doors are -- are opened. If the -- if it is possible to  
20 construct an exterior vestibule that leads from the P  
21 Street exit that goes into the -- the summer garden  
22 seating area, then that certainly would be another

1 measure that could help to definitely mitigate the sound  
2 transmission from any entertainment that is taking place  
3 on the second floor. I believe that are -- those are  
4 the recommendations that we would have. It would be ANC  
5 6E's preference that the entertainment endorsement and  
6 increase in hours be rejected in their entirety. But if  
7 you do decide to -- to grant an entertainment  
8 endorsement, we would urge as much ever as many of these  
9 possible mitigation measures to be incorporated as  
10 possible.

11 CHAIRPERSON ANDERSON: Thank you very much  
12 for your presentation, and I hope I didn't appear harsh  
13 to the parties. But my goal is to make sure that we  
14 keep on schedule, that we stick to the issues at hand.  
15 I try my best. I -- I know we have strayed, but I --  
16 and I think that if I've been harsh, I believe that I  
17 was harsh to both sides, not -- I didn't choose one  
18 side. So -- but at least that's -- that is what I -- I  
19 try to do. So I want to thank you both for your  
20 presentation. And now I need to ask you this and you  
21 should both -- well, anyway, do the parties wish to file  
22 proposed findings of facts and conclusions of law or

1 waive their right to do so? It's my understanding  
2 it's -- it's rarely ever done in protest hearings;  
3 meaning that you want to wait until the transcripts come  
4 out so you can review that, and then you write proposed  
5 findings for The Board. You can both say that you waive  
6 it and -- and we'll make a decision based on the  
7 testimony that was presented today.

8 MR. PADRO: ANC 6E stands on the record.

9 MS. NJOROGÉ: We waive.

10 CHAIRPERSON ANDERSON: All right. Then --

11 MS. NJOROGÉ: We waive our right.

12 MR. WILLIAMS: We waive our right.

13 MS. NJOROGÉ: We waive our right.

14 CHAIRPERSON ANDERSON: And so The Board  
15 will -- will issue a decision within 90 days, and -- all  
16 right. As Chairperson of the Alcoholic Beverage Control  
17 Board for the District of Columbia in accordance with  
18 Section 405 of The Open Meetings Amendment Act of 2010 I  
19 move that the ABC Board hold a closed meeting for the  
20 purpose of seeking legal advice from our counsel on Case  
21 Number 15-PRO-00119 and Case Number 16-PRO-00005,  
22 Chaplin per section 405(b)4 of The Open Meetings

1 Amendment Act of 2010 and deliberating upon Case Number  
2 15-PRO-00119 and Case Number 16-PRO-00005, Chaplin for  
3 the reasons cited in section 405(b)13 of The Open  
4 Meetings Amendment Act of 2010. Is there a second?

5 MR. SHORT: Second.

6 CHAIRPERSON ANDERSON: Mr. Short has  
7 seconded the motion. I will now take a roll call vote  
8 on the motion before us now that it has been seconded.  
9 Ms. Miller.

10 MS. MILLER: Agree.

11 CHAIRPERSON ANDERSON: Mr. Alberti.

12 MR. ALBERTI: I agree.

13 CHAIRPERSON ANDERSON: Mr. Short.

14 MR. SHORT: I agree.

15 CHAIRPERSON ANDERSON: Mr. Anderson, I  
16 agree. As it appears that the motion has passed, I  
17 hereby give -- I hereby give notice that the ABC Board  
18 will hold a closed meeting in -- in the ABC conference  
19 room pursuant to The Open Meetings Amendment Act of 2010  
20 and issue an order within 90 days. Thank you very much.  
21 Just give me a couple minutes. I just need to make a  
22 opening statement -- a closing statement just for this

1 Board so we can --

2 MR. ALBERTI: Yeah. You guys -- you don't  
3 need to stay for this.

4 CHAIRPERSON ANDERSON: You don't need to  
5 stay. So thank you very much. Thank you. As -- as  
6 Chairperson of the Alcoholic Beverage Control Board for  
7 the District of Columbia in accordance with D.C.  
8 Official Code Section 2574B, closed meetings and Section  
9 2574, Notice of Meetings of the Open Meetings Amendment  
10 Act I move that the ABC hold a closed meeting on -- on  
11 April 27th, 2016 for the purpose of discussing and  
12 hearing reports concerning ongoing or planned  
13 investigations of alleged criminal or civil misconduct  
14 or violations of law or regulations and seeking legal  
15 advice from our counsel on The Board's investigative  
16 legal and license agenda for April 27th, 2016 as  
17 published in the D.C. Register on April 22, 2016. Is  
18 there a second?

19 MR. SHORT: Second.

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

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1 Mr. Short.

2 MR. SHORT: I agree.

3 CHAIRPERSON ANDERSON: Mr. Alberti.

4 MR. ALBERTI: I agree.

5 CHAIRPERSON ANDERSON: Ms. Miller.

6 MS. MILLER: Agree.

7 CHAIRPERSON ANDERSON: Mr. Anderson. I  
8 agree. As it appears that the motion has passed, I  
9 hereby give notice that the ABC Board will hold this  
10 aforementioned closed meeting pursuant to the Open  
11 Meetings Act. Notice will also be posted on the ABC  
12 Board hearing room bulletin board, placed on the  
13 electronic calendar on ABRA's website, and published in  
14 the D.C. Register in as timely a manner as possible. It  
15 is 9:35, and we -- we're now adjourned for the day.  
16 Thank you.

17 (Whereupon the above-entitled matter was  
18 concluded.)

19

20

21

22