

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :

7 Cordial Wharf, LLC: Case # 16-PR0-00079

8 t/a Cordial Wine & Spirits :

9 690 Water Street Southwest :

10 License #102733 :

11 Retailer A :

12 ANC 6D :

13 Application for a New License :

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15 Wednesday, October 26, 2016

16

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

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2 BOARD MEMBERS PRESENT

3 NICK ALBERTI, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6 JAKE PERRY, BOARD MEMBER

7

8 ALSO PRESENT:

9 ANDREW KLINE

10 CORALIE FARLEE

11 GISELLE ROHLER

12 ALAN LITSKY

13 REMY SAMUELS

14 JASON PERU

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

2 PROTEST HEARING

3 CHAIRPERSON ANDERSON: We're back on the
4 record. Our next case is #16-PRO-00079, Cordial
5 Wine & Spirits, license #102733. Will the
6 parties please approach and identify themselves
7 for the record, please?

8 MR. KLINE: Good afternoon, Mr. Chair and
9 members of the board, Andrew Kline on behalf of
10 the applicant.

11 CHAIRPERSON ANDERSON: Good afternoon, Mr.
12 Kline.

13 MS. ROHLEDER: Giselle Rohleder, manager, I
14 mean owner, of Cordial.

15 CHAIRPERSON ANDERSON: Good afternoon, ma'am.

16 MS. FARLEE: Coralie Farlee, chair ANC
17 Committee, ANC 6D.

18 CHAIRPERSON ANDERSON: Good afternoon, Ms,
19 Farlee.

20 MR. LITSKY: Andy Litsky, single member,
21 district and chair of ANC 6D.

22 CHAIRPERSON ANDERSON: Good afternoon, Mr.

1 Litsky. This is a protest hearing. The ANC has
2 filed a protest hearing regarding this
3 establishment and the purpose of this hearing is
4 for us to make a determination as to whether or
5 not this is an appropriate establishment under
6 the rules and regulations. Are there any
7 preliminary matters in this case?

8 MR. KLINE: Yes, Mr. Chair, a couple. We
9 find ourselves presented with a case where the
10 central issue pursuant to the protest and the PIP
11 and even the investigative report, seems to be
12 the applicant's unwillingness to sign a
13 settlement agreement on terms desired by the
14 protestants. That creates some evidentiary
15 challenges because the board has had a policy of
16 not entertaining settlement discussions in these
17 hearings, yet we have that in the protest
18 information form, we have it in the
19 investigator's report, so I'm not exactly sure
20 how to proceed given the board's prior position
21 with respect to such discussions. It's there,
22 it's everywhere.

1 CHAIRPERSON ANDERSON: Well, I'll say this to
2 you, Mr. Kline: No member of the board has
3 reviewed any documents in this case, so I have no
4 idea what you're talking about because neither
5 myself nor any of the other board members have
6 looked at any of the reports, so, therefore, I
7 guess we can start with the documents and I think
8 what I'll probably start to do when I do
9 hearings, is I'll ask the parties to let's go
10 over the documents to see what documents are part
11 of the record and see what objections we have
12 regarding the documents and then once we do that
13 then I'll have an idea to look at the documents
14 that are in the record, and what I'm going to do
15 with it. So, what documents -- so let me --
16 let's start off with the protestant's documents,
17 and let me try to find the protestant's
18 documents. How many documents? Let me start off
19 with you, Mr. Kline, since the burden is -- I'm
20 starting with the applicant. What documents did
21 you introduce?

22 MR. KLINE: What we plan to introduce are

1 some photos of a comparable store and the layout
2 of the Wharf showing the location of the project
3 -- the location of the store within the project I
4 should say more accurately.

5 CHAIRPERSON ANDERSON: So, how many documents
6 are basically the photos of the store and the
7 drafting of the Wharf? That's yours right?

8 MR. KLINE: That's it.

9 CHAIRPERSON ANDERSON: All right, Ms.
10 Coralie, do you have any problems with any of
11 these documents that were introduced by the
12 applicant?

13 MS. FARLEE: No, that's fine.

14 CHAIRPERSON ANDERSON: Okay. So, hearing
15 none, these documents are admitted and they are
16 part of the record. Ms. Farlee, what are the
17 documents that you provided to the board?

18 MS. FARLEE: I initially provided a proposed
19 cooperative agreement and I submitted that
20 annotated which I presented as the ANC position
21 about four issues -- five issues -- and what I
22 understood to be the applicant's position on

1 those same issues. I felt that was a convenient
2 way to summarize what I see and understand to be
3 the issues and I shared that with Mr. Kline
4 before I submitted it and said I'm going to
5 submit this and if I misunderstood your position,
6 let me know, and I did not hear from him so I
7 submitted them.

8 The second document was also a layout of the
9 waterfront Wharf and a map. It may be a
10 duplicate to what was submitted. This one has
11 the street names on it and I shared both of those
12 documents with him and then subsequently I
13 submitted a summary, one page summary, of our
14 position on one sheet of paper which is not on
15 the cooperative agreement kind of format; it's a
16 summary of the five issues at the time.

17 CHAIRPERSON ANDERSON: All right, let me see
18 -- I want to make sure I'm looking at the right
19 document because I've seen the cooperative
20 agreement and I'm confused so I can ask Mr. Kline
21 to let me know what documents he has a problem
22 with. The only document I see here -- I see that

1 document but what other document do you have for
2 the court, because I don't see -- I see the
3 cooperative agreement, I see the summary
4 document, and I have not seen the other
5 documents.

6 MS. FARLEE: The maps? The layout? That was
7 the third thing.

8 CHAIRPERSON ANDERSON: Did you give us a
9 smaller version?

10 MS. FARLEE: I gave it to you because I
11 couldn't e-mail it [inaudible 56:43].

12 CHAIRPERSON ANDERSON: All right, so, Mr.
13 Kline, based on the documents that were proposed,
14 what objections do you have? Let's start off
15 with the cooperative agreement. What's the
16 objection?

17 MR. KLINE: Two objections. One is we --
18 number one, I don't think it should come in at
19 all because it represents settlement discussions
20 and never culminated in a settlement. Second, we
21 don't agree with the purported positions that are
22 asserted to be held by the applicant. It's not

1 true that Dr. Farlee did not hear from us. We
2 wrote when we received the document and indicated
3 that we thought it was improper and that it
4 should not come in because it represented the
5 settlement discussions and also alerted the
6 board's counsel to the same concern. With
7 respect to the diagram of the Wharf, we don't
8 have any objection to that. We think that that's
9 evidentiary, it's factual and certainly
10 appropriate for the board to have the benefit of
11 that.

12 CHAIRPERSON ANDERSON: All right, hearing no
13 objection to the diagram of the Wharf, that
14 document is admitted into the record. What about
15 the other document that has the hours listed on
16 it? Do you have an objection to that?

17 MR. KLINE: The other document represents an
18 attempt to summarize the parties respective
19 positions with respect to the settlement.

20 CHAIRPERSON ANDERSON: That's what that
21 document -- let me ask -- what is that document,
22 Ms. Farlee? What is that document?

1 MS. FARLEE: It says summary of the issues in
2 exhibit #1 which was the annotated cooperative
3 agreement. The summary of the main issues that
4 we're debating.

5 CHAIRPERSON ANDERSON: But is it the main
6 issues from the ANC and within that document did
7 you list the position of the applicant?

8 MS. FARLEE: As much as I thought I
9 understood it, yes.

10 CHAIRPERSON ANDERSON: All right, then I'm
11 not going to -- that one I will consider
12 settlement discussions, so I'm not going to admit
13 that document.

14 MS. FARLEE: Which one?

15 CHAIRPERSON ANDERSON: The second document,
16 because you stated on this document you've listed
17 what the ANC's position is and also you have
18 listed the applicant's position, is that correct?

19 MS. FARLEE: As far as I understand it, and I
20 had shared the cooperative agreement with Mr.
21 Kline before I submitted it for his comments.

22 CHAIRPERSON ANDERSON: I'm not going to admit

1 the cooperative agreement, I'm just dealing with
2 this one document. I just want to make sure what
3 this document -- this document lists what your
4 position and it also lists the position of the
5 applicant and how did you -- how were you able to
6 determine what the position of the applicant was?

7 MS. FARLEE: During our negotiations.

8 CHAIRPERSON ANDERSON: During the
9 negotiations. Okay, so then I'm not going to
10 admit that document because that is -- that's
11 settlement discussions, okay? All right.

12 Now, the cooperative agreement -- is the
13 cooperative agreement the position of the ANC or
14 does the cooperative agreement list the position
15 of the applicant?

16 MS. FARLEE: It does both. I thought it
17 would be helpful to show what we were negotiating
18 about, what we -- what the differences are.

19 MR. KLINE: Mr. Chair, may I?

20 CHAIRPERSON ANDERSON: Yes, Mr. Kline.

21 MR. KLINE: As I understand, the PIP that was
22 filed the sole issue in this case is whether this

1 establishment has a negative effect on peace,
2 order and quiet. The fact that the parties may
3 have discussed resolution of that issue is
4 irrelevant to what the board might determine as
5 to whether this establishment is appropriate.
6 That's why the board traditionally excludes
7 settlement discussions as evidence because it's
8 really evidence of nothing other than the parties
9 efforts to try to get it resolved, but factually
10 it's not evidence, it's negotiations.

11 So, therefore, we don't think proposed
12 settlement agreements should ever come in and if
13 they are going to start coming in in any fashion,
14 then I can tell you that it will certainly chill,
15 from the applicant's side, efforts to have a free
16 discussion about how the case might be resolved
17 and I fear that it will result in less cases
18 getting resolved because if we know from the
19 applicant's side that something that's been put
20 on paper is going to be introduced at the
21 hearing, something that we never agreed to, then
22 we're going to be hesitant to even enter into

1 those discussions, and that's the very reason why
2 settlement discussions don't come in.

3 CHAIRPERSON ANDERSON: The question I was
4 asking Ms. Coralie was that if you provide -- at
5 least my view -- if you provide to the board a
6 settlement -- a proposed settlement agreement
7 that this is what the ANC requires, that from our
8 position this is what we're asking for, I think
9 that's admissible, that's why I'm asking
10 questions. But if you put their position in the
11 document then clearly you know what their
12 position is based on discussions, and so at least
13 from my position I will admit settlement
14 agreements if the ANC comes to us with a
15 settlement proposal, at least I will know what
16 the ANC's position is, because this is a
17 position, this is what we're asking for.

18 So, even if it was the second page, if you
19 had included that document that says this is our
20 position, this is what we want, I'm fine with it
21 because it tells -- at least I'll know where to
22 start, so when the board is making a decision

1 then the board will state 'okay, this is the
2 ANC's position, this is where -- so we can look
3 at what the ANC is asking for, we can look at the
4 testimony and then make a decision to know where
5 to start from. But when you start infusing the
6 other side's position then that becomes part of
7 settlement discussions.

8 MS. FARLEE: It's very easy to cross out what
9 I -- the two or three lines that I included in
10 this summary.

11 MR. KLINE: I mean, to be argued another day?
12 Unless we're going in that direction. But our
13 fear of that is that also means the board knows
14 that the applicant wouldn't agree to that and we
15 don't think that that's appropriate. I mean, the
16 law says that the case is to be decided on the
17 record, evidence of the relevant, appropriateness
18 factors as those might be raised. In this case,
19 there were three that were initially raised. The
20 PIP indicates that there's only one left which is
21 the appropriateness of the establishment given
22 concerns related to peace, order and quiet, and

1 that's the only thing left and if we're looking
2 at a position that a party took, I don't see how
3 that's relevant to the board's determination
4 because it's not factual.

5 MS. FARLEE: But what we are arguing is
6 peace, order and quiet and the issues that we're
7 arguing on are hours, that's primarily our case.

8 CHAIRPERSON ANDERSON: You can make the
9 arguments. What I'm saying is that you can still
10 make whatever arguments you want to make. I
11 don't want to have a document in front of me that
12 states this is the ANC's position, this is the
13 applicant's position, because clearly you know
14 what their position is because you're in
15 settlement discussions. Yes, sir?

16 MR. LITSKY: Mr. Chairman, I just want to be
17 clear from my standpoint as the ANC because we're
18 going to have 36 more of these come up just at
19 The Wharf alone.

20 CHAIRPERSON ANDERSON: Mm hmm.

21 MR. LITSKY: So this is new territory for us.
22 I just want to make sure that going forward,

1 should we arrive at a situation like this, that
2 at no point will we be prohibited from stating
3 the concerns that we have about a particular
4 licensee or license, indeed, up before the board.
5 I just want to make sure that we're not going to
6 be prohibited from explaining the reasons why we
7 feel that this license, as presented, is of
8 concern.

9 CHAIRPERSON ANDERSON: No, you're not -- no,
10 you're not prohibited from that, but what I'm
11 saying is that when you introduce the documents
12 just give me whatever documents that say, for
13 example, you write a settlement agreement, so
14 basically you draft a settlement agreement to say
15 'this is a settlement agreement that we want,
16 this is what we want.'

17 MR. LITSKY: And I think what we did an
18 overabundance of in attempt to be helpful was to
19 provide, you know, all of it under one, you know
20 --

21 CHAIRPERSON ANDERSON: And so counsel is
22 correct that you're -- in one document you've

1 basically told us --

2 MR. LITSKY: -- we won't make that mistake
3 again.

4 CHAIRPERSON ANDERSON: -- right, you've
5 basically told us what the nature of the
6 discussion was. So, if it was just a settlement
7 agreement then I'm saying clearly you have a
8 settlement agreement, this is what you want,
9 there's no agreement, that's why we're here. So,
10 I'm fine by you telling what your position is.

11 MR. LITSKY: Oh.

12 CHAIRPERSON ANDERSON: But I want them to
13 tell me their position, rather than you tell me
14 their position in the document.

15 MR. LITSKY: But in going forward we will be
16 able to provide settlement agreements that the
17 ANC votes upon if we get to an issue like this,
18 that's not going to be a --

19 CHAIRPERSON ANDERSON: Because you're saying
20 'this is what we want,' you're not fusing their
21 position in your --

22 MR. LITSKY: Okay.

1 CHAIRPERSON ANDERSON: -- you're not fusing
2 their position and there's nothing that I'm
3 saying today that prevents you through testimony
4 unless you're going to say, 'well, we went to a
5 meeting and this is what they said' but you can
6 state what your position is.

7 MR. LITSKY: That's why I'm here.

8 CHAIRPERSON ANDERSON: Right. You can state
9 what your position is and what is it that the ANC
10 is seeking and why is it that what they're
11 seeking is not appropriate but I don't want you
12 to tell me, tell the board their position, so in
13 that sense then I will exclude both the
14 cooperative agreement because, and I just want to
15 be clear, because the cooperative agreement
16 infuses the position of the applicant and that,
17 in my view, is settlement discussion, because I
18 don't want that in that document, so that is the
19 only way that it's being excluded. I just want
20 both sides to be clear. I know Mr. Kline is
21 saying that if a settlement agreement comes here
22 he's going to object to it, but my position is

1 that I like having that because at least I can
2 see on one sheet of paper what the ANC's position
3 is so I will know -- if the board's going to make
4 a decision then I will know, 'okay, this is their
5 position' because sometimes, even as lawyers,
6 we're not clear what is it we're asking for and I
7 don't think -- I know Ms. Farlee is not a lawyer.
8 I think she's not a lawyer, am I correct?

9 MS. FARLEE: Not yet.

10 CHAIRPERSON ANDERSON: Not yet? There's still
11 time. And so, therefore, I'm not saying she made
12 a mistake but I'm just saying if I get a
13 settlement agreement at least I know where the
14 ANC stands. Now, Mr. Kline, the board report is
15 a board report. I'm not going to make a ruling.
16 The investigator went out, so this is -- that's
17 the board report so that's a part of the board's
18 record, so that's a part of the record. But I'm
19 excluding the cooperative agreement and I'm
20 excluding the one page summary. So I guess there
21 are no documents -- those -- the only document
22 that the ANC has proposed is the Wharf document

1 which is a part of the record. So, the documents
2 are -- both the documents that were presented by
3 the applicant and presented by the ANC that I
4 made a ruling on, they are a part of the record.
5 And moving forward I want both parties to be
6 aware that I've instructed the general counsel's
7 office that this board and no member of the board
8 will see any protest documents until we come to
9 the dais. That is the policy of this board. If
10 that wasn't a policy before, it is a policy of
11 the board, so I do not want to hear that the
12 board is seeing documents prior to their being
13 introduced in evidence at a hearing. I wanted to
14 be clear to everyone, okay? Are there any other
15 preliminary issues? No? The way this is going
16 to operate is the applicant has the burden, so
17 what's basically the process is that the board
18 will call its witness, the board will ask
19 questions of this witness. Once the board asks
20 questions of this witness, the applicant will
21 have an opportunity to ask questions and then the
22 protestant. After the board presents its witness

1 or witnesses, then the applicant will have an
2 opportunity to call its case. Once it's
3 presented its case, then the protestant will have
4 an opportunity. Each side will have
5 approximately 90 minutes to present its case.
6 It's 3:37. I know that these things can move on
7 to late in the night, so I'll just ask both
8 parties to be cognizant of the time. The board
9 will sit here and listen to everything that you
10 have to state, but remember that the longer it
11 goes, it might not be necessarily productive.
12 That's all I'll say. So, you have everyone's
13 attention, so be cognizant of the time.

14 Now, just some housekeeping. How many
15 witnesses do you have, Mr. Kline?

16 MR. KLINE: Two.

17 CHAIRPERSON ANDERSON: Two witnesses?

18 MR. KLINE: Yes.

19 CHAIRPERSON ANDERSON: Ms. Farlee, how many
20 witnesses do you have?

21 MS. FARLEE: One.

22 CHAIRPERSON ANDERSON: So, two, one, three.

1 Before you call --

2 MR. KLINE: Mr. Chairman, may I make an
3 opening statement?

4 CHAIRPERSON ANDERSON: Yes, go ahead.

5 MR. KLINE: Okay, thank you. Mr. Chairman,
6 members of the board, we're here today on an
7 application for a new class A liquor store
8 license in this magnificent project built down on
9 Main Avenue called The Wharf. If you are in the
10 city, which you all are, I'm sure you're familiar
11 with it. It's hard to miss the cranes that have
12 been there for several months from almost any
13 location in the district. It's quite a
14 magnificent project. The evidence will show
15 that this applicant seeks to open a class A
16 liquor store, and the evidence will show it's a
17 very small store, 525 square feet, and it is
18 modeled on a store that Ms. Rohleder, who is
19 sitting to my left, her son already operates in
20 the District of Columbia, Acadian Market. So,
21 there's kind of a template in terms of what the
22 store will look like and we will introduce

1 evidence that this store will be consistent with
2 that. The evidence will show this is not your
3 average corner half pint store, it is an upscale,
4 or artisanal, store which will feature artisanal
5 spirits, wine and beer, quite an unusual
6 selection of product from other stores that are
7 found in the District of Columbia.

8 Our evidence will show that this will not
9 have -- this store will not have a negative
10 effect on peace, order and quiet, that
11 appropriate provisions have been made for trash
12 removal and deliveries and given the limited
13 hours for liquor stores already on the books we
14 don't believe that it will cause a disturbance to
15 any residents or others living or working in the
16 District of Columbia.

17 At the conclusion of the case we will ask
18 that you grant the application and grant the
19 license without qualification, without conditions
20 and without reservations. Thank you.

21 CHAIRPERSON ANDERSON: Thank you. Ms.
22 Farlee, do you wish to make an opening statement

1 now or do you reserve the right to make it prior
2 to presenting your case?

3 MS. FARLEE: I think I'll wait until we hear
4 the witnesses [inaudible 1:13:54].

5 CHAIRPERSON ANDERSON: All right. Thank you.
6 Then the board will call its first witness, Mr.
7 Peru. Raise your right hand. Do you swear or
8 affirm to tell the truth and nothing but the
9 truth?

10 MR. PERU: I do.

11 CHAIRPERSON ANDERSON: Thank you, have a
12 seat, please. Mr. Peru, can you see? We can
13 switch -- feel free to move around if you need to
14 at any point, okay. Mr. Peru, you were -- this
15 case was assigned to you, so can you tell us what
16 is it that -- it's correct that you provided a
17 report?

18 MR. PERU: Yes, sir. Investigator, Jason
19 Peru, with ABRA.

20 CHAIRPERSON ANDERSON: And since the board
21 has not had an opportunity to read this report, I
22 will ask you then to tell the board what is it

1 that you were able to find as a result of your
2 investigation.

3 MR. PERU: Yes, sir. So, I received the
4 application for a new class A retailer liquor
5 store, Cordial Wharf, LLC, trading as Cordial
6 Wine and Spirits located at 690 Water Street
7 Southwest. The application is being protested by
8 ANC 6D which is represented by Ms. Coralie
9 Farlee. The protestant submitted a letter to
10 ABRA opposing application based on the adverse
11 impact on peace, order and quiet and residential
12 parking.

13 On October 7th, I spoke to the representative
14 for Cordial Wine and Spirits, Mr. Andrew Kline.
15 He stated that the establishment will not be open
16 for business until 2017 due to construction of
17 the Wharf. He said that his client was willing
18 to sign a settlement agreement but currently did
19 not like the terms of the proposed agreement. He
20 said that his client did not think that a
21 restriction on occupancy and hours of tasting was
22 necessary. He stated that the client had signed

1 a lease agreement with the landlord of the
2 building which is contingent upon receiving an
3 alcohol license.

4 On Tuesday, the 11th, I spoke with Ms.
5 Coralie Farlee. Ms. Farlee stated that the ANC
6 did not oppose the class A license of Cordial
7 Wine and Spirits but wanted an essay signed that
8 addressed the ANC's concerns. She stated that
9 the ANC would like to restrict the hours of
10 alcohol sale on Sunday through Thursday from 8:00
11 a.m. to 9:00 p.m. and Friday and Saturday from
12 8:00 a.m. to 10:00 p.m. She stated that the ANC
13 would like a restriction on occupancy inside the
14 establishment to 50 patrons and the hours of
15 tasting from 12:00 p.m. to 9:00 p.m.
16 Additionally, Ms. Farlee stated that the ANC
17 would like to restrict the hours of the
18 deliveries made to the establishment from 7:00
19 a.m. to 7:00 p.m.

20 Ms. Farlee stated that the ANC was going to
21 discuss the matter further in a scheduled meeting
22 on the 17th.

1 The neighborhood: According to the
2 neighborhood, it was a rezoned MU-12, which is
3 under MU-12 regulations described as moderate
4 density, mixed use development, generally in the
5 vicinity of the waterfront. Nearby
6 establishments: According to the District of
7 Columbia's GIS system, there are seven ABC
8 licensed establishments within 1200 feet of
9 Cordial Wine's proposed location. Two are CX,
10 multipurpose. Three are CR restaurants. One is
11 a sea marine vessel and one is a B store.

12 Out of the seven establishments, Safeway is
13 an off-premise B retail and they have an ANC --
14 I'm sorry, they have an essay settlement
15 agreement with an ANC 6D. The essay allows
16 tasting events at Safeway after notifying the ANC
17 within seven days of the event. No restrictions
18 of hours are listed. The essay also restricts
19 the hours of alcohol sales in Safeway from 9:00
20 a.m. to 10:00 p.m. and Monday through Saturday to
21 12:00 a.m.

22 Cordial Wine and Spirits' surrounding areas,

1 building exterior, building interior, obviously
2 due to major construction of the Wharf that's
3 unable to be seen at this time. So, there's
4 actually a current building that is there using
5 the old hotel using it for their construction
6 officer.

7 We monitored the location on six occasions
8 between October 6th and October 17th until the
9 report was due. Because it doesn't exist,
10 really, the monitoring was done just to go out
11 there to check the area out to see if anything
12 was going on. There were no issues and based on
13 it not currently being open there's no way for
14 ABRA to determine peace, order and quiet, how it
15 will affect peace, order and quiet.

16 Real property value: We're not qualified to
17 discuss the issue of real property values.

18 Residential parking: Once again, under
19 construction, unable to determine what kind of
20 garages or parking lots will be accessible.
21 There are metro stops along the area. I'm sorry
22 -- there's metro bus stops as well as L'Enfant

1 Plaza and Waterfront Metro within a two mile
2 radius of the proposed site for Cordial Wine and
3 Spirits.

4 Records search with MPD: Obviously, no
5 police calls in that area have been existing and
6 I checked with the noise task force which is
7 comprised of investigators from ABRA, MPD and
8 DCRA and once again, obviously, there were no
9 complaints regarding that licensed address.

10 That's all I have, sir.

11 CHAIRPERSON ANDERSON: Thank you, Mr. Peru.
12 Do we have any questions by any board members?
13 Yes, Mr. Alberti?

14 MR. ALBERTI: Investigator Peru, this is
15 really for the record, because I'm aware of
16 what's transpiring down there, but for the
17 record, can you really tell us what the new
18 construction is? You said it is in construction,
19 but what the new construction is, what's planned
20 there, as much as you know, maybe the scale of
21 the project, just for the record so we get a
22 sense of what we're dealing with here.

1 MR. PERU: Well, the whole Wharf waterline
2 against the harbor is being -- has been torn down
3 one way or another and being rebuilt. They're
4 building residential buildings, apartments.
5 They're building commercial properties as well as
6 they're going to be housing multiple restaurants
7 in that area. I don't have -- I didn't receive -
8 - Mr. Kline was generously going to give me the
9 layout of the new Wharf. I didn't receive it
10 until after my report was submitted, so I
11 unfortunately could not attach it to the report,
12 but I believe I see that they do have those
13 documents that provide -- I wasn't able to get my
14 hands on that for you guys so I don't have -- but
15 that will provide you the detail, yeah, that's
16 the document.

17 MR. ALBERTI: Okay. So, hopefully they'll
18 provide it to us.

19 MR. PERU: Yes.

20 MR. ALBERTI: The licensee will provide it
21 for us. Thank you, Mr. Peru.

22 CHAIRPERSON ANDERSON: I did -- it is part of

1 the record so I did admit the maps that both
2 sides provided so you can review those.

3 MR. ALBERTI: Okay, very good, thank you.

4 CHAIRPERSON ANDERSON: Are there any other
5 questions by any other board members? Mr. Kline,
6 do you have any questions for the investigator.

7 MR. KLINE: Yes, I do. Good afternoon,
8 Investigator.

9 MR. PERU: Good afternoon.

10 MR. KLINE: You talked a bit about the scale
11 of the project. Is it fair to say that it
12 extends several blocks?

13 MR. PERU: Oh, absolutely, yes. Everything
14 visible on Main and Water Streets yes.

15 MR. KLINE: Okay, so everyone in this room is
16 probably familiar with it but we've got a record
17 that we have to make in this case so that someone
18 else looking at it would know what we're talking
19 about. In terms of scale, at one end is there --
20 was there a fish market?

21 MR. PERU: There is currently still a fish
22 market there.

1 MR. KLINE: It's currently still a fish
2 market.

3 MR. PERU: Yes.

4 MR. KLINE: And the construction of the new
5 project extends from there?

6 MR. PERU: Correct.

7 MR. KLINE: And can you estimate how far it
8 extends in terms of blocks or feet or yards, or
9 any measure that you're comfortable with?

10 MR. PERU: Maybe four or five blocks.

11 MR. KLINE: Four or five blocks.

12 MR. PERU: I mean if I'm giving an estimate,
13 but miles-wise, I should have clocked it when I
14 drove out there all those times. I didn't,
15 though.

16 MR. KLINE: So, is it fair to say that this
17 is almost an entirely new neighborhood in that
18 area?

19 MR. PERU: It's definitely going to be a
20 major development in that area, absolutely.

21 MR. KLINE: Have we ever seen one that large
22 in the District of Columbia before that you're

1 aware of? Can you think of anything that even
2 approaches the scale of that?

3 MR. PERU: At one time, I have not
4 personally. I have been here for six years.

5 MR. KLINE: Okay. Now, the licensee that you
6 testified about was Safeway.

7 MR. PERU: Yes.

8 MR. KLINE: And is that the closest place?

9 MR. PERU: That's the closest retail. That's
10 why I listed Safeway.

11 MR. KLINE: Okay, and that's just beer and
12 wine, correct?

13 MR. PERU: Yes, sir.

14 MR. KLINE: And that's quite a ways from even
15 the far -- even the location of the project
16 that's closest to Safeway. It's a ways from
17 there, isn't it?

18 MR. PERU: It's walking distance, but yes,
19 it's a decent walk.

20 MR. KLINE: Okay, so do have an estimate as
21 to how many blocks that is?

22 MR. PERU: I've walked it before myself. I

1 can't recall.

2 MR. KLINE: A couple of blocks?

3 MR. PERU: Yeah, a couple of blocks.

4 MR. KLINE: Okay. So, if that's a couple of
5 blocks then the other end extends four to five
6 blocks to the furthest end of the development is
7 six or seven blocks from Safeway?

8 MR. PERU: That's a good estimate.

9 MR. KLINE: Now, you talked about what
10 Safeway had agreed to in a settlement agreement,
11 is that correct?

12 MR. PERU: Yes, I looked up Safeway's
13 settlement agreement.

14 MR. KLINE: All right. And there certain
15 restrictions in there?

16 MR. PERU: Yes, the ones that I listed
17 before.

18 MR. KLINE: Now, that's not relevant to
19 whether this establishment will have a negative
20 effect on peace, order and quiet is it?

21 MR. PERU: Correct. Those restrictions do
22 not reference peace, order and quiet, no.

1 MR. KLINE: Okay, there isn't any reason to
2 believe that if this establishment doesn't have
3 the restrictions that it will have any negative
4 effect on peace, order and quiet is there?

5 MR. PERU: Can't determine that at this time.

6 MR. KLINE: You can't determine that at this
7 time. Okay. That's all I have at this time,
8 thank you.

9 CHAIRPERSON ANDERSON: Ms. Farlee?

10 MS. FARLEE: [inaudible 1:26] application for
11 a liquor license [inaudible] and Water Street as
12 the address of the development that should vary,
13 it's not a suitable location for a liquor store.
14 We had no idea at the time that our protest was
15 filed on June 13th what the actual license
16 location would be. So, did you, in fact, look at
17 the location where this license was to end up on
18 -- sorry -- _____ Square.

19 MR. PERU: If you look at -- so, on the
20 application, 690 Water Street, if you look at my
21 exhibits 8, 9 and 10 --

22 MS. FARLEE: We didn't get copies of your

1 exhibits.

2 MR. PERU: -- of the ABRA investigative
3 report.

4 CHAIRPERSON ANDERSON: Hold on one minute,
5 Mr. Peru. Mr. Peru, there are no exhibits as a
6 part of your report. Do you have a report that
7 has exhibits?

8 MR. PERU: I have the report, yes sir. And
9 the exhibits were not scanned for you guys?

10 CHAIRPERSON ANDERSON: No. Mr. Kline, do you
11 have copies of the exhibits and the board report?

12 MR. KLINE: Yes, they were e-mailed.

13 CHAIRPERSON ANDERSON: Ms. Farlee, you don't
14 have them? The board doesn't have them.

15 MR. ALBERTI: Let me see if there's someone
16 we can --

17 CHAIRPERSON ANDERSON: Ms. Farlee, did you
18 receive a copy of the board report? I'm sorry,
19 the board report?

20 MS. FARLEE: Not that I know of.

21 CHAIRPERSON ANDERSON: You said just the
22 report, not the exhibits?

1 MS. FARLEE: Oh, the investigator report.

2 CHAIRPERSON ANDERSON: No.

3 MS. FARLEE: Not that I'm aware of, no.

4 CHAIRPERSON ANDERSON: Mr. Kline, how and
5 when did you get a copy of it?

6 MR. KLINE: I'll beg the board's indulgence,
7 I'll look. I know I got three e-mails. I
8 believe I received it from Ms. Randall. Yes,
9 April Randall, October 24, 7:48 a.m. to me, Dr.
10 Farlee and a copy to Martha Jenkins.

11 CHAIRPERSON ANDERSON: So, you're saying that
12 your e-mail -- the e-mail was sent to you and Dr.
13 Farlee?

14 MR. KLINE: Correct, at 7:48 on the 24th.

15 MS. FARLEE: Where is that at?

16 CHAIRPERSON ANDERSON: Well, the board itself
17 doesn't have it.

18 MR. ALBERTI: I think someone's working on it
19 now.

20 CHAIRPERSON ANDERSON: Okay.

21 MR. ALBERTI: Can we progress without it?

22 CHAIRPERSON ANDERSON: No, she's asking

1 questions specifically about it.

2 MS. FARLEE: I'm asking questions from what I
3 heard and from his oral report.

4 CHAIRPERSON ANDERSON: Right, so -- I'm
5 sorry, yes?

6 MR. PERU: What I could do is directly answer
7 a question as I refer to this because the photos
8 I have --

9 CHAIRPERSON ANDERSON: But she doesn't have a
10 copy of it.

11 MR. PERU: Oh, she doesn't have a copy of
12 this at all?

13 CHAIRPERSON ANDERSON: No. She doesn't have
14 a copy of it to look at so that's why I'm trying
15 to get -- Do you have an iPad? You could look at
16 your e-mail so you can look at the document, ask
17 the questions, and then the board will wait to
18 get the --

19 MR. LITSKY: Mr. Chairman, I actually
20 recommend the document because she's most
21 familiar with this whole endeavor. Can I ask
22 questions as well? Is it possible? I mean, I'm

1 the single member district person and I know this
2 entire layout better than anybody in this room
3 and I'd like to ask questions about what the
4 investigator has seen and what not seen.

5 CHAIRPERSON ANDERSON: That's fine.

6 MR. LITSKY: Okay, thank you.

7 CHAIRPERSON ANDERSON: Hold on a minute. Mr.
8 Kline?

9 MR. KLINE: That's unusual. The board's
10 position has been if the protestant appoints with
11 one representative to proceed with the case then
12 that poor little me doesn't get double teamed.

13 CHAIRPERSON ANDERSON: Let me just get some
14 clarification. Is it just for this limited
15 purpose or is it that moving forward that you're
16 going -- both of you are going to present the
17 case.

18 MR. LITSKY: Well, from -- certainly from
19 the limited purpose of questioning the
20 investigator, I think that it's helpful to have a
21 clear understanding of what he knows and what he
22 is transmitting to the board.

1 CHAIRPERSON ANDERSON: Okay.

2 MR. LITSKY: And to that point, what I want
3 to do is to ask very directed questions about
4 what he knows and what he has used to gather that
5 evidence to transmit to you.

6 CHAIRPERSON ANDERSON: Okay. All right, for
7 the limited purpose I'll allow you to do that,
8 but in the sense of moving forward in the sense
9 of Ms. Farlee is the only one who then is the
10 person who will ask questions after that.

11 MR. LITSKY: I totally agree and I'm glad
12 that she has an opportunity while asking those
13 questions to read the documents that she didn't
14 have before.

15 CHAIRPERSON ANDERSON: Okay fine and for the
16 limited purpose, Mr. Kline, I'll allow it but
17 just for this limited purpose. Go ahead.

18 MR. LITSKY: I appreciate it. Thank you, Mr.
19 Chair. Mr. Peru, thank you for coming down to
20 our neighborhood to check out what's being done.
21 Are you aware of the number of housing units that
22 are going to be built at the Wharf itself?

1 MR. PERU: No, I don't have that number.

2 MR. LITSKY: Okay. Do you know where the
3 number of licenses that are likely to be put into
4 -- put before this board at the Wharf itself
5 currently.

6 MR. PERU: I heard that it was up to maybe 20
7 or 30 but I'm not sure exactly.

8 MR. LITSKY: Are you aware that it's 35-plus?

9 MR. PERU: Now that you're telling me.

10 MR. LITSKY: Are you aware that the reason
11 that Safeway has the ability to serve -- what do
12 you call that when you serve drinks?

13 MR. PERU: Tastings.

14 MR. LITSKY: Yes, tastings, and that they can
15 only hold it until 11:00 p.m. because they close
16 at 11:00 p.m.?

17 MR. PERU: Safeway closes at 11:00 p.m.

18 MR. LITSKY: Are you aware that where the
19 establishment is going to open will have housing
20 on top of it or directly adjacent to the building
21 where it's going to be operated?

22 MR. PERU: I was looking at the map and I

1 realized that there was a residential community
2 in that area.

3 MR. LITSKY: Are you aware that across the
4 street on 7th Street there will also be built,
5 where there is currently now Riverside Baptist
6 Church, another unit that will be built by the
7 same developer with close to 400 residential
8 units itself?

9 MR. PERU: I'm not aware of that, yes.

10 MR. LITSKY: Are you aware of the number of
11 parking spaces that will be on Main Avenue that
12 might conceivably be available for people to pull
13 up and run in and purchase a bottle?

14 MR. KLINE: Objection. Although the ANC had
15 originally related parking as an issue in the
16 protest information form that was filed it was
17 indicated that that was not an issue any longer
18 and the sole issue was peace, order and quiet.

19 CHAIRPERSON ANDERSON: Why is this relevant,
20 sir?

21 MR. LITSKY: Well, it's relevant to the order
22 of -- order it seems to me. Anybody who's driven

1 past the Wharf as it's under construction knows
2 the problems that we have currently. I've been
3 incredibly involved in the development of the
4 Wharf from the very beginning of this process.
5 One of the major problems and concerns that we
6 have is the order that will be created -- or
7 disorder that will be created -- by the lack of
8 appropriateness of people coming to the Wharf and
9 not parking properly. Parking is part of the
10 order that's going to be created or not in this
11 entity and so that's why I raise the question.

12 CHAIRPERSON ANDERSON: I'll overrule the
13 objection. The board will see just listen and
14 see what it is first. Go ahead.

15 MR. LITSKY: Thank you. Are you aware of the
16 number of parking spaces that are available at
17 The Wharf itself, not just on Main Avenue?

18 MR. PERU: No, I am not.

19 MR. LITSKY: Okay. Those are the only
20 questions I have. Thank you.

21 MS. FARLEE: Yes, I'm sorry, I didn't find
22 the attachment.

1 CHAIRPERSON ANDERSON: Okay, go ahead. Were
2 you asking the questions directly about the
3 attachment or is that no longer relevant?

4 MS. FARLEE: Me? I was trying to remember
5 what his testimony was in that case.

6 CHAIRPERSON ANDERSON: Okay.

7 MS. FARLEE: You mentioned that we are
8 concerned or are requesting something about an
9 occupancy of 50 patrons. Where did that
10 reference come from?

11 MR. PERU: The conversation that we had on
12 the phone.

13 MS. FARLEE: On the phone, okay.

14 MR. PERU: Yes, ma'am.

15 MS. FARLEE: We're still going to go back and
16 address that at some point. And, yes, we do have
17 for later discussion the operating hours, the
18 tasting hours and the delivery hours. Those are
19 the three main points we want to cover today.
20 The open hours.

21

22 CHAIRPERSON ANDERSON: Do you have any other

1 questions you want to ask Mr. Peru?

2 MS. FARLEE: No, I think that's all. Thank
3 you.

4 CHAIRPERSON ANDERSON: Does the -- I know
5 that I'm doing something that can open up a can
6 of worms, but anyway, do we have any -- yes, go
7 ahead, Mr. Short.

8 MR. SHORT: Well, good afternoon Mr. Peru.

9 MR. PERU: Good afternoon, sir.

10 MR. SHORT: Investigator Peru. Just to help
11 you out a little bit, we were talking about the
12 distance and you couldn't give us any. Would you
13 say it starts at 4th Street? 5th Street? 6th
14 Street Southwest, this new construction?

15 MR. PERU: I'm looking at the map that I have
16 and I think it's a little past 7th, maybe even
17 closer to 6th.

18 MR. SHORT: Where does it start?

19 MR. PERU: Probably around 7th, between 7th
20 and 6th.

21 MR. SHORT: And ends where?

22 MR. PERU: It's almost close to the Southwest

1 freeway, to the freeway.

2 MR. SHORT: Would that be 12th Street?

3 MR. PERU: Yes, sir.

4 MR. SHORT: Okay, so I just wanted that on
5 the record to give us a perspective so it won't
6 be any guess work, that that's where the
7 construction is taking place. Again, give it to
8 us for the record, where it starts and where it
9 ends.

10 MR. PERU: 7th to 12th.

11 MR. SHORT: Streets Southwest?

12 MR. PERU: Southwest.

13 MR. SHORT: Thank you very much. That's all
14 I have, Mr. Chair. Are there any other questions
15 by any other board members? Any questions by
16 either side based on the limited questions that
17 were asked by Mr. Short?

18 MR. PERU: Mr. Chairman, one final thing.

19 CHAIRPERSON ANDERSON: Yes, Mr. Peru.

20 MR. PERU: in the report, I was asked by Mr.

21 --

22 CHAIRPERSON ANDERSON: Kline.

1 MR. LITSKY: Litsky.

2 CHAIRPERSON ANDERSON: Oh, sorry.

3 MR. PERU: You had asked a question about the
4 time that Safeway closes?

5 MR. LITSKY: Yes.

6 MR. PERU: You said it was what time?

7 MR. LITSKY: 11:00 p.m.

8 MR. PERU: So, in the report "Mr. Peru has"
9 it says that they estimate also liquor sales and
10 alcohol sales on Sunday from 9:00 a.m. to 10:00
11 p.m. and Monday again from 9:00 a.m. to 12:00
12 a.m. I'm just reading the report regarding
13 Safeway.

14 MR. LITSKY: I know Safeway's not open until
15 midnight, though, unless there's something every
16 night.

17 MR. SHORT: Those are the business hours but
18 the actual operating hours are --

19 MR. PERU: All right, I'm just trying to be
20 clear.

21 CHAIRPERSON ANDERSON: All right.

22 MR. KLINE: I have one question.

1 CHAIRPERSON ANDERSON: Is that based on
2 something or is this a new lin?

3 MR. KLINE: No, it's based on the question
4 that was asked by Dr. Farlee.

5 CHAIRPERSON ANDERSON: Yes, Mr. Kline.

6 MR. KLINE: Investigator Peru, is there a
7 limitation on occupancy in the Safeway
8 settlement agreement?

9 MR. PERU: No, none that I could find.

10 MR. KLINE: That's all I have, thank you.

11 CHAIRPERSON ANDERSON: Mr. Peru, thank you
12 very much for your testimony, sir. You can step
13 down. Mr. Kline, do you wish to call your first
14 witness?

15 MR. KLINE: Yes, I'll call to the stand Remy
16 Samuels.

17 CHAIRPERSON ANDERSON: Ms. Samuels, can you
18 raise your right hand, please. Do you swear or
19 affirm to tell the truth and nothing but the
20 truth?

21 MS. SAMUELS: I do.

22 CHAIRPERSON ANDERSON: All right, thank you.

1 You may have a seat.

2 MR. KLINE: State your name for the record,
3 please.

4 MS. SAMUELS: Remy Samuels.

5 MR. KLINE: And where are you currently
6 employed?

7 MS. SAMUELS: I'm currently the manager at
8 Cordial Wine and Union Market.

9 MR. KLINE: Okay, so that's an existing
10 store?

11 MS. SAMUELS: Yes.

12 MR. KLINE: And how long have you been the
13 manager there?

14 MS. SAMUELS: I've been the manager there for
15 about a year and I've been working there for over
16 two years.

17 MR. KLINE: Okay, and what -- will you have a
18 role in this new store that's being opened at The
19 Wharf?

20 MS. SAMUELS: Yes, I'm going to be the
21 manager at the new store.

22 MR. KLINE: All right. And have you worked

1 with Ms. Rohleder in terms of developing the
2 concept and readying the store for opening?

3 MS. SAMUELS: I mean, not to a great extent,
4 just to plan some continuity between the two
5 stores.

6 MR. KLINE: I'm sorry?

7 MS. SAMUELS: Some continuity between the
8 idea of the two stores.

9 MR. KLINE: Okay, so is -- from what you know
10 is it intended that the new store will be similar
11 to the existing store at Union Market?

12 MS. SAMUELS: Yes. It's not going to be a
13 carbon copy but it's going to have the same
14 principles, the same ideas, the same focus on
15 small batch specialty products.

16 MR. KLINE: And is that because the owner of
17 this new store and the owner of the one at Union
18 Market are related from a familiar standpoint?

19 MS. SAMUELS: It's going to be the same
20 general concept.

21 MR. KLINE: Right, but are the owners of the
22 stores related?

1 MS. SAMUELS: Yes.

2 MR. KLINE: Do they have a family
3 relationship?

4 MS. SAMUELS: They are, they do, yes.

5 MR. KLINE: Okay, so what is that family
6 relationship?

7 MS. SAMUELS: Giselle is Eric's mother.

8 MR. KLINE: Okay. So, if you can tell the
9 board about the store at Union Market in terms of
10 what's the concept, what do you do there?

11 MS. SAMUELS: Yeah, so we're a very small
12 shop in the back of Union Market. So, we focus
13 on wine, beer and spirits but overall it's all
14 going to be specialty kind of small batch, more
15 boutique products. So, it's the kind of store
16 that if you walk in for the most part everyone's
17 reaction is 'wow, I don't recognize anything on
18 your shelves.' You're not going to see Smirnoff,
19 you're not even going to see Johnny Walker. It's
20 all small producers. We like to highlight a lot
21 of the local folks and we have stuff from all
22 over the world as well but just really special,

1 more unique things you're not going to find in
2 the other places.

3 MR. KLINE: And that's true with respect to
4 the spirits?

5 MS. SAMUELS: Yes.

6 MR. KLINE: Is it also true with respect to
7 the wine and the beer?

8 MS. SAMUELS: Yes, 100%.

9 MR. KLINE: Across the board.

10 MS. SAMUELS: Across the board.

11 MR. KLINE: Now, you said you're a manager.

12 MS. SAMUELS: Yes.

13 MR. KLINE: Are you an ABC licensed manager?

14 MS. SAMUELS: I am, yes.

15 MR. KLINE: All right. And how long have you
16 been an ABC licensed manager?

17 MS. SAMUELS: For over two years now. We
18 require that everyone who works at the store have
19 the ABC manager's license so from the day I
20 started I've had that license.

21 MR. KLINE: Okay. So, you completed alcohol
22 awareness training.

1 MS. SAMUELS: Yes.

2 MR. KLINE: And the other employees as well?

3 MS. SAMUELS: Yes, everyone who works there
4 completes everything required for the ABC
5 managers so the TIP certification, alcohol
6 awareness training, all of that.

7 MR. KLINE: And as the manager of this new
8 store, is that something you will require there?

9 MS. SAMUELS: Yes, absolutely.

10 MR. KLINE: In terms of everyone completing
11 alcohol awareness training.

12 MS. SAMUELS: Yes, absolutely.

13 MR. KLINE: Have you had any particular
14 issues in terms of ABC violations or issues with
15 customers in the operation of the store since
16 you've been working at the one at Union Market?

17 MS. SAMUELS: No, we have very few issues.
18 It's a very calm environment generally.

19 MR. KLINE: Okay. And do you tastings at
20 that store?

21 MS. SAMUELS: We do, yes. We do tastings
22 every Saturday from 12:00 to 3:00 and Sundays

1 1:00 to 4:00 at the current location.

2 MR. KLINE: Okay. And -- but you have the
3 ability to do them other times as well.

4 MS. SAMUELS: Yes, sometimes we do Friday
5 night tastings as well which can be fun.

6 MR. KLINE: And how many people might you
7 have at a tasting?

8 MS. SAMUELS: It really depends on, you know,
9 when we're having it. Saturdays, the market
10 itself is very busy, it's people stopping by
11 whereas other times, Sunday afternoons are a
12 little calmer, Friday nights are usually calmer.
13 It's hard to give an exact number.

14 MR. KLINE: And when you do the tastings
15 people are allowed to consume alcohol for free?

16 MS. SAMUELS: They are but there's a limited
17 quantity. So, in law, it's limited to three
18 ounces of spirits, six ounces of wine of 12
19 ounces of beer.

20 MR. KLINE: And have you, during the course -
21 - how many tastings have you been involved in
22 since you've been there approximately ?

1 MS. SAMUELS: So, I've been there a hundred
2 and something weeks and we do two of things at
3 least a week so over 200 tastings.

4 MR. KLINE: And has there ever been any
5 problems with tastings?

6 MS. SAMUELS: No, never while I've been
7 there.

8 MR. KLINE: And do people think it's a bar
9 and they can come drink as much as they want?

10 MS. SAMUELS: No. Not at all.

11 MR. KLINE: And can you describe the
12 clientele for the board?

13 MS. SAMUELS: Yeah, absolutely. It's
14 definitely an upscale clientele. I mean, if
15 you've been to Union Market at all it's
16 definitely a very artisanal focused market with
17 really fine food products, so the people who are
18 coming to the market may be getting some local
19 meats over at Harvey's or getting some nice fish
20 over at The Fish Place, coming to us looking for
21 a nice bottle of wine to pair with their dinner
22 or something really nice for a gift, that sort of

1 thing.

2 MR. KLINE: Now, one of the concerns that we
3 hear about liquor stores in some parts of the
4 city is that people will hang out in front and
5 panhandle. Do you have that problem at Union
6 Market?

7 MS. SAMUELS: No, that's never been a problem
8 for us.

9 MR. KLINE: Do you anticipate that you might
10 have that problem at this location?

11 MS. SAMUELS: No, I don't anticipate that.

12 MR. KLINE: And why is that?

13 MS. SAMUELS: I mean, just our store and the
14 kind of products that we sell, it's really not
15 that kind of liquor store. It's very more
16 boutique focused. It's not a half pint store.

17 MR. KLINE: And in terms of deliveries, are
18 you restricted in the hours that you can receive
19 deliveries at Union Market?

20 MS. SAMUELS: We're not at Union Market, no.

21 MR. KLINE: Okay. You're free to receive them
22 anytime.

1 MS. SAMUELS: Yes.

2 MR. KLINE: What's the size of the Union
3 Market store, do you know?

4 MS. SAMUELS: It's slightly smaller than the
5 one at The Wharf. I think it's 300 something
6 square feet approximately.

7 MR. KLINE: Okay, and do you know what the
8 one at The Wharf is?

9 MS. SAMUELS: It's 500 something if I'm
10 correct.

11 MR. KLINE: Given the size of the store --
12 and again, the proposed store is proposed to be
13 larger than the one in Union Market, what's --
14 what kind of deliveries in terms of quantity and
15 frequency do you anticipate to this point?

16 MS. SAMUELS: I mean, I anticipate it should
17 be pretty similar. We're not going to be
18 carrying dramatically more products and right now
19 our deliveries are pretty small. We're a very
20 small shop, we don't have a ton of storage, so I
21 mean for the most part it's some guy coming up
22 with two cases on a hand truck. We're not

1 getting pallets dropped off or anything like
2 that.

3 MR. KLINE: Okay. What would be the largest
4 delivery that you may get?

5 MS. SAMUELS: If we get ten cases at a time,
6 that's really big.

7 MR. KLINE: Okay. And how are those
8 typically delivered?

9 MS. SAMUELS: A guy in a van or sometimes our
10 reps will just bring us one case in the back of
11 their car, that sort of thing. It's pretty
12 small.

13 MR. KLINE: Okay, all right. Great. That's
14 all I have for the witness at this time, thank
15 you.

16 CHAIRPERSON ANDERSON: Ms. Farlee?

17 MS. FARLEE: Yes. I have several things.
18 You said -- I believe you said your hours for
19 tastings are 12:00 to 3:00, 1:00 to 4:00, not for
20 evenings?

21 MS. SAMUELS: Yeah, that's what we're doing
22 right now just because we find that's what works

1 with our clientele at the market, but, I mean,
2 that's just when we get our best sales from it.
3 Our door is open at different times as well
4 depending on, I mean The Wharf is going to be a
5 different location so we wouldn't necessarily do
6 the same hours there.

7 MS. FARLEE: So, what are your hours at Union
8 Market?

9 MS. SAMUELS: We're open 11:00 to 7:00 Tuesday
10 through Sunday.

11 MS. FARLEE: 11:00 to 7:00?

12 MS. SAMUELS: Yep.

13 MS. FARLEE: Actually, that's less -- did you
14 know that's less than your license?

15 MS. SAMUELS: Yep. That's what makes sense
16 for us. We actually used to be open 10:00 to
17 8:00 but we found we preferred being open from
18 11:00 to 7:00 but we do stay open later
19 occasionally for events.

20 MS. FARLEE: [inaudible 1:48] those hours --
21 they sound like good hours for [inaudible]. --
22 the hours on your license at Union Market you'd

1 be comfortable with but I'm glad to hear 11:00 to
2 7:00, let's propose that. Thank you. And let's
3 propose the tastings that you're comfortable with
4 at Union Market --

5 MR. KLINE: Objection.

6 MS. FARLEE: -- 12:00 to 3:00, 1:00 to 4:00?
7 Are you comfortable with that?

8 MS. SAMUELS: No.

9 CHAIRPERSON ANDERSON: What's the nature of
10 your objection Mr. Kline? I guess they've moved
11 on.

12 MS. FARLEE: What are the times of delivery
13 of liquor at Union Market?

14 MS. SAMUELS: We're not limited so mostly we
15 get deliveries between 11:00 when we open and
16 usually around 4:00 or 5:00 p.m. and for the most
17 part on Wednesdays and Thursdays, and
18 occasionally Fridays.

19 MS. FARLEE: What available parking do you
20 have at Union Market?

21 MS. SAMUELS: There's a parking lot.

22 MR. KLINE: Objection. On the issue of

1 parking as to relevance.

2 CHAIRPERSON ANDERSON: Mr. Kline. I'm going
3 to overrule the objection because I don't
4 necessarily think it's even relevant for us to be
5 talking about Union Market because these are,
6 from my view, it's supposed to be two separate
7 owners, so I'm not quite sure why we are talking
8 about Union Market, so go ahead. I'm not going
9 to overrule the objection, let's just --

10 MS. FARLEE: Well, it would be relevant --

11 CHAIRPERSON ANDERSON: I'm just saying, I'm
12 sitting here and trying to figure out why is it
13 that we're even talking about Union Market if
14 it's a different owner.

15 MR. KLINE: If I may, Mr. Chair, only because
16 to give the board some sort of flavor of what the
17 store will be like. That's the only reason, not
18 because there are common -- since there are
19 common areas.

20 CHAIRPERSON ANDERSON: And I saw where you
21 started and I appreciated your segue into it,
22 because I asked myself, and it was a good segue

1 but then after you've been talking a lot about
2 Union Market and I'm troubled if we continue to
3 go down this road because it would say something
4 to me that I'm not sure we want to be talking
5 about here today, so I will ask both parties that
6 we're talking about this new establishment and to
7 limit the questions about Union Market because
8 these are supposed to be two separate
9 establishments, two separate owners, and what one
10 owner is going to do, I will assume that it's --
11 but anyway -- but, you know as they say, when you
12 assume what happens, so I will just ask folks to
13 just limit the questions regarding Union Market
14 and let's move on.

15 MS. FARLEE: Well, I'm glad for the opening
16 so we could understand the hours and tasting
17 hours. Maybe in summary what do you expect to be
18 the differences between where you're a manager at
19 Union Market and the proposed location in
20 Southwest?

21 MS. SAMUELS: The location? The ownership?

22 MS. FARLEE: So you would expect to keep

1 pretty much the same hours of the tastings?

2 MS. SAMUELS: I'm not going to speak to that.
3 I'm not the owner. I'm just -- I help with the
4 products and run the shop so as far as sort of
5 perspective and what kind of products to carry
6 and what our focus is, I expect that to be
7 continuous between shops.

8 MS. FARLEE: You don't want us to ask any
9 more questions about Union Market, is that
10 correct?

11 CHAIRPERSON ANDERSON: Well, I'm -- I think
12 we can ask some cursory questions but the goal is
13 that we're talking about this new establishment
14 and so we can ask some questions to say they're
15 similar establishments but at some point we need
16 to talk about this establishment and the impact
17 of this establishment on the community and not,
18 from my understanding, the Union Market where the
19 location is, they're two completely separate
20 neighborhoods. I'm not even sure it's the same -
21 - if it's the same type of people who shop at
22 Union Market will shop at The Wharf, so I'm not

1 quite sure how relevant having a lot of
2 discussion about Union Market is -- as far as the
3 board is concerned -- at least as far as I'm
4 concerned --

5 MS. FARLEE: Just a couple of brief ones to
6 be answered.

7 CHAIRPERSON ANDERSON: Yes, ma'am.

8 MS. FARLEE: Is their residential buildings
9 around Union Market where your store is?

10 MR. KLINE: Objection as to relevance. I
11 think we're there. I think we've crossed the
12 line as to relevance --

13 MS. FARLEE: Okay.

14 MR. KLINE: -- with that question.

15 MS. FARLEE: What would be gained by tastings
16 early in the morning at 7:00 a.m. in the morning?
17 What would be the advantage of tastings in the
18 morning?

19 MS. SAMUELS: I don't know that we'd have
20 tastings at 7:00 in the morning.

21 MS. FARLEE: Thank you. Thank you.

22 CHAIRPERSON ANDERSON: Any questions by any

1 board members? Yes, Mr. Alberti?

2 MR. ALBERTI: Good afternoon, Ms. Samuels.
3 Just to be clear, so when you say the store is
4 500 square feet, all of it?

5 MS. SAMUELS: I believe so, something like
6 that.

7 MR. ALBERTI: Is that including storage, any
8 utility space, any --

9 MS. SAMUELS: Yeah.

10 MR. ALBERTI: Okay. So total space. I'll
11 ask the owner, but do you have any idea what the
12 customer area -- how large that will be? Total
13 square footage?

14 MS. SAMUELS: The what?

15 MR. ALBERTI: The customer area itself. And
16 if you don't know that's fine.

17 MS. SAMUELS: I don't know.

18 MR. ALBERTI: Okay, all right. When you talk
19 about tastings, the way you describe them you --
20 I got the impression that they were like
21 scheduled tastings --

22 MS. SAMUELS: Mm hmm.

1 MR. ALBERTI: You know, some alcohol
2 establishments, class A establishments, you go in
3 any time of the day and talk about a product and
4 they might have a bottle open and you can taste
5 it. I assume that that -- is that -- will you
6 have anything like that?

7

8 MS. SAMUELS: To a limited extent, yes.

9 MR. ALBERTI: Okay. Will you have scheduled
10 tastings where you say, 'well, at this time we're
11 going to have tastings of several scotches or
12 several bourbons.'

13 MS. SAMUELS: Yeah, that's part of our
14 intention as well, a great way to get people to -
15 -

16 MR. ALBERTI: How often will that happen?

17 MS. SAMUELS: I don't know the specifics.
18 It's quite a while from when we're opening and
19 we'll have to kind of evaluate it at the time,
20 but at the Union Market location we have two
21 scheduled tastings a week and then we sometimes
22 supplement that with an additional one.

1 MR. ALBERTI: Okay. And, how are they
2 advertised?

3 MS. SAMUELS: We have a newsletter. We have
4 a little chalk board sign.

5 MR. ALBERTI: Okay, and generally how many
6 people show up, a range?

7 MS. SAMUELS: Yeah, I mean like I said since
8 we are in a market it is kind of dependent on
9 that but on Saturdays I would say like the
10 busiest day I would say maybe about 100 people
11 but these are people that are already kind of in
12 the market, it's mostly a captive audience there.

13 MR. ALBERTI: At one time?

14 MS. SAMUELS: No, no, no over the course of
15 like the three hours, maybe.

16 MR. ALBERTI: Oh, okay.

17 MS. SAMUELS: I think that would be the top
18 range --

19 MR. ALBERTI: Okay, so are you telling me
20 that you would advertise that between these hours
21 we'll have these tastings rather than 'come in at
22 6:00 and for the next hour we're going to be

1 talking about --`

2 MS. SAMUELS: Well, yeah, it's a range. So,
3 what we'll usually do is we'll be featuring maybe
4 two wines and you can walk up to the table, you
5 can take your little pour of the wines, taste it,
6 hopefully decide to buy a bottle, and then you
7 leave.

8 MR. ALBERTI: And it's over how long of a
9 period of time?

10 MS. SAMUELS: Usually about three hours on
11 the weekends.

12 MR. ALBERTI: Okay. And that's the concept
13 that you envision for this new license?

14 MS. SAMUELS: I'd say that's the plan for
15 right now, but of course you'd have to see how it
16 worked in a new environment and everything.

17 MR. ALBERTI: Okay.

18 MS. SAMUELS: I'm not gonna be sworn to that,
19 you know.

20 MR. ALBERTI: And if you don't know this
21 question -- the answer to this next question --
22 but out of curiosity, exactly where is this going

1 to be located? Because we're getting 690 Water
2 Street and you know, there are lots of buildings
3 that we're hearing something about though maybe
4 that's not the exact location. So, do you know?

5 MS. SAMUELS: I don't know precisely but I'm
6 sure it's on that document.

7 MR. ALBERTI: Okay, I'll ask the next
8 witness. I have no other questions, thank you.

9 CHAIRPERSON ANDERSON: Are there any other
10 questions by any other board members? Yes, Mr.
11 Perry?

12 MR. PERRY: I have one question just
13 regarding your tastings and, again, I'm new to
14 the board so forgive me. Is it in your current
15 place, do people linger, is it -- do they take a
16 sip of wine or alcohol or spirits or beer and
17 then they make a decision or -- I mean do people
18 linger in the stores or do they --

19 MS. SAMUELS: There's not very much
20 lingering. I mean, the person who's doing the
21 tasting will be explaining the wine and where it
22 comes from but, I'd say if they lingered for like

1 five minutes that would be quite a long time.
2 Usually, people come up, try it, make a -- it's
3 not like we're doing a flight -- it's like 'two
4 wines, you get a sip of each and if you want to
5 buy one, that's wonderful,' and they generally
6 move on.

7 MR. PERRY: That's all I have.

8 CHAIRPERSON ANDERSON: Ms. Farlee do you have
9 any questions for her based on the questions that
10 were asked by the board?

11 MS. FARLEE: Do you have any summary comments
12 about how you would manage the southwest
13 waterfront different from Cordial at Union
14 Station?

15 MR. KLINE: Objection as to the form of the
16 question and as to relevance.

17 CHAIRPERSON ANDERSON: Rephrase the question,
18 Ms. Farlee.

19 MS. FARLEE: What are your plans for
20 management of the Cordial at Southwest
21 Waterfront?

22 MS. SAMUELS: Do you have in a more specific

1 sense, or general?

2 MS. FARLEE: Hours.

3 MS. SAMUELS: We haven't determined that yet
4 specifically.

5 MS. FARLEE: Tasting hours?

6 MS. SAMUELS: We haven't determined that yet
7 specifically.

8 MS. FARLEE: Delivery hours?

9 MS. SAMUELS: Again, we haven't determined
10 that yet.

11 MS. FARLEE: That's it, thank you.

12 CHAIRPERSON ANDERSON: Mr. Kline?

13 MR. KLINE: Yes. In terms of tastings, the
14 current practice of the store that you work in is
15 to have the flexibility for anyone to taste at
16 any time, correct?

17 MS. SAMUELS: That's true, yes.

18 MR. KLINE: All right, and is that useful in
19 terms of sales of product?

20 MS. SAMUELS: Yeah, so we actually really
21 like to keep the main bottles from the local
22 distilleries in the back open so if someone comes

1 in and is curious that especially for the local
2 stuff which we really love to promote, just to be
3 able to have that there so regardless of what
4 time of day it is they can try a little splash.
5 I think it really drives sales for those
6 products.

7 MR. KLINE: And is that particularly
8 important given the type of merchandise that you
9 stock?

10 MS. SAMUELS: Exactly, yeah because people
11 aren't going to recognize the brands so a lot of
12 times they do really want to try, especially when
13 introducing something new they haven't seen
14 before it is really valuable.

15 MR. KLINE: So they don't need to come in
16 and try Smirnoff's if you carried that which you
17 said you don't.

18 MS. SAMUELS: Right, we definitely don't
19 know.

20 MR. KLINE: But some of these new brands,
21 that's helpful in terms of sales and market.

22 MS. SAMUELS: Right. Like One-Eight

1 Distilling, the district made vodka, is majority
2 rye-based, because that's what we have with the
3 distilling heritage of the region but it has a
4 very different flavor from your Smirnoff's so
5 it's really nice to be able to have that so you
6 can pour someone a tiny bit and they can
7 experience that because it's not Smirnoff, it's
8 not Grey Goose either, it's something really
9 special and different.

10 MR. KLINE: And would a limitation on tasting
11 hours hamper your ability to market?

12 MS. SAMUELS: Yeah, in that way it absolutely
13 would.

14 MR. KLINE: Okay, great. That's all I have.

15 CHAIRPERSON ANDERSON: Thank you for your
16 testimony. Please do not discuss the nature of
17 your testimony until this case is over. Mr.
18 Kline, do you have another witness?

19 MR. KLINE: Yes. I call to the stand Giselle
20 Rohleder.

21 CHAIRPERSON ANDERSON: I'm sorry?

22 MR. KLINE: Giselle Rohleder.

1 CHAIRPERSON ANDERSON: Can you raise your
2 right hand please? Do you swear or affirm to
3 tell the truth and nothing but the truth?

4 MS. ROHLEDER: I do.

5 CHAIRPERSON ANDERSON: Have a seat, please.

6 MR. KLINE: State your name for the record,
7 please.

8 MS. ROHLEDER: I'm Giselle Rholeder.

9 MR. KLINE: And what is your relationship to
10 this applicant?

11 MS. ROHLEDER: I am the owner of Cordial
12 Wharf.

13 MR. KLINE: All right. Now, the person
14 discussing today about a store at Union Market
15 are you involved in that store at all?

16 MS. ROHLEDER: No, I am the bookkeeper and I
17 solely do the books.

18 MR. KLINE: Okay, and who runs that store?

19 MS. ROHLEDER: My son, Erick Rohleder.

20 MR. KLINE: What connection will he have, if
21 any, with the store that you're opening at the
22 Wharf?

1 MS. ROHLEDER: He will probably just -- we
2 wanted to do kind of brand recognition but if
3 any, just consulting, advising me on what
4 products are out there.

5 MR. KLINE: All right, now you have some
6 background in business, is that correct?

7 MS. ROHLEDER: Yes.

8 MR. KLINE: All right, tell the board your
9 background.

10 MS. ROHLEDER: Yes, I am a graduate of the
11 University of Texas and I was a bank auditor for
12 13 years.

13 MR. KLINE: And your degree is in accounting?

14 MS. ROHLEDER: Accounting.

15 MR. KLINE: Okay, so you have experience in
16 accounting, also, aside from being a bank
17 auditor, is that correct?

18 MS. ROHLEDER: Yes.

19 MR. KLINE: All right. And you're aware, are
20 you not, that there is a provision in the law
21 that you can't have an interest in more than one
22 liquor store license in the District of Columbia?

1 MS. ROHLEDER: I am.

2 MR. KLINE: All right. And it's your
3 intention even though your son owns another store
4 to comply with those provisions of the law?

5 MS. ROHLEDER: Yes.

6 MR. KLINE: All right. Now, why is it that
7 you decided to go into this business?

8 MS. ROHLEDER: We used to live here. I knew
9 where The Wharf was. Our sons went to Gonzaga
10 and so I drove by The Wharf every day and we were
11 approached by -- or Erick was approached by --
12 The Wharf and they liked his concept of the store
13 and wanted to open a store there and he knew he
14 couldn't open it and since I was managing the
15 ?_____ I realized how profitable it was -- it is
16 -- and decided to open the store and apply for
17 the license.

18 MR. KLINE: All right. Remy, who testified,
19 you intend to have her as your manager?

20 MS. ROHLEDER: Yes.

21 MR. KLINE: And is that something that you
22 and Erick have apparently discussed?

1 MS. ROHLEDER: Yes.

2 MR. KLINE: All right and what's that
3 arrangement?

4 MS. ROHLEDER: Remy will come work for me and
5 Remy will be in charge of all the day to day
6 operations of the store and hire all personnel
7 related to the store. She will be the manager of
8 Cordial Wharf.

9 MR. KLINE: And what will be your role?

10 MS. ROHLEDER: And I will be the owner and I
11 will be available to Remy. I come up to D.C. to
12 visit family and friends often so I will be here
13 checking on the operations of the store.

14 MR. KLINE: All right, and when you say come
15 up, you reside somewhere else now?

16 MS. ROHLEDER: I live in Texas.

17 MR. KLINE: Okay. And how often do you
18 expect to be up here checking on the store?

19 MS. ROHLEDER: Every two weeks. Probably
20 when it opens up I will be up here full time to
21 get them running and then when Remy has control
22 of it and we have staff, then I'll probably just

1 see how often I need to be up here.

2 MR. KLINE: Okay, and then in terms of
3 operating the store long distance, what role will
4 you play on a long distance basis?

5 MS. ROHLEDER: I'll still probably maintain
6 the books of this company and just be the owner
7 of the store and still manage it from afar and
8 have Remy run the day to day operations of the
9 store.

10 MR. KLINE: All right. Now, you signed a
11 lease for the premises on behalf of the _____
12 Holding Company.

13 MS. ROHLEDER: I did.

14 MR. KLINE: And are there restrictions in
15 that lease on when you can accept deliveries?

16 MS. ROHLEDER: Yes.

17 MR. KLINE: And what are the restrictions?

18 MS. ROHLEDER: The deliveries are 6:00 to
19 10:00 a.m.

20 MR. KLINE: And those are the only hours that
21 you can accept deliveries?

22 MS. ROHLEDER: Yes.

1 MR. KLINE: All right. And what about trash
2 management? How are you going to handle trash at
3 the establishment?

4 MS. ROHLEDER: Within the lease there is
5 ruling on how trash is removed, a certain route
6 we have to take to the trash area and how it's to
7 be separated and delivering -- how it's supposed
8 to be taken to the trash area.

9 MR. KLINE: So the trash area -- who
10 maintains the trash area?

11 MS. ROHLEDER: The landlord.

12 MR. KLINE: The landlord. So, is the
13 landlord responsible for trash removal?

14 MS. ROHLEDER: Yes.

15 MR. KLINE: Do you know how many square feet
16 the store is?

17 MS. ROHLEDER: It is 525 square feet.

18 MR. KLINE: And how much of that area will be
19 committed to selling space.

20 MS. ROHLEDER: Probably if you count maybe
21 100 feet for setting up for the dish and a back
22 office maybe 425 for selling. And we'll need

1 some office space in the back.

2 MR. KLINE: A pretty small store.

3 MS. ROHLEDER: Mm hmm.

4 MR. KLINE: There's been a lot of discussion
5 and comparing and contrasting your son's current
6 operation and Union Market. Do you see
7 differences in terms of the two locations or
8 differences in terms of how you might operate
9 this store?

10 MS. ROHLEDER: I think we -- that the Wharf,
11 just the nautical side of it -- I mean we'll have
12 to see with the whole development, we're kind of
13 going with a different theme with that area but I
14 think with artisanal items that are being been
15 used and I think this is kind of a new thing
16 that's being sold -- all these artisanal batches,
17 the small batches from all the smaller at least
18 companies so I think the focus is going to more
19 for -- to still keep the artisanal side of the
20 business.

21 MR. KLINE: Now, in terms of hours, do you
22 think the hours at this location might need to be

1 different.

2 MS. ROHLEDER: I think -- I know we have -- I
3 think we'll have to wait and see. I know we have
4 to wait and see. I know we have, within the
5 lease certain hours we can't operate but then we
6 might, based on business, have to see how we
7 might cut back, we comply by the hours in the
8 lease agreement or we might cut back based on
9 business.

10 MR. KLINE: Okay. So, in terms of minimum
11 hours in --

12 MS. ROHLEDER: I think 11:00 maybe. 11:00 to
13 7:00, or 11:00 to 8:00 just to see how busy the
14 wharf area is. I don't want to restrict us, I
15 wanted to see if it gets busy at night I'd like
16 to be open, but if it's not then we will adjust
17 hours.

18 MR. KLINE: Okay, so what is your
19 understanding of the project in terms of what
20 it's going to be like down there when it's
21 finished?

22 MS. ROHLEDER: I mean, it's going to be like

1 a Chelsea Pier, you're going to have a
2 residential, you're going to have a hotel, you're
3 going to have restaurants, you're going to have
4 stores, first class stores, it's going to be a
5 first class project. It's going to be a very
6 nice project. I mean, it's a very nice
7 community.

8 MR. KLINE: Okay, and you've obviously been
9 in the Union Market.

10 MS. ROHLEDER: Yes.

11 MR. KLINE: Is this a much different type of
12 location?

13 MS. ROHLEDER: It's a total different
14 environment.

15 MR. KLINE: And is that because of the fact
16 that there are residences right there and it's
17 more, perhaps 24 hours.

18 MS. ROHLEDER: I think Union Market being the
19 old warehouse area and I think just they kept
20 that little bit of an eclectic environment, just
21 the warehouse when they developed it. I think
22 that's just a little different. But it's all

1 open, all of the stores are open and this is more
2 of a storefront community, and the Union Market -
3 - a lot of the stores --

4 MS. FARLEE: Objection. If we were not able
5 to ask about Union Market I'm protesting noise.

6 CHAIRPERSON ANDERSON: I did say a limited
7 scope -- and you -- when you do the objection,
8 it's when he asks the question. But when the
9 cat's already out of the bag, I can't do nothing
10 about that. I mean I'll go 'folks just disregard
11 it' but you have to object when the question is
12 asked and then I will make a decision there.
13 But, as stated, Mr. Kline I understand that we
14 can have some basic background information to say
15 Union Market if we're using this as a model, but
16 I want to hear more about the actual store that
17 we're talking about for the license and not a
18 whole lot of this other establishment because --
19 you know where I'm going.

20 MR. KLINE: All right. Ms. Rohleder, you
21 originally -- the application was filed under the
22 address of 690 Water Street?

1 MS. ROHLEDER: Yes.

2 MR. KLINE: So why was that?

3 MS. ROHLEDER: I thought that -- when I
4 received the lease agreement, I thought that was
5 the property -- address of the property.

6 MR. KLINE: And did you later find out that
7 no address has yet been assigned?

8 MS. ROHLEDER: Yes.

9 MR. KLINE: Okay. And has an address since
10 been assigned?

11 MS. ROHLEDER: Yes, it has.

12 MR. KLINE: And do you know what that is?

13 MS. ROHLEDER: It is 761 Pearl Street.

14 CHAIRPERSON ANDERSON: I didn't hear what the
15 address was.

16 MS. ROHLEDER: I think it's 761 Pearl Street.

17 MR. KLINE: 761 Pearl Street Southwest.

18 MR. SHORT: Jewel pearl?

19 MS. ROHLEDER: Pearl.

20 MR. KLINE: Now, I want to show you what the
21 board has previously entered, I'm not sure what
22 the number is, I think it's #1, and first of all

1 I'll ask you to identify what this is.

2 CHAIRPERSON ANDERSON: All right, go ahead.

3 MR. KLINE: Do you know what this is?

4 MS. ROHLEDER: Yeah.

5 MR. KLINE: What is it?

6 MS. ROHLEDER: That's The Wharf development.

7 MR. KLINE: Okay. This is the layout?

8 MS. ROHLEDER: Yes.

9 MR. KLINE: All right. Are you able to
10 identify the location of the store?

11 MS. ROHLEDER: Can I get my glasses so I can
12 read?

13 MR. KLINE: Certainly. Where?

14 MS. ROHLEDER: At 411. I'm at 4110.

15 MR. KLINE: 4110?

16 MS. ROHLEDER: Yes.

17 MR. KLINE: And is there a number under there
18 that tells what the square footage is?

19 MS. ROHLEDER: Yes, 525.

20 MR. KLINE: Square feet?

21 MS. ROHLEDER: Square feet.

22 MR. KLINE: All right, and there is a

1 designation of P next to that. Do you know what
2 that is?

3 MS. ROHLEDER: That's parking.

4 MR. KLINE: Okay, all right. And is it your
5 understanding that there are residences around
6 you?

7 MS. ROHLEDER: I am aware.

8 MR. KLINE: Right. And is it your intention
9 to [inaudible 2:12:53].

10 MS. ROHLEDER: Yes.

11 MR. KLINE: So, in terms of the hours, is it
12 kind of a wait and see in terms of how the
13 project comes along?

14 MS. ROHLEDER: Yes.

15 MR. KLINE: And are you concerned about your
16 flexibility being limited if you're restricted
17 regarding the legal hours of operation?

18 MS. ROHLEDER: Yes.

19 MR. KLINE: And what about tastings? When do
20 you intend to do tastings and how do you see that
21 activity fitting into your operation?

22 MS. ROHLEDER: A lot of times it's the

1 vendors who want to host the tastings so, you
2 know, based on when they would want to schedule
3 them, but if we wanted to have a private tasting
4 in the evening I would like to be able to have
5 that option, you know, at The Wharf and not just
6 limit ourselves to certain hours.

7 MR. KLINE: All right and is it in -- when we
8 describe situations where it was helpful to be
9 able to do ad hoc tastings as people encounter
10 new product? Is that something that will be part
11 of your operation?

12 MS. ROHLEDER: Yes.

13 MR. KLINE: All right and that is something
14 that's important to you in your operation?

15 MS. ROHLEDER: Yes, because I think as Remy
16 said a lot of the products are unknown, they're
17 small batches, people aren't aware of them, so
18 it's a nice way to make them aware of them.
19 Without having to buy the product they get to
20 taste it and see if they like it or not.

21 MR. KLINE: You acknowledge that there will
22 be residents around you. How do you see your

1 store fitting in with those residential units
2 that might be around there?

3 MS. ROHLER: I think it's going to be
4 professional, maybe young professionals in the
5 neighborhood and that's a lot of our market is
6 young professionals, so I would think those who
7 like the difference and like different products
8 and not the old same old same old, who like to
9 try new things. So, I think it'll be a nice use
10 of -- a nice mix with the neighborhood.

11 MR. KLINE: This place since it's been
12 protested because of concerns that your operation
13 will have a negative effect on peace, order and
14 quiet. Is there anything that you can add in
15 terms of why it is that you believe that your
16 establishment won't have a negative effect on
17 peace, order and quiet?

18 MS. ROHLER: I think this whole community
19 is a first class project and our store is small,
20 it's not like people come in to party, they come
21 in for a certain product that they're aware of or
22 they're just walking along looking at the store.

1 They're not -- we're not hosting parties in it.
2 It's just a small establishment that offers
3 different products so it's a boutique wine and
4 beer store.

5 MR. KLINE: And do you also have various
6 operational restrictions that are contained
7 within your lease that limit what you can do?

8 MS. ROHLEDER: Yes. I think the hours are
9 limited but as far as disorderly conduct we're
10 not to cause any within the project, within the
11 wharf area.

12 MR. KLINE: All right, and you testified
13 previously that there are provisions for trash
14 that will be managed by the landlord?

15 MS. ROHLEDER: Yes.

16 MR. KLINE: And you've even been designated
17 as to how it is, you will be detached.

18 MS. ROHLEDER: I have it in the lease it's a
19 certain way, which way to go, where it's stored,
20 it's to be between you and where you can take it
21 out. They have certain hours when the trash can
22 only go out and then recyclable and the different

1 dry products and maintained in that area.

2 MR. KLINE: Okay. That's all I have at this
3 time.

4 CHAIRPERSON ANDERSON: Ms. Farlee?

5 MS. FARLEE: Yes, thank you. First, on the
6 address. Have you submitted a revised
7 application beyond the first one at this point,
8 that was submitted in April?

9 MS. ROHLEDER: No, I haven't.

10 MS. FARLEE: Okay, because that's the one
11 that says 690 Water Street.

12 MS. ROHLEDER: Yes.

13 MS. FARLEE: So, there's been no update or
14 clarification of either the location or anything
15 else?

16 MS. ROHLEDER: I guess when I found out I put
17 the wrong address, and we were already under
18 protest, I hired Andrew and I figured out what is
19 the best way? Should I waive this application
20 since I didn't have the right address or go from
21 there? But this process had already been
22 started.

1 MS. FARLEE: Well there's, I think, still a
2 confusion about the address because you mentioned
3 something on Pearl Street and I was given an
4 address on Sutton Square.

5 MS. ROHLEDER: Okay. Who told you this Pearl
6 -- I'm supposed to ask you questions --

7 MS. ROHLEDER: Yes.

8 MS. FARLEE: -- who told you the Pearl Street
9 address?

10 MS. ROHLEDER: Andrew.

11 MS. FARLEE: Andrew Kline.

12 MS. ROHLEDER: Mm hmm.

13 MS. FARLEE: Okay, well may I suggest that
14 there's still a confusion about the location.
15 But secondly about the application that was filed
16 you requested at that time and still the
17 application reads "7:00 a.m. to 2:00 a.m. Sunday
18 through Thursday and Friday and Saturday 7:00
19 a.m. to 3:00 a.m." Why did you ask for those
20 hours when you're modeling the store after the
21 Union Market store which is 11:00 --

22 MR. KLINE: Mr. Chair, if I may -- that was

1 obviously an error and the investigator's report
2 reflected the actual hours which are the maximum
3 hours and certainly the establishment cannot
4 operate beyond legal hours. It was an error by
5 my office on the first part and it was an error
6 by ABRA staff in allowing it to proceed with
7 those hours. It should have been amended
8 immediately. But the point is again, I'll bring
9 it up anyway.

10 MS. FARLEE: Is it true that it has not been
11 amended still requesting those hours and the 690
12 Water Street address?

13 MR. KLINE: No, that's not correct. We are -
14 - the hours would not be beyond the legal hours
15 nor would we have the authority to grant a
16 license beyond the legal hours.

17 CHAIRPERSON ANDERSON: So, I want the record
18 to be clear what the address of the establishment
19 is and also what are the hours that are being --
20 what's the address of the establishment?

21 MR. KLINE: The address of the establishment
22 is, as testified by the witness, 761 Pearl Street

1 Southwest, which is the information provided by
2 the landlord. When this application was filed,
3 addresses had not yet been assigned.

4 MS. FARLEE: Well, I have 35 Sutton Square.

5 MR. KLINE: We can certainly clarify that. I
6 think there's any disputing that the area is
7 under construction and the precise area has been
8 identified on the drawing and the license will
9 need to be issued to the address that's listed on
10 the certificate of occupancy ultimately, but I
11 don't think there's really any question as to
12 where this store is to be located or any question
13 as to whether the community had noticed that
14 there was a store sought within the confines of
15 The Wharf area which has been walled off by
16 construction fences for two years.

17 CHAIRPERSON ANDERSON: Just a second.

18 MR. ALBERTI: Mr. Kline, where are you in
19 that six block area?

20 CHAIRPERSON ANDERSON: That's the question,
21 just for clarification. Is -- where are these
22 two addresses? Is it within the same block or if

1 this is a large and I guess I need some
2 clarification exactly where is this establishment
3 from the address that was provided to us?

4 MR. KLINE: The address that was provided I
5 do not believe exists any longer. Having seen
6 the placards -- and I don't want to testify --
7 I'm not supposed to do that.

8 CHAIRPERSON ANDERSON: I'm just asking for
9 clarification because --

10 MR. KLINE: From having seen the placards I
11 know that they were close to the vicinity of the
12 store posted on the outside construction fence
13 because had they been posted inside no one would
14 see them and there wouldn't have been proper
15 notice provided but they were posted on the
16 outside of the construction fence.

17 MS. FARLEE: 690 Main Avenue, does exist,
18 Water Street. It is the reception area of the
19 developer -- office of the developer, that's 690.

20 MR. KLINE: I'm not aware of that but that
21 may be.

22 MS. FARLEE: That address does exist.

1 CHAIRPERSON ANDERSON: I think part of the
2 problem is that for me -- and I have to get some
3 legal advice during our deliberations -- is that
4 the protest is for one -- for an establishment at
5 a specific address. In the hearing it came out
6 that the establishment is located at a different
7 address and I guess are we talking about the same
8 area or are we talking about the address for this
9 new establishment is six blocks away from --
10 that's as of now.

11 MS. FARLEE: It's not far away if anything.
12 Sutton Square is here on the map and Pearl Street
13 is the next street over.

14 CHAIRPERSON ANDERSON: Go ahead, Mr. Alberti.

15 MR. ALBERTI: May I have the map? It appears
16 that 690 is at the corner of 7th and Water
17 Street. Is that -- and I'll let both parties
18 address this.

19 MR. LITSKY: I'll address it. I mean I can
20 tell you that 690 is the building where the old,
21 Mannie Fernandez's old Channel Inn was.

22 MS. FARLEE: Channel Inn.

1 MR. ALBERTI: Where is that located?

2 MR. LITSKY: That would be to the east.

3 MR. ALBERTI: What's the intersection?

4 MR. LITSKY: Just south of 7th Street.

5 MR. ALBERTI: Just south of 7th Street. So,
6 7th and --

7 MR. LITSKY: West of 7th Street.

8 MR. ALBERTI: Just west of 7th Street on --

9 MR. LITSKY: On what had been Water Street.

10 MR. ALBERTI: What had been Water Street.

11 MR. LITSKY: Correct. So that would be
12 closer to the Fish Market, that building.

13 MR. ALBERTI: Wait. On the map I'm looking
14 at Pearl Street is, for lack of a better
15 description, it looks like there's going to be a
16 building -- one -- the wharf's divided into
17 sections, the new construction. It looks like
18 there's where these streets going, so it looks
19 like there's a building with 7th Street on the
20 west -- on the east rather -- and Pearl Street on
21 the west. So this is on the west-facing portion
22 of that complex of buildings. Is that correct?

1 MR. LITSKY: Correct.

2 MR. ALBERTI: Okay. Just so we have it, and
3 it's on the map. And maybe we could have both
4 parties -- well maybe -- never mind, I'll
5 withdraw that. That helps me to locate that.

6 CHAIRPERSON ANDERSON: All right, go ahead,
7 Ms. Farlee.

8 MS. FARLEE: Yeah. I believe I heard you say
9 you wanted the model at Cordial Waterfront that
10 you have at Union Market and I think I heard you
11 say that the hours are 11:00 to 7:00, is that
12 correct?

13 MS. ROHLEDER: 11:00 to 7:00?

14 MS. FARLEE: For your southwest waterfront
15 before.

16 MS. ROHLEDER: I think the hours in the lease
17 are 8:00 to 10:00 on Monday through Friday, or
18 Thursday -- or Sunday through Thursday -- and
19 8:00 to midnight Friday and Saturday in the
20 lease.

21 MS. FARLEE: That's certainly different from
22 the application that you initially filed.

1 MS. ROHLEDER: I filled that part out in
2 error, yes.

3 MS. FARLEE: Okay. The proposal for hours
4 [inaudible 2:26]

5 MR. KLINE: Objection.

6 MS. ROHLEDER: What is your comment on that?

7 CHAIRPERSON ANDERSON: What's the nature of
8 the objection?

9 MR. KLINE: It's stating a position. It's
10 not a question, and she's testifying as to what
11 they're --

12 CHAIRPERSON ANDERSON: Ms. Farlee, please.

13 MS. FARLEE: The objection. Are you aware of
14 what we proposed and what is your reaction?

15 MS. ROHLEDER: I'm aware of what you
16 proposed. I don't think we're a threat to the
17 neighborhood and I don't want to limit myself at
18 this point to those hours. If the environment is
19 different at The Wharf with the boating , the
20 marina, that I would at this point not want to
21 restrict the business until we see how the store
22 is doing, and the area how -- if it has more

1 night life or it's more day. That's why we don't
2 want to restrict ourselves at this point.

3 MS. FARLEE: We had a very flexible offer of
4 delivery hours from 7:00 a.m. to 7:00 p.m. and I
5 understand you believe the lease restricts you to
6 7:00 a.m. to 10:00 p.m. so, what is the problem,
7 what is your objection to limiting to 6:00 and
8 7:00 a.m. on having delivery as early as 6:00
9 a.m.?

10 MS. ROHLEDER: Would you restate that
11 question?

12 MS. FARLEE: Why do you feel you need
13 delivery of liquors between 6:00 and 7:00 a.m.
14 when at the Union Market the deliveries come
15 between 11:00 a.m. and 4:00 p.m.?

16 MR. KLINE: Objection as to need. That's not
17 the standard here in terms of what's needed. The
18 standard is whether different hours would have a
19 negative effect on peace, order and quiet.

20 CHAIRPERSON ANDERSON: I'll overrule the
21 objection. You can answer the question.

22 MS. ROHLEDER: Okay. I think in our lease it

1 has from 6:00 in the morning, so I don't want to
2 limit ourselves if we're restricted within our
3 lease. Somebody would only have four hours for
4 delivery. I don't want to cut ourselves short by
5 one hour and I don't think we're going to have
6 many at 6:00 in the morning but at the same time
7 I don't want to restrict us if something should,
8 the only time they can make it.

9 MS. FARLEE: And we understand at the other
10 location, the Union Market location, the tastings
11 are all in the afternoon or evening, so why would
12 you need tastings in the morning?

13 MR. KLINE: Objection. Assumes facts not in
14 evidence. That wasn't in testimony at all.
15 There was testimony that tastings go on
16 throughout the day, during the operations since
17 there's a need to market product.

18 CHAIRPERSON ANDERSON: I'll sustain the
19 objection but you can rephrase the question, Ms.
20 Farlee. With tasting hours of noon to 9:00 p.m.
21 would that give you the flexibility enough for
22 tastings?

1 MS. ROHLEDER: Yes.

2 MS. FARLEE: Thank you. What provisions do
3 you or don't you have to limit any occupancy at
4 any one time.

5 MS. ROHLEDER: The store is not very big, so
6 I don't think you're gonna -- we're not going to
7 be hosting parties and the people who do stop by
8 for tastings are just that -- they're walking by.
9 So, people do not want to go -- they themselves
10 do not want to go to a crowded store and they
11 come in, they look, they walk out. It's not that
12 they mingle or they linger in the store.

13 MS. FARLEE: What type of provisions for
14 security do you have?

15 MS. ROHLEDER: The landlord will provide
16 security for the area.

17 MS. FARLEE: Inside the store?

18 MS. ROHLEDER: Pardon me?

19 MS. FARLEE: Inside the store?

20 MS. ROHLEDER: No, they will provide outside
21 the store.

22 MS. FARLEE: Will the landlord provide --

1 will you provide cameras, recording cameras in
2 the store?

3 MS. ROHLEDER: I'm not required to, to
4 provide cameras.

5 CHAIRPERSON ANDERSON: That's not the
6 question, ma'am. She asked you a question if you
7 -- you can say yes or no. You said "I'm not
8 required." She asked you, just answer the
9 question.

10 MS. ROHLEDER: No.

11 MR. ALBERTI: The answer again?

12 MS. ROHLEDER: No.

13 MS. FARLEE: Will you have any security
14 personnel in the store?

15 MS. ROHLEDER: No.

16 MS. FARLEE: I think those are my questions
17 for now, thank you.

18 CHAIRPERSON ANDERSON: Are there any other
19 questions by any other board members? Mr.
20 Alberti?

21 MR. ALBERTI: Just -- Ms. Rohleder, good
22 afternoon, almost evening I guess. How many

1 employees will you have at this location?

2 MS. ROHLEDER: We will have four employees.

3 MR. ALBERTI: Total?

4 MS. ROHLEDER: Total.

5 MR. ALBERTI: Okay. At your peak time, how
6 many employees would you have in?

7 MS. ROHLEDER: Four employees.

8 MR. ALBERTI: All four?

9 MS. ROHLEDER: Mm hmm.

10 MR. ALBERTI: Okay. What would their roles
11 be? How many would be sales people? How many
12 would be stocking? Or would there be shared
13 responsibility? Just tell me about that.

14 MS. ROHLEDER: They share responsibility and
15 depending on the volume people checking out --
16 somebody checking out someone, someone waiting on
17 customers and one stocking. And somebody as a
18 floater to help where needed.

19 MR. ALBERTI: Okay, very good, thank you.

20 CHAIRPERSON ANDERSON: Mr. Short?

21 MR. SHORT: Good afternoon.

22 MS. ROHLEDER: Good afternoon.

1 MR. SHORT: It sounds like you have a
2 business model down pat and it sounds like you
3 were honest enough to say that you'll be living
4 mostly in Texas and you're going to depend on
5 your manager to take care of business for you.

6 MS. ROHLEDER: Yes.

7 MR. SHORT: So, how many ABC managers are you
8 planning to have?

9 MS. ROHLEDER: They'll all be licensed.

10 MR. SHORT: How many ABC managers will you
11 have?

12 MS. ROHLEDER: Probably two. I will have two
13 ABC managers.

14 MR. SHORT: Okay. And you said you are, I
15 guess to have you clarify, are you 100% owner of
16 this business?

17 MS. ROHLEDER: Yes, I am.

18 MR. SHORT: 100%

19 ?

20 MS. ROHLEDER: 100%.

21 MR. SHORT: There's nobody else involved
22 financially, and nobody else involved in any way

1 other than you?

2 MS. ROHLEDER: No, just myself.

3 MR. SHORT: Okay. Thank you, that's all I
4 have Mr. Chair.

5 CHAIRPERSON ANDERSON: I just want some
6 clarification. So, is this business owned by her
7 -- by you -- or is it owned by an entity? Which
8 one?

9 MS. ROHLEDER: LLC. It's an entity.

10 CHAIRPERSON ANDERSON: So, you're the only
11 member of this entity?

12 MS. ROHLEDER: I am.

13 CHAIRPERSON ANDERSON: Okay, all right. Are
14 there any other questions by any other board
15 members? Ms. Farlee do you have any questions
16 for her based on the questions that the board
17 members asked?

18 MS. FARLEE: What security, or what checking
19 will you have at the tastings for ID checks?

20 MS. ROHLEDER: All tastings require an ID, so
21 they always require before they offer them to
22 check their driver's license. That's the

1 standard procedure.

2 MS. FARLEE: Thank you.

3 CHAIRPERSON ANDERSON: Thank you. Mr. Kline?

4 MR. KLINE: Ms. Rohleder, you talked about
5 hours in the lease. Those are minimum hours of
6 operation prescribed by the landlord, correct?

7 MS. ROHLEDER: Yes.

8 MR. KLINE: All right, and in terms of
9 restrictions on hours in the lease, you're only
10 restricted between 2:00 a.m. and 7:30, correct?

11 MS. ROHLEDER: Yes.

12 MR. KLINE: But you're aware that the ABC
13 laws don't allow you to operate that late,
14 correct?

15 MS. ROHLEDER: Yes.

16 MR. KLINE: All right. So, your concern for
17 this new business is making sure that you have
18 the flexibility to operate during the legal hours
19 to meet demand?

20 MS. ROHLEDER: Yes.

21 MR. KLINE: And in terms of a limitation on
22 occupancy, you'll have to get a certificate of

1 occupancy for the business, correct?

2 MS. ROHLEDER: Yes.

3 MR. KLINE: And is it your understanding that
4 that has some sort of limitation on occupancy?

5 MS. ROHLEDER: I am not aware.

6 MR. KLINE: Okay, fair enough. That's all I
7 have, thank you.

8 CHAIRPERSON ANDERSON: Thank you for your
9 testimony, ma'am. You can step down. Mr. Kline,
10 do you have any other witnesses?

11 MR. KLINE: We do not. We at this point
12 would reserve whatever time we have for rebuttal
13 if we deem it appropriate based upon the
14 testimony that may be forthcoming from the
15 protestants.

16 CHAIRPERSON ANDERSON: All right, thank you.
17 Ms. Farlee, do you wish to make your opening
18 statement now? Or do you want a break or do you
19 want to move forward?

20 MS. FARLEE: [inaudible 2:37:13].

21 CHAIRPERSON ANDERSON: All right, so you want
22 to make a statement -- an opening statement,

1 please?

2 MS. FARLEE: We initially protested on the
3 grounds of peace, order and quiet and vehicular
4 and pedestrian safety. Those are the areas under
5 total development. And based on the placard we
6 assumed the licensee could open if it were
7 approved, could open within three or four months,
8 even though there was no building there, even
9 though the address was incorrect, etc. So that
10 was one of the concerns, peace, order and quiet
11 was a major concern, but the pedestrian safety.
12 There's no way to get to this kind of site if
13 they had opened even at 690 Water Street, they
14 could not function there really. The whole place
15 is under development. I had sent photographs
16 attached to our original letter but it's probably
17 not in the record anyway, but the photographs
18 just showed the total areas of the construction
19 area. So that was the problem. If it could have
20 opened prior to the completion of any of the
21 dwellings it would have been a major problem for
22 both peace, order and quiet and pedestrian safety

1 and vehicular traffic. We did mention in terms
2 of peace, order and quiet there are people that
3 hang out in the neighborhood now with open
4 bottles of alcohol that they bought apparently at
5 Safeway and carried over to the waterfront and if
6 we had a liquor board person in the marina very
7 interested in this project because of that. He
8 lives on a boat and observes all the time people
9 hanging out in that area. So, we're very
10 concerned about the peace, order and quiet and
11 what will happen in that space. But, with the
12 occupancy, we don't want the tastings to overrun
13 the kind of store that's quiet with [inaudible
14 2:39]. I've seen the Union Station site. It's
15 not large. People weren't staffing it actually
16 when I was there he was working on his computer
17 paying no attention to me. I think I could have
18 walked out with six bottles. But, we are
19 concerned about the hours because it will be in a
20 residential neighborhood. The one address I had,
21 it was in a residential building, directly above
22 it. I'm not sure now when I see the Pearl street

1 address I'm not sure what's above it. In any
2 event, it's a residential area totally there, so
3 we do want some restrictions on hours of
4 operations and tasting hours and delivery hours.
5 I noticed that class A licenses, licensees, are
6 able to deliver alcoholic beverages beginning
7 only at 7:00 a.m., so what about a parallel
8 delivery time when they can receive deliveries?
9 Our delivery hour proposal is much more flexible
10 than the lease; we propose 7:00 a.m. to 7:00 p.m.
11 The hours of operation 9:00 a.m. to 10:00 p.m.
12 seem to be apt for the owner. And the tastings
13 hours we would prefer to limit to the afternoon.
14 Noon to 9:00 p.m. is our proposal.

15 CHAIRPERSON ANDERSON: Do you plan to call
16 any witnesses?

17 MS. FARLEE: Yes, Mr. Andrew Litsky.

18 CHAIRPERSON ANDERSON: Do you want to call
19 him now?

20 MS. FARLEE: Yes.

21 CHAIRPERSON ANDERSON: Mr. Litsky?

22 MS. FARLEE: L-I-T-S-K-Y.

1 CHAIRPERSON ANDERSON: Mr. Litsky will you
2 raise your right hand, please? Do you swear or
3 affirm to tell the truth and nothing but the
4 truth?

5 MR. LITSKY: I do.

6 CHAIRPERSON ANDERSON: Thank you. Your
7 witness.

8 MS. FARLEE: Yes, can you tell me who you
9 are? Your experience in southwest, your
10 knowledge of the southwest waterfront and The
11 Wharf development and concerns about this
12 establishment.

13 MR. LITSKY: Sure. My name is Andy Litsky.
14 I am a 40-year resident of the southwest
15 waterfront. I am a 20-year commissioner on the
16 ANC 6D, previously ANC 2D, before Jack Cummings
17 decided to give us to Sharon Ambrose. So, I've
18 lived in the area for a very long time. In terms
19 of my knowledge of this specific development,
20 about the waterfront in particular, that is my
21 single member district. I have worked for nearly
22 20 years to ensure that the waterfront is going

1 to be redeveloped as it is and I have worked
2 extremely closely with Monty Hoffman and the
3 other folks at Hoffman and Madison, as well as
4 the folks who wrote the leases that we're talking
5 about tonight, Bob Manconi, I meet with him once
6 a week easily. I'm going over there tomorrow
7 morning for breakfast to discuss issues with them
8 as I do on a regular basis.

9 What do I know about the configuration of The
10 Wharf itself. The Wharf itself is going to be
11 the most innovative, wonderful project that will
12 open in the District of Columbia period over the
13 course of the next two decades. Easy. No
14 questions asked. It is going to be -- first of
15 all it's two billion dollars' worth of
16 development right on the water and it will bring
17 in and serve not only the local neighborhood
18 which concerns me, clearly, but also bring people
19 in from all over the Washington metro area and
20 tourists from the mall. So, this is going to be
21 a draw from region-wide.

22 Do I think that a store like this needs to

1 open? Absolutely, I do. We had one liquor store
2 at the old Waterside Mall, which is where the
3 Safeway is currently. That was years ago, it was
4 taken down, and it was Harry's. The board may
5 know Harry's. It is now functioning in
6 southeast, also part of our ANC. Our ANC extends
7 from the 11th Street Bridge in Southeast to the
8 14th Street Bridge in Southwest, everything south
9 of the mall and everything south of the
10 expressway on the southeast portion. We have the
11 baseball stadium, the navy yard, the Buzzard
12 Point development. If you name it, if you see a
13 crane, that's us. So, we are very familiar with
14 development and I, myself, am extremely familiar
15 with this. So, yeah, our neighborhood was
16 disappointed when Waterside Mall was redone that
17 we did not have, in that existing development, an
18 open -- the retention of Harry's lease, which was
19 what we had sought. Harry's went away. So, what
20 we had hoped would open in the new Wharf and
21 perhaps in the new buildings that will occur on M
22 Street and 4th, will be another liquor store that

1 will properly serve the neighborhood. So, I love
2 the idea of an artisanal store, I love the idea
3 of having beer manufactured in Brooklyn, and
4 Schnapps in, you know, wherever. That's what
5 artisanal booze seems to happen in the District
6 of Columbia. Everybody's making their own stuff
7 and it's great. It's terrific. And the more
8 vehicles we have for making that available to
9 folks around, I think it's terrific. The
10 concerns that we have on the ANC, and this is not
11 mine, and this is not ?___ is that we're looking
12 at The Wharf as a Class A development. I mean,
13 this is two billion dollars, and the city has
14 more than 120 million dollars in it of its own
15 money. So, we have to absolutely make sure that
16 we are putting forward something that is going to
17 benefit not only the city's investment but the
18 investment in trust that the community has put in
19 the developers and in the developers' ability to
20 bring people to the site to provide the kinds of
21 goods and services that we would like to have
22 happen. One of them would be something exactly

1 like this store. So, I love the idea of the
2 store, I love the idea of Union Market. If I'm
3 speaking out of turn, let me know. I've been
4 there. I -- what the concerns are quite clearly
5 the hours. It makes absolutely no sense to
6 anybody in my neighborhood that anybody should
7 have the ability to get up in the morning and
8 before they brush their teeth go out to get a
9 little bit of Old Knob, because that's what's
10 being proposed. That's what's being proposed. I
11 don't understand why tastings at 7:00 in the
12 morning make sense to anybody. I don't care
13 whether you're serving artisanal or cough syrup.
14 It's just wrong. I don't understand why tastings
15 at midnight is appropriate either. I mean, it
16 should be during a certain number of hours. I
17 believe that the applicant herself stated, before
18 she was corrected with a question by her
19 attorney, that she was perfectly fine with
20 tastings of noon to 9:00 p.m. I'm fine with
21 that. Not a problem at all. Can't make sense.
22 I don't see that somebody's going to be having,

1 according to the law, potentially three ounces of
2 alcohol at 7:00 in the morning or 8:00 in the
3 morning, or 9:00 in the morning. That's just odd
4 to me. It may be good for the law. I don't
5 think it's good for southwest. I don't think
6 it's good for this development. So, from our
7 standpoint, at the Advisory Neighborhood
8 Commission, at the ANC, from the people who live
9 in my building, we've been in our owner occupied
10 building since 1981, you know, we are looking
11 forward to this store and other stores opening up
12 that will be able to provide these kinds of
13 services, but within a range, but within a range.
14 The difference between what we've got at Safeway
15 and this is totally different. Safeway is
16 contained in terms of the numbers of square feet
17 that they could even market their beer and wine,
18 their tastings were also confined, not spread out
19 all over the store, and we're dealing with a
20 store of 55,000 square feet with security
21 officers, two of them, at all times during the
22 day.

1 The Wharf is going to be packed. There are
2 going to be a lot of people at The Wharf. It's
3 going to be absolutely swell and I am proud as
4 hell to have this in my single member district
5 and on my waterfront and I'm happy that I helped
6 to move it along. What I want to make sure of is
7 that we don't have a situation that because of
8 flexibility we could have a situation that would
9 potentially be unsafe or unwise. And there are
10 not going to be cameras, there's not going to be
11 inside security. I've been to a place that has
12 test tastings at Harry's Liquor, the original
13 Harry's Liquor at Waterside Mall. It was the
14 best liquor store in the city back in the day bar
15 none. And they had a tasting room in the back
16 and occasionally I would go but it was strictly
17 supervised. They had more employees than you
18 could shake a stick at. And everybody knew
19 exactly what they were getting into and basically
20 it was drinking wine, nobody was doing hard
21 liquor for tastings. And I'm not suggesting that
22 they not do hard liquor for tastings, but you

1 need some kind of security. If you've got four
2 people on staff and you've got somebody stocking
3 and somebody cashing out and somebody, I guess,
4 just working the crowd, who's checking the IDs
5 and who's pouring the hooch? I just want to know
6 what the plan is. It's not a very big store.
7 I'm not suggesting that it needs to be bigger. I
8 think it's the right size, but I think there
9 needs to be an actual plan of how this is going
10 to operate, and that would be also our concern at
11 the level of the ANC. So, again, if the
12 applicant herself has no problems with tastings
13 from noon to 9:00 as she stated on the record,
14 that works for us and as long as we are not
15 having tastings at 7:00 in the morning, it needs
16 to operate within proper parameters.

17 Also, what we don't want to have happen with
18 late night hours is to have established in
19 southwest the first new liquor store, you know it
20 will be someplace where people can go and -- and
21 -- and get -- get-- get their liquor when they
22 run out at 2:00 in the morning. I don't want

1 that to be the kind of draw that we have at The
2 Wharf. That's not what The Wharf is supposed to
3 be about. That's not what The Wharf is supposed
4 to be about. It's not. I don't want it to have
5 to turn into a place where we've got Plexiglas,
6 because that's what we've got now, that's what
7 we've had in southwest for years -- for years --
8 and the only reason we didn't have it at Harry's
9 -- and actually we did have it in part of Harry's
10 at the end of its existence, was because you
11 needed to and because they were selling at all
12 hours of the night, and that's not what we're
13 looking to have happen here. Let's just make a
14 decision to keep this open at an appropriate time
15 and have tastings during appropriate time, and
16 that will work for us.

17 And so, I'm looking forward to the store
18 opening up, I'm looking forward to you coming to
19 southwest. We welcome you with open arms --
20 within parameters, and that's really all I have
21 to say about it.

22 MS. FARLEE: May I ask you specifically about

1 the hours? I'm chair of the ABC committee and we
2 proposed 9:00 a.m. to 9:00 p.m. Sunday through
3 Thursday and 9:00 a.m. to 10:00 p.m. Friday and
4 Saturday.

5 MR. KLINE: Mr. Chairman, I have to register
6 my invective for the record. This whole case is
7 predicated on discussion of ---- thoughts and
8 what their offers have been. It's not evidence.
9 It's 'well, this is what we wanted,' 'this is
10 what we want.' This is not what this body is
11 about in terms of examining whether an applicant
12 is appropriate under the law. What they want may
13 or may not be reasonable. None of that's the
14 point. The point is, will this establishment as
15 applied for have a negative effect on peace,
16 order and quiet? That's what this case is
17 supposed to be about. And we seem in recent
18 weeks to be turning more to situations where we
19 have testimony about settlement agreements,
20 what's been offered. It's evidence in my mind of
21 nothing other than what their position is, which
22 is not helpful, in my opinion, to the board to

1 make a decision as to whether this establishment
2 is appropriate under the law.

3 MS. FARLEE: Yes, and our position is that
4 the hours are relevant for peace, order and
5 quiet. That anything later than these hours
6 would encourage late night purchase or late night
7 drinking.

8 MR. KLINE: And I don't have any quarrel with
9 that if we're restricted to evidence on that
10 point whether than what an ABC committee
11 considered or what was offered --

12 MS. FARLEE: I was in the --

13 MR. KLINE: -- excuse me --

14 MS. FARLEE: All right.

15 MR. KLINE: -- or what they think is good and
16 appropriate. I have no problem with evidence on
17 this point, something that's perfectly relevant,
18 but we don't seem to be getting any evidence, we
19 seem to be getting discussions about people's
20 desires and offers that were made.

21 CHAIRPERSON ANDERSON: I think they -- I
22 think it's relevant, so I'm going to overrule the

1 objection but what I'll ask Ms. Farlee in maybe
2 asking the questions it's more about the impact.
3 I know why you're asking the questions and I
4 guess the board can extrapolate that you're
5 stating that if you have these early hours that -
6 - I see what the point -- but I'll just say let's
7 put on a little bit more, as counsel said, some
8 more evidence about why -- I mean how is it that
9 you believe that these later hours will impact
10 peace, order and quiet in the neighborhood.

11 MS. FARLEE: Well, it's both early and late
12 hours.

13 CHAIRPERSON ANDERSON: It's early and/or
14 later hours.

15 MS. FARLEE: We don't see any need to open at
16 7:00 a.m.. The proposal is for 9:00 a.m. and
17 closing at 9:00. So, I wanted to ask the witness
18 what his recommendation is.

19 MR. LITSKY: I'm not talking to a
20 recommendation.

21 MR. KLINE: Objection.

22 CHAIRPERSON ANDERSON: Hold on -- hold on one

1 minute.

2 MS. FARLEE: Okay.

3 MR. KLINE: How is this recommendation
4 relevant? I mean, in terms of a recommendation,
5 we're here to listen to facts. We're not here --
6 we're past the point of recommendations, we're
7 past the point of agreements, there was no
8 settlement agreement, we're here, we're trying
9 the case, so that's where we go.

10 CHAIRPERSON ANDERSON: So, what I'm -- why is
11 it that the neighborhood believes that the hours
12 that they are requesting -- why that's not
13 appropriate for the neighborhood.

14 MR. LITSKY: Absolutely I can speak to that.
15 It is our belief at the ANC and anybody that I
16 know with whom we've spoken in the neighborhood
17 about a facility like this coming to The Wharf
18 that it be open at a time that's appropriate for
19 everything else that's going on in that area at
20 The Wharf itself. The Wharf had been a very
21 controversial project for the people in southwest
22 because it took a very beloved area and suddenly

1 we had a number of restaurants that had been
2 there for years and years disappeared, the Fish
3 Market people believed was in danger and were
4 concerned about that, and suddenly we had high-
5 rises happening, so there's a lot of tumult over
6 there. And those of us in the neighborhood who
7 helped to make this happen and those of us in the
8 neighborhood who convinced people to let this
9 happen, convinced the folks in southwest that
10 what was going to be coming there was going to be
11 something about which they would be proud. The
12 concept of selling hard liquor at 7:00 in the
13 morning does not comport to anything that the
14 Hoffman Madison team is putting forward. It just
15 doesn't. Nobody's going to be selling cocktails
16 at 7:00 in the morning in the five-star hotel.
17 Nobody's going to be providing cocktails at the
18 restaurants at 7:00 in the morning. I mean, if
19 there's going to be, you know, a -- a tavern
20 license applied for, well go for it. But this is
21 not a tavern license. This is an establishment
22 selling alcohol period. And the notion that

1 alcohol needs to be served at 7:00 in the morning
2 at a tasting or sold at 7:00 in the morning just
3 seems really peculiar given the fact that we're
4 dealing with an entity of this type.

5 Additionally, we don't want, you know,
6 somebody who might want to purchase alcohol at
7 7:00 in the morning to stroll on down to The
8 Wharf and purchase it and make that a regular
9 habit. Because that's not what we want, that's
10 not what we bought into. And so, the early
11 morning hours I think it's pretty clear. For the
12 late time hours as well. Understand that this is
13 going to be but one of more than 30 licenses that
14 are going to be granted for the sale of liquor in
15 various businesses and hotels and restaurants and
16 they're perhaps -- they've got a different
17 standard. They just have a different standard.
18 But nobody's purchasing wine or beer or alcohol
19 there and walking back out on the street.
20 Different story if you told me at 2:00 in the
21 morning here. That's a concern to us. 2:00 in
22 the morning is a concern and late night hours

1 with something like this is a concern. And so,
2 you know, the early morning hours, the late night
3 hours, that were proposed to us -- I mean the
4 only reason I'm raising these is because this was
5 what was put in front of us, whether -- whether -
6 - whether in fact or inaccurately --
7 inaccurately, that's what we had in front of our
8 eyes, so my comments are based upon what I had.
9 I'm not making this up out of whole cloth. And
10 I'm not an attorney from ABC so I don't
11 necessarily know what the general standard is for
12 an ABC facility of this nature but I do know what
13 would fit in the neighborhood and that's what I'm
14 talking about. And I want to make sure that if
15 we have a situation like this and they're doing
16 tastings and they're doing under strict
17 parameters, and they're doing it during times
18 that actually make sense. I hope that answers
19 the question that you were asking, Dr. Farlee.

20 MS. FARLEE: Are any other concerns? What
21 about parking or delivery of things?

22 MR. KLINE: Objection as to parking. The ANC

1 has indicated in their Protest Information Form
2 that that's no longer an issue.

3 MS. FARLEE: What is your reaction to the
4 security, because there's --

5 CHAIRPERSON ANDERSON: Hold on, hold on, hold
6 on one minute, Ms. Farlee. I'm looking at the
7 cover piece of the PIP, Mr. Kline, and it says
8 that the initially the ANC 6D was based on two
9 residential parking needs and vehicular and
10 pedestrian safety. I'm reading the cover page of
11 the PIP.

12 MR. KLINE: Look at the last sentence that
13 the establishment is unlikely to open prior to
14 fall 2017, when the building will be ready for
15 occupancy. Our initial protest on the grounds of
16 residential parking needs and vehicular and
17 pedestrian safety are no longer of concern.

18 MS. FARLEE: Well, I'd like to amend that to
19 say after it opens we want to know where the
20 people will park. But they will know when
21 there's an occupancy agreement.

22 CHAIRPERSON ANDERSON: I'll overrule the

1 objection. Go ahead, Mr. Litsky.

2 MR. LITSKY: Okay. There is going to be
3 parking at The Wharf, paid parking at The Wharf.
4 There is not going to be any free parking at The
5 Wharf. This is not going to be a store similar
6 to what we have elsewhere in southwest and even
7 close to where the establishment that this is
8 likened to is. It's not easy parking. So, it's
9 not as though somebody is likely to drive up and
10 stop in for a bottle that they ran out of at a
11 party. So, I just -- but the parking itself, if
12 you take a look at the map in front of you, the
13 parking on Maine Avenue will be to Minimis. I
14 don't believe that what you have in front of you
15 shows that a certain portion of that space is
16 going to be held for tour buses, so serving the
17 Spirit Ships. There will be some parking on the
18 other side of Maine Avenue but drive-up parking
19 is not going to be generally available. And I'm
20 not suggesting that that is a reason to object, I
21 just want to put it out there that this is an
22 entity that -- I just want to put it out there in

1 the full context of what The Wharf is going to
2 be. It's going to be a lot of activity down
3 there and so I do not have an objection as
4 parking, but I don't want the board
5 commissioners, the board members, to believe that
6 this is going to be someplace where you could
7 simply drive up and stop in. That ain't the way
8 it's gonna work at all. It just won't. So, if -
9 - just to clarify any thoughts you may have.

10 MS. FARLEE: Can I ask you about security
11 provisions and camera.

12 MR. LITSKY: Okay. In other licenses that we
13 have approved at the ANC, we have suggested that
14 there be security cameras in place especially at
15 restaurants and those holding tavern licenses,
16 and there are a few tavern licenses in ANC 6D.
17 But a lot of the restaurants have cameras.

18 MS. FARLEE: How long are the records kept?
19 The tapes kept?

20 MR. KLINE: Objection. It's irrelevant.

21 MR. LITSKY: I don't know.

22 MR. KLINE: Objection.

1 CHAIRPERSON ANDERSON: I'm gonna sustain the
2 objection, let's move on.

3 MR. LITSKY: But in terms of security cameras
4 --

5 MR. KLINE: Objection, foundation.

6 CHAIRPERSON ANDERSON: When I said that I'm
7 going to sustain the objection it means --

8 MR. LITSKY: Oh I understood what you said
9 but I was still answering her question from
10 before.

11 CHAIRPERSON ANDERSON: Which question from
12 before? She asked you a question. He objected.
13 I agreed with his objection. Therefore, she
14 needs to ask you a different question.

15 MR. LITSKY: Very well.

16 MS. FARLEE: The number of security people in
17 the establishment? Are you comfortable with that
18 or would you recommend any difference?

19 MR. LITSKY: Well, I didn't hear --

20 MR. KLINE: Objection as to what his
21 expertise would be to make recommendations
22 concerning number of security people --

1 MS. FARLEE: Because of our --

2 MR. KLINE: -- excuse me, please let me
3 finish --

4 MS. FARLEE: Sure.

5 MR. KLINE: -- in an ABC licensed
6 establishment.

7 CHAIRPERSON ANDERSON: Ms. Farlee? No, do
8 you have a response to Mr. Kline's objection?

9 MS. FARLEE: Well, in terms of a
10 recommendation what would you recommend for each
11 establishment that we have alcohol sales in?

12 MR. KLINE: Same objection.

13 CHAIRPERSON ANDERSON: You need to give me --
14 I don't know his expertise so I'm going to
15 sustain the objection. If you want to ask the
16 question maybe you need to ask him some questions
17 to lead us there to say that he has served as an
18 expert to make this type of recommendation or at
19 a location.

20 MS. FARLEE: Okay, well, let's move along. I
21 think I heard Mr. Kline say what credibility does
22 Mr. Litsky have to offer an opinion. It's our

1 policy at the ANC to require what ABRA requires
2 actually, so we want to say what's adequate for
3 security cameras. But, let's pass on that. Do
4 you have any other comments on the security staff
5 or cameras?

6 MR. LITSKY: Apparently, I can't give you my
7 opinion or comments. No, I don't. In terms of
8 my ability to do so, I will tell you this much,
9 that my father was a retired New York City police
10 captain and my brother is a prosecutor and so in
11 terms of some of the things that we deal with in
12 my family I have some limited experience in
13 addition to negotiating these very agreements.
14 Before Dr. Farlee came on as the chairman of our
15 ANC, I handled all of this for ten years. So,
16 but no, I'm not a security expert.

17

18 MS. FARLEE: Okay.

19 CHAIRPERSON ANDERSON: All this -- this is
20 how it goes. She asks you a question and what
21 you just stated, she should have asked you the
22 question, you tell me that, once you tell me all

1 those things about your background and experience
2 then she asks the questions and I then, based on
3 that presentation, then I can say maybe you do
4 have some expertise in the area to give that
5 opinion. But without knowing that, sir, you're a
6 lay person from the street, I don't know what is
7 it you know, so what qualifications do you have
8 to give an opinion on security in a liquor store?

9 MR. LITSKY: And I said beyond what I told
10 you, none.

11 CHAIRPERSON ANDERSON: I think you're missing
12 the point. The point is that what I wanted to
13 hear is that a question was specifically asked of
14 you so you can give your background. If you give
15 your background I don't think that Mr. Kline -- I
16 don't know if Mr. Kline would have objected, but
17 that's -- that is the nature of the discussion,
18 sir, okay? All right. Let's move along.

19 MS. FARLEE: I think, thank you Mr. Litsky
20 for your testimony.

21 CHAIRPERSON ANDERSON: Are there any other
22 questions by Mr. Kline?

1 MR. KLINE: Good afternoon, Mr. Litsky.

2 MR. LITSKY: Good afternoon.

3 MR. KLINE: Mr. Litsky, you testified I
4 think pretty clearly that it's your belief that
5 tastings early in the morning or at midnight are
6 not appropriate, correct?

7 MR. LITSKY: I testified that I said that
8 tastings at 7:00 in the morning and early in the
9 morning were inappropriate and tastings late at
10 night were probably inappropriate, yes.

11 MR. KLINE: Okay, so that's your belief in
12 terms of tastings.

13 MR. LITSKY: No, that is my belief --

14 MR. KLINE: Okay --

15 MR. LITSKY: -- if I can tell you what my
16 belief is --

17 MR. KLINE: That's the answer to my question.
18 You've answered my question, thank you.

19 MR. LITSKY: Thank you for cutting me off.

20 MR. KLINE: Now, you also said that other
21 licensees have appeared before the ANC and you
22 haven't approved them without security. Wasn't

1 that your testimony?

2 MR. LITSKY: It certainly was.

3 MR. KLINE: Okay. Does an ANC -- you don't
4 approve ABC licenses do you? Is that your role
5 as an ANC?

6 MR. LITSKY: I think you know what I said and
7 I think you know how I said it. Don't try to put
8 words in my mouth.

9 CHAIRPERSON ANDERSON: All right, sir. All
10 right, we're not going to have this.

11 MR. LITSKY: Well of course I don't --

12 CHAIRPERSON ANDERSON: Hold on, hold on one
13 minute, please. Mr. Kline, I need you to ask the
14 witness a question and I need the witness to
15 answer and I do not want this back and forth from
16 either the attorney or the witness. So, let's
17 have a question, let's have an answer, and let's
18 move on.

19 MR. KLINE: I thought I did. So, as an ANC
20 it's not your role to approve licenses, correct?

21 MR. LITSKY: It's this commission's role to
22 approve licenses.

1 MR. KLINE: So all you can do is make
2 recommendations.

3 MR. LITSKY: No, sir --

4 MR. ALBERTI: I'm going to interject.

5 CHAIRPERSON ANDERSON: Go ahead, Mr. Alberti.

6 MR. ALBERTI: I get the sense that the
7 witness is not being allowed to complete his
8 answer before Mr. Kline interjects and I suspect
9 that's part of the reason we have this back and
10 forth.

11 CHAIRPERSON ANDERSON: All right --

12 MR. ALBERTI: I'm just going to put that out
13 there.

14 CHAIRPERSON ANDERSON: All right. An
15 attorney asks the witness a question and the
16 attorney will ask the question he wants the
17 witness to answer and that might be a yes or no.
18 If the witness decides that it cannot be answered
19 in a yes or no, then he says I cannot answer that
20 question in yes or no and it's incumbent on his
21 or her lawyer to follow so he can have an
22 explanation. So, what I want to occur is that

1 counsel asks the question, the witness listens
2 intently to the question and answers the
3 question. If there is no -- if there's an
4 explanation and you've given your answer you need
5 to say then "I can't answer, this is the way I
6 need to answer the question." So, we can't just
7 have -- we don't need to have -- we just need to
8 have these proceedings that questions are asked,
9 we have an answer and we move on and so moving on
10 that's what I want to occur. I'm not saying
11 that's not being done but I'm just saying that
12 this is what I want to occur. Okay? Go ahead,
13 Mr. Kline.

14 MR. KLINE: Mr. Litsky, you mentioned Safeway
15 and their privileges for tasting in relationship
16 to the store, correct?

17 MR. LITSKY: I believe I did.

18 MR. KLINE: All right. Isn't it true that
19 the Safeway location is more than 100 times the
20 size of this 525 square foot store?

21 MR. LITSKY: Yes.

22 MR. KLINE: So it's a completely different

1 operation.

2 MR. LITSKY: No, it's not 100 times. It's
3 not 100 times -- that would make -- well, yes,
4 indeed there is 55,000 sure.

5 MR. KLINE: 55,000 square feet, 525 square
6 feet.

7 MR. LITSKY: Yes.

8 MR. KLINE: So it's more than 100 times
9 larger. And it's your position that this 520
10 foot, square foot -- 525 square foot store needs
11 security personnel installed in the store?

12 MR. LITSKY: Yes.

13 MR. KLINE: Okay. Now, you also said that
14 you believe what's intended at this store
15 conforms with what Monty Hoffman's vision for the
16 project is?

17 MR. LITSKY: No, I can't attest to Monty
18 Hoffman's vision. What I believe I said was what
19 I believe, that the developers had represented to
20 the community, yes.

21 MR. KLINE: Okay, and you also said that
22 you're very aware of the leases that are involved

1 with the various businesses there and you meet, I
2 think you said once a week, with the leasing
3 representative, correct?

4 MR. LITSKY: Not on leases.

5 MR. KLINE: But you meet with him?

6 MR. LITSKY: I do meet with the person who
7 handles leases, yes.

8 MR. KLINE: And it would have been very easy
9 for the landlord, if the landlord desired, to put
10 restrictions in the lease consistent with what
11 you believe was promised to the community,
12 correct?

13 MR. LITSKY: I'm not sure -- I'm not sure,
14 perhaps they could, yes.

15 MR. KLINE: But to your knowledge that never
16 happened, did it?

17 MR. LITSKY: I never was asked and I have no
18 idea whether it did or not.

19 MR. KLINE: Now, what is really your
20 concern? I'm going to ask you an open-ended
21 question here which is something I wouldn't
22 normally do.

1 MR. LITSKY: Will I be able to give an open-
2 ended answer?

3 CHAIRPERSON ANDERSON: Go ahead and ask it.

4 MR. KLINE: What's your concern about this
5 525 square foot store that intends to specialize
6 in artisanal spirits, wine and beer?

7 MR. LITSKY: I assume I can provide an open
8 ended answer.

9 MR. KLINE: Yeah. I invite you to.

10 MR. LITSKY: My concern is simple, that --
11 not that it's going to open, not that it's going
12 to serve artisanal spirits, but that the times
13 that the applicant wants to open seems to be
14 inappropriate in terms of what it is that we
15 understand the work to be and what we understand
16 we would like to have in the community. Am I
17 also concerned about the lack of security when
18 there are tastings? Yes. Am I also concerned
19 about the fact that there is -- except for once
20 every two weeks -- an absentee owner? Yes. Does
21 that concern me? You bet it does because on
22 something that is boutique I would expect

1 somebody's going to be there managing it every
2 step of the way. So, I understand that the
3 applicant has no real understanding of how to run
4 an establishment like this because she's an
5 accountant and she's a bookkeeper for another
6 establishment like this, but in terms of running
7 a liquor store, that experience -- you asked me
8 open ended, and I'm giving you open ended.

9 MR. KLINE: You've gone beyond the scope of
10 the question so let me follow up. You were here
11 when Ms. Samuels testified, right?

12 MR. LITSKY: I was.

13 MR. KLINE: All right. She certainly seems
14 to know something about running one of these
15 operations.

16 MR. LITSKY: She does.

17 MR. KLINE: And she has had experience
18 running tastings, hasn't she?

19 MR. LITSKY: In a limited, in limited hours,
20 yes.

21 MR. KLINE: Okay. And during those hours we
22 didn't hear any testimony about security being

1 required did we? It's a yes or no question.

2 MR. LITSKY: Of course. No.

3 MR. KLINE: We didn't. Now you also
4 testified that your concern is that people would
5 run out and get a bottle of alcohol because they
6 might be having a party and they might need more
7 alcohol. Is that a concern that you have?

8 MR. LITSKY: No, I don't think that's what I
9 said.

10 MR. KLINE: It's what I have in my notes.
11 Did you say something like that?

12 MR. LITSKY: Something like that, but if
13 you'll allow me to say what I said --

14 MR. KLINE: Sure.

15 MR. LITSKY: -- I'll say it. Yes, the
16 concern that I have is that I don't want anybody
17 to believe that this liquor store is going to be
18 able to provide that kind of easy service.

19 MR. KLINE: Okay, now given what's been
20 testified about the limited range of products, is
21 that really a concern? People aren't going to be
22 able to run out and get that bottle of Smirnoff's

1 for their party. It's limited in terms of the
2 type of merchandise, isn't it?

3 MR. LITSKY: Right, but they'll be able to
4 get boutique Smirnoffs, won't they? And boutique
5 bourbon. So yeah, if you run out, of course it
6 will be able to be there and the store will be
7 open and people will be able to purchase what
8 they need when they need it.

9 MR. KLINE: And how many residents are
10 intended at The Wharf project, do you know?

11 MR. LITSKY: 1175.

12 MR. KLINE: All right. And so you don't
13 believe those 1175 people should have access to
14 purchase alcohol during the legal hours of
15 purchase?

16 MR. LITSKY: That's 1175 units.

17 MR. KLINE: Okay, so more like 2000 or 3000
18 people?

19 MR. LITSKY: Indeed and more than that across
20 the street.

21 MR. KLINE: Okay. So you don't think 2000 or
22 3000 people should have the right to be able to

1 go out and purchase alcohol in their neighborhood
2 during the legal hours of sales? Is that it?

3 MR. LITSKY: That's what I testified to, yes
4 I did.

5 MR. KLINE: Okay. Thank you. I have nothing
6 further.

7 CHAIRPERSON ANDERSON: Any questions by the
8 board?

9 CHAIRPERSON ANDERSON: No, not -- not you.
10 The board has questions and then I'll go back to
11 Mr. Kline and then I'll go back to you.

12 MS. FARLEE: Okay.

13 CHAIRPERSON ANDERSON: Yes, Mr. Short?

14 MR. SHORT: Good afternoon, Mr. Litsky. Mr.
15 Litsky, I once resided in the G Street Loop and
16 the Channel Square back in 1969 to 1971 when I
17 bought my first home. So, I know the
18 neighborhood quite well. I loved living there
19 and I understand peace and quiet that you are
20 used to down there and I was there when the shops
21 were [inaudible 3:18:13] when Safeway was still
22 on the corner.

1 MR. LITSKY: That's right.

2 MR. SHORT: At any rate, your concerns -- I
3 guess you represent -- your concerns represent
4 your constituency? Would that be a fair
5 question?

6 MR. ALBERTI: It can represent the
7 constituency and also folks in the neighborhood
8 who are used to --

9 MR. SHORT: Well, I should say the community.

10 MR. LITSKY: Yes. Yes. Absolutely.

11 MR. SHORT: And so, again, can you just
12 reestablish and make it plain and clear to me as
13 a board member --

14 MR. LITSKY: Sure.

15 MR. SHORT: -- your direct concerns about
16 hours and why.

17 MR. LITSKY: And again, the direct concerns
18 about hours are as follows: We have now I think
19 only two liquor stores in southwest. I mean,
20 well closer up to where HUD is I think there's a
21 liquor store but in the hood as we call it, we've
22 only got two liquor stores. We've got Shulmans

1 and I think we've got -- which is soon to be out
2 of business and [inaudible 3:19:10] and that's
3 where people go to get liquor and they're open
4 rather late and we have problems with stores that
5 are open rather late in the neighborhood and what
6 I don't want to have happen is to have something,
7 boutique or not --

8 MR. SHORT: Okay. What types of problems are
9 you having? Tell me what kind of problems.

10 MR. LITSKY: We have problems with folks, you
11 know, hanging --

12 MR. SHORT: Loitering?

13 MR. LITSKY: Yep, loitering, urinating. It's
14 constant problems.

15 MR. SHORT: That's [inaudible 3:19:42]

16 MR. LITSKY: Sure, sure.

17 MR. SHORT: Do you think that you'll have
18 problems with urination at this location?

19 MR. LITSKY: Urination, no.

20 MR. SHORT: Okay. Well, loitering?

21 MR. LITSKY: Probably not. Probably not but
22 I want to make sure that we don't wind up getting

1 a draw for folks who suddenly decide they've got
2 a hankering for whatever at an odd hour of the
3 night because it --

4 MR. SHORT: How can you establish that? How
5 can the ANC help establish that that wouldn't
6 happen?

7 MR. LITSKY: Well, by -- by -- by having --
8 by limiting the hours, it would seem to me.

9 MR. SHORT: And you -- what hours do you
10 think would be -- that would limit that?

11 MR. LITSKY: Well, certainly on the weekend
12 to have something that would be open -- and
13 again, I'm at a loss because I don't know what
14 the actual hours allowed are, but something that
15 would be open past to sell alcohol past midnight
16 seems to me inviting --

17 MR. SHORT: What hours could the community
18 live with?

19 MR. LITSKY: Oh, the community could live
20 with, you know, at a cap on the weekends at
21 midnight and a cap during the week of 10:00,
22 possibly 11:00.

1 MR. SHORT: 11:00 during the week?

2 MR. LITSKY: Yeah.

3 MR. SHORT: 12:00 on the weekends?

4 MR. LITSKY: Right. And opening up at 9:00.

5 I mean --

6 MR. SHORT: 9:00 a.m.?

7 MR. LITSKY: Yeah, it's a liquor store.

8 MR. SHORT: You could live with 9:00 a.m. to
9 11:00 during the week and you could live with
10 9:00 a.m. to 12:00 a.m. on weekends.

11 MR. LITSKY: Yes.

12 MR. SHORT: Thank you very much for your
13 testimony.

14 MR. LITSKY: You bet.

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

16 CHAIRPERSON ANDERSON: Yes, Mr. Alberti?

17 MR. ALBERTI: Good afternoon, Mr. Litsky. I
18 think it's actually evening. So, commissioner
19 Litsky you are the chair of ANC 6D?

20 MR. LITSKY: Yes, I am.

21 MR. ALBERTI: Pardon?

22 MR. LITSKY: Yes, I am.

1 MR. ALBERTI: All right. In your letter of
2 protest you referenced the address of this
3 proposed license as 690 Water Street southwest,
4 is that correct?

5 MR. LITSKY: I did.

6 MR. ALBERTI: All right. Why did you use
7 that address as a reference?

8 MR. LITSKY: Well, that's what we had
9 provided to us as the address at the time. I
10 think, if I can just help to clarify why that may
11 have been put down --

12 MR. ALBERTI: No, no, no, I don't care about
13 that.

14 MR. LITSKY: I don't know, that's what we
15 had.

16 MR. ALBERTI: You had that from where?

17 MR. LITSKY: I guess we had that from the
18 applicant. It was on the application as it came
19 through ABRA.

20 MR. ALBERTI: Was it also on the information
21 in the packet and the notice from [inaudible
22 3:22:28]?

1 MR. LITSKY: I can only presume that it was.

2 MR. ALBERTI: Okay. When did you find out
3 that that wasn't the location? We've heard today
4 that that's not the actual location.

5 MR. LITSKY: It's not.

6 MR. ALBERTI: So, when did we -- when did you
7 learn that?

8 MR. LITSKY: I -- I -- I guess I learned it,
9 you know, today.

10 MR. ALBERTI: Today for the first time?

11 MR. LITSKY: That that's not the actual site?
12 Yes. I mean it was the first time that I had
13 heard another address put forward.

14 MR. ALBERTI: Okay. Thank you. That's all I
15 have.

16 CHAIRPERSON ANDERSON: All right. Not quite
17 yet. Mr. Kline, do you have any questions based
18 on the questions of the board members?

19 MR. KLINE: No, I don't, thank you.

20 CHAIRPERSON ANDERSON: Ms. Farlee based on
21 the questions the board asked.

22 MS. FARLEE: Yes. In terms of loitering are

1 you aware that there is currently loitering in
2 the Gang Plank Park? The park near The Gang
3 Plank and where the festivals often happen?

4 MR. LITSKY: Yes, indeed.

5 MS. FARLEE: Okay, so what guarantee is it
6 that there might not be loitering when the other
7 establishments open beyond the Channel Inn?
8 Beyond 690 Water Street? What guarantees are
9 there they won't buy a bottle of liquor at
10 Cordial and take them to the park.

11 MR. LITSKY: Well, I would hope that's
12 unlikely, but there are no guarantees. The one
13 thing that I do know is that The Wharf is going
14 to have fairly strict security but it will be
15 during the portion of The Wharf that's open. I
16 don't know how it's going to be secured outside
17 of where the businesses are going to be operating
18 once they open in a year from now.

19 MS. FARLEE: If I could respond to Mr.
20 Alberti -- yes, there were about four placards --

21 MR. ALBERTI: You can do it with closing, Ms.
22 Farlee.

1 MS. FARLEE: -- at 690 Water Street.

2 MR. ALBERTI: You can respond in your
3 closing.

4 MS. FARLEE: All right.

5 MR. ALBERTI: Thank you.

6 MS. FARLEE: On the Safeway square footage,
7 yes you mentioned the square footage of the
8 entire store. Are you aware of the restrictions
9 on the alcohol display and service?

10 MR. LITSKY: I am. I write them.

11 MS. FARLEE: Okay.

12 MR. LITSKY: I don't remember what the square
13 footage is exactly but we absolutely kept it
14 contained because we did not feel in our
15 community that we wanted alcohol all over the
16 place.

17 MS. FARLEE: Displayed all over the place.

18 MR. LITSKY: Absolutely.

19 MS. FARLEE: Right. So, would you say the
20 display and tastings area in Safeway is about
21 comparable to the Cordial in size?

22 MR. KLINE: Objection. She's leading the

1 witness. I let it go for a long time but now.

2 CHAIRPERSON ANDERSON: Ms. Coralie please
3 rephrase it.

4 MS. FARLEE: What is the comparison, do you
5 think?

6 MR. LITSKY: I honestly don't know.

7 MS. FARLEE: Okay.

8 MR. LITSKY: I would imagine --

9 MS. FARLEE: But certainly not the whole
10 store.

11 MR. LITSKY: Of course not. Of course not.

12 MS. FARLEE: All right. Thank you.

13 CHAIRPERSON ANDERSON: You may step down.

14 Thank you very much, sir, for your testimony.

15 Ms. Farlee, do you have another witness?

16 MS. FARLEE: No, I don't.

17 CHAIRPERSON ANDERSON: Do you close? Do you
18 rest?

19 MS. FARLEE: Well, sure.

20 CHAIRPERSON ANDERSON: All right. Mr. Kline,
21 do you have a rebuttal witness.

22 MR. KLINE: I do. I call to the stand

1 Coralie Farlee.

2 MS. FARLEE: You want me to testify? Is that
3 what you're saying?

4 CHAIRPERSON ANDERSON: Ms. Farlee, can you
5 raise your right hand, please. Do you swear or
6 affirm to tell the truth and nothing but the
7 truth?

8 MS. FARLEE: I do.

9 CHAIRPERSON ANDERSON: Have a seat. Mr.
10 Kline.

11 MR. KLINE: Dr. Farlee, you're the chair of
12 the ANC's ABC committee, correct?

13 MS. FARLEE: Yes.

14 MR. KLINE: And isn't it a fact that there's
15 a meeting at which the developer of The Wharf
16 made a presentation to your committee concerning
17 the various licensees that were going into The
18 Wharf?

19 MS. FARLEE: Yes.

20 MR. KLINE: And at that meeting you were
21 given a drawing comparable to what we entered as
22 an applicant's exhibit on a layout of The Wharf

1 area?

2 MS. FARLEE: Yes.

3 MR. KLINE: I want to show you what we'll
4 have marked as applicant's exhibit #3. You were
5 obviously given that document at the same time,
6 were you not?

7 MS. FARLEE: Okay, yes.

8 MR. KLINE: Yes, and doesn't that document
9 identify the space number of Cordial Fine Wines?

10 MS. FARLEE: Yes.

11 MR. KLINE: Okay and that meeting was over
12 two months ago, wasn't it?

13 MS. FARLEE: August, yes.

14 MR. KLINE: That was in August. So, in
15 August you, as the chair of the ABC committee,
16 were certainly well aware of the location of the
17 store based upon information that you had from
18 the landlord, correct?

19 MS. FARLEE: The space number, but there were
20 no streets.

21 MR. KLINE: But you could see within the
22 development.

1 MS. FARLEE: There were no addresses. There
2 were no street addresses.

3 MR. KLINE: Right, but you could see within
4 the development where the store was to be located
5 based upon that diagram and that list, correct?

6 MS. FARLEE: Only by the space number.

7 MR. KLINE: By the space number. Okay,
8 great. That's all I have, no further questions.

9 CHAIRPERSON ANDERSON: Normally we have a
10 rebuttal witness -- you can step down, Ms.
11 Farlee. Normally, we have a rebuttal witness,
12 then I give the other side an opportunity to ask
13 questions of this rebuttal witness.

14 MS. FARLEE: Can I ask myself questions?

15 CHAIRPERSON ANDERSON: Within a limited
16 scope, you're under oath, Ms. Farlee, so I guess
17 you can ask yourself some questions.

18 MS. FARLEE: Well, in terms of the street
19 address, we got different information than
20 apparently the licensee and the attorney did, and
21 just honestly I cannot read the damn 4110 on
22 these things. If you're talking about site

1 number it's so tiny you cannot really understand
2 where the location is. That's my defense.

3 CHAIRPERSON ANDERSON: That's not a defense,
4 it's your answer.

5 MR. KLINE: Can we put this with the
6 applicant's documents?

7 CHAIRPERSON ANDERSON: All the documents --
8 remember we moved all the documents in evidence -
9 -

10 MR. KLINE: But this wasn't -- this was not
11 in though. This was rebuttal, it was not listed
12 and speaks to --

13 CHAIRPERSON ANDERSON: All right, I don't
14 have a copy of the document, so where is the
15 document?

16 MR. ALBERTI: What is it?

17 MS. FARLEE: I do want to also say all of
18 these placards had 690 Water Street on them.

19 CHAIRPERSON ANDERSON: Hold on one minute.
20 What was the document that was given to Ms.
21 Farlee and she testified to the document, so I
22 think, so what is the document, Mr. Kline?

1 MR. KLINE: The document is potential liquor
2 licenses at The Wharf. It's a list that has the
3 concept, the license type, the location, the
4 space number which correlates to the space
5 numbers on the drawing that you already have as
6 an exhibit.

7 CHAIRPERSON ANDERSON: Ms. Farlee, do you
8 have an objection to this document being moved
9 into evidence?

10 MS. FARLEE: No, you're welcome to it because
11 that's all coming ahead of us. We're going to
12 see an application for each one of these on the
13 page.

14 CHAIRPERSON ANDERSON: All right, so we can
15 get a copy of the document, Mr. Kline, and it is
16 a part of the evidence, so I need to get a copy
17 of the document. All right, are you done, Ms.
18 Farlee?

19 MS. FARLEE: Yes.

20 CHAIRPERSON ANDERSON: Any questions by any
21 board members based on the rebuttal? Mr.
22 Alberti?

1 MR. ALBERTI: Ms. Farlee, this protest was
2 discussed at the ANC?

3 MS. FARLEE: Yes.

4 MR. ALBERTI: Was it discussed at a committee
5 meeting?

6 MS. FARLEE: Yes.

7 MR. ALBERTI: Was it discussed at the ANC
8 meeting where the protest was approved?

9 MS. FARLEE: Yes.

10 MR. ALBERTI: Okay. During that discussion,
11 how was -- how did the commissioners know -- how
12 did the audience know -- where this place was
13 going to be located? I mean, how were they told
14 where it was going to be located?

15 MS. FARLEE: Well, they were told the
16 contents of the protest letter which is what we
17 knew at the time, 690 Water Street.

18 MR. ALBERTI: Were they shown the map? Were
19 they shown that list?

20 MS. FARLEE: I think I didn't have the map at
21 the time because the protest letter was filed
22 before -- I didn't have the map until August.

1 MR. ALBERTI: So, am I to understand that the
2 commissioners and the community were led to
3 believe that this was going to be at 690 Water
4 Street?

5 MS. FARLEE: That's what we knew at the time.
6 The protest letter was filed on June 13.

7 MR. ALBERTI: Okay. I got that. I know
8 that. Thank you. That's all I have.

9 CHAIRPERSON ANDERSON: Are there any other
10 questions by any other board members? Go ahead,
11 Mr. Perry.

12 MR. PERRY: Being new to the board, how far
13 away is this current proposed store from the
14 current residences?

15 MS. FARLEE: I understand it's on the street
16 level and residents will be above it.

17 MR. PERRY: I'm sorry, no current residents.

18 MS. FARLEE: Oh, current residences.

19 MR. PERRY: Like, how far away are current
20 building from this new store? From the proposed
21 store.

22 MR. LITSKY: If I can answer, I mean I can do

1 it very easily. From where the store is going to
2 be located across the street currently, there is
3 Waterside Towers. That's the closest residences,
4 just over behind where Arena Stage is, and there
5 are townhouses that are directly up about two
6 blocks north on 7th Street, a series of 87
7 townhouses, and then --

8 MS. FARLEE: You mean 6th Street.

9 MR. LITSKY: No up 7th Street and over by the
10 parkway, and then there's the 525 building that
11 just opened up as part of this project and it's
12 over between 6-1/2 Maine Avenue which would be
13 about four blocks -- no actually less than that -
14 - two blocks to the east, and then around the
15 development and the entire rest of existing
16 southwest is over on 6th Street. No the
17 townhouses are over here by Waterside Towers.

18 MS. FARLEE: Aren't they on the Riverside?

19 MR. LITSKY: But they're not being built.
20 They're in construction, they're not currently
21 residences there.

22 MR. PERRY: And do you know how many current

1 residents are in the single member district?

2 MR. LITSKY: In the single member district
3 there are 2000 people.

4 MR. PERRY: 2000 people.

5 MS. FARLEE: You have to count also about 100
6 residents on the waterfront that live on boats,
7 river boats.

8 MR. PERRY: So, your single member district's
9 going to increase -- double.

10 MR. LITSKY: Significantly, yes. It will
11 increase by 60 to 65%.

12 MS. FARLEE: It is about 100 residents on the
13 boats, right?

14 MR. LITSKY: I think those boats are included
15 in the count that I just provided.

16 MS. FARLEE: Yeah. But when you asked the
17 distance.

18 MR. LITSKY: Oh yes, actually I did -- I
19 neglected to think that that also includes the 95
20 residents who live aboard at Gang Plank and also,
21 even closer, live aboard at the Potomac Yacht
22 Club.

1 MR. PERRY: That's all, thank you.

2 CHAIRPERSON ANDERSON: Any questions based on
3 the questions? All right, so let me go with Ms.
4 -- she was your witness, so Ms. Farlee can you
5 provide any clarification to any questions that
6 were just brought up?

7 MS. FARLEE: No, I think I just did. I gave
8 what information we knew at the time which was in
9 June when we filed the protest. And even now I'm
10 not clear what the street is.

11 CHAIRPERSON ANDERSON: Thank you. Mr. Kline?

12 MR. KLINE: Dr. Farlee, in June you're aware,
13 are you not, that the streets in that area have
14 not been named, correct?

15 MS. FARLEE: Yes.

16 MR. KLINE: So, a precise street name would
17 have told you very little, isn't that correct?

18 MS. FARLEE: But it wouldn't have been wrong.

19 MR. KLINE: That's not my question to you.
20 My question to you is had you been given the
21 correct street name given that the streets
22 weren't in existence yet and hadn't been named,

1 that wouldn't have added any information to what
2 you needed to make a decision concerning this
3 license, would it?

4 MS. FARLEE: No, it would have enforced,
5 reinforced our two reasons for objecting -- for
6 protesting.

7 MR. KLINE: A street name and number without
8 a specific --

9 MS. FARLEE: In the middle of --

10 MR. KLINE: -- without a specific location
11 would have done that?

12 MS. FARLEE: Yeah.

13 MR. KLINE: Isn't it true that what informed
14 you was the diagram which showed you precisely
15 where the store is rather than a street address
16 for streets that had not yet been named?

17 MS. FARLEE: No, because it still would have
18 been a peace, order and quiet issue for the hours
19 no matter where, and also the pedestrian and
20 vehicular traffic.

21 MR. KLINE: So, your position is it really
22 didn't matter where it was located within The

1 Wharf project, the concerns would have been the
2 same, correct?

3 MS. FARLEE: The hours, yes.

4 MR. KLINE: And the same concerns that you've
5 raised today?

6 MS. FARLEE: Yes.

7 MR. KLINE: And in fact at that time the
8 whole area was a cordoned off construction site,
9 wasn't it?

10 MS. FARLEE: Yes.

11 MR. KLINE: And the only place to post a
12 notice, effective notice to the community, was on
13 the outside construction fence, correct?

14 MS. FARLEE: No.

15 MR. KLINE: Where was the other place that
16 notice could have been posted?

17 MS. FARLEE: I'm not going to agree that
18 that's the best place to put it.

19 MR. KLINE: Okay, fair enough.

20 MS. FARLEE: It's misleading.

21 MR. KLINE: But it did advise you that a
22 liquor store was planning to open in The Wharf

1 project, correct?

2 MS. FARLEE: Yeah -- it was --

3 MR. KLINE: And your concern -- your concern
4 was that if a liquor store was going to open
5 anywhere in The Wharf project you would have the
6 same concerns that you presented today, right?

7 MS. FARLEE: Especially in that location
8 because that is the lobby of the former Channel
9 Inn, the lobby reception area of the developer.
10 So, it just didn't seem reasonable, feasible, to
11 have a liquor store in that location.

12 MR. KLINE: Okay, so you would have had more
13 concerns at that location than the location where
14 it actually is.

15 MS. FARLEE: But it's never been corrected.

16 MR. KLINE: Okay.

17 MS. FARLEE: On your application.

18 MR. KLINE: But now you know where it is,
19 correct?

20 MS. FARLEE: I'm not sure. There's still two
21 streets under consideration -- two street
22 addresses.

1 MR. KLINE: And if that is corrected on the
2 ultimate issuance of the license doesn't that
3 satisfy your concern?

4 MS. FARLEE: Not totally, no.

5 MR. KLINE: I have no further questions.

6 CHAIRPERSON ANDERSON: All right, thank you.
7 Mr. Kline, do you wish to make a closing
8 statement?

9 MR. KLINE: Yes, thank you. I think I can
10 say, good evening, members of the board and
11 welcome to our newest board member. Thank you
12 for sitting with us here this afternoon. We
13 believe that this is one of the easier cases the
14 board has had in some time for a new application.
15 This is a 525 square foot artisanal liquor store
16 where specialty products will be sold. It's
17 clear that we're not talking about half pints
18 being sold, single beers, even the ANC chair
19 testified that he's not concerned about
20 loitering, he's not concerned about urinating,
21 he's not concerned about the issues that
22 typically neighborhoods have legitimate concerns

1 about. You heard testimony from the owner, a
2 professional woman, an accountant, an auditor, a
3 bank auditor, and she admits she's going to rely
4 on the expertise that her son has developed in
5 this business, but also testified pretty clearly
6 that she understands the rules, she is the owner,
7 he owns the other store, understands that there's
8 a restriction on cross ownership.

9 This is -- and I think Mr. Litsky actually
10 said it best -- this project, I'm going to quote,
11 it was a really good one about this project, "the
12 most innovative, wonderful project to open in the
13 next two decades." We agree with that and we
14 agree that it's appropriate in such a project to
15 have the opportunity for an unusual store such as
16 this one. You can't even get Smirnoff's. I
17 mean, it is specialty, to the greatest extent
18 that that word can be defined, artisanal
19 products, things that are manufactured in the
20 district, and it's a very small store. Look
21 around and what I always like to do is count
22 tiles because it's easy to get an idea of the

1 size of what something is by looking at tiles.
2 This thing is tiny and suggests that this tiny
3 liquor store which is going to be there to serve
4 an additional 2000 to 3000 residents, according
5 to Mr. Litsky's testimony, is somehow going to
6 have an adverse impact on peace, order and quiet
7 because it hopes to have the privilege of
8 operating the legal hours and have tastings
9 during the legal hours, as determined by the
10 Council of the District of Columbia, I can't
11 fathom, I have a difficult time with that. I
12 think the problem here, and it came out in
13 testimony, is Mr. Litsky said he doesn't think
14 it's appropriate for anyone to do tastings early
15 in the morning or late at night. Well, that's a
16 policy question. There's a place for that to be
17 discussed and it's down at the Wilson Building
18 where the Council of the District of Columbia
19 considers the laws governing the sale and service
20 of alcoholic beverages, so if he has a quarrel
21 with what the law is then I think he should take
22 that up with the council. In terms of this case,

1 unless there is some evidence that there needs to
2 be a restriction on this store to be operated by
3 this operator, then we would suggest to you that
4 the license should be approved without
5 restriction and we submit to you there isn't any
6 evidence here that there is going to be an
7 adverse impact on peace, order and quiet. Most
8 of the testimony is 'we want what we think is
9 best.' There wasn't any evidence that there
10 would be such an adverse impact. Now on the
11 applicant's side there was evidence from an
12 experienced manager who runs a similar store as
13 to how the store is run and how they do it and
14 there aren't any problems. So, we would submit
15 to you that this license application should be
16 approved and should be approved without
17 restrictions. Now let me address one other issue
18 because it's still hanging out there in terms of
19 the address and this is a problem. The fact of
20 the matter is the community was on notice there
21 was an application at this location. The
22 addresses, according to the testimony of

1 everyone, hadn't been assigned yet, so it really
2 -- the fact that the address was wrong, I think
3 the testimony was 'it's the next block' but Dr.
4 Farlee testified it really didn't matter because
5 they were going to oppose any license within the
6 new Wharf project and they would have had the
7 same concerns --

8 MS. FARLEE: With those hours.

9 MR. KLINE: With those hours, I'll even
10 accept that. So, you know, in terms of notice,
11 in terms of some sort of prejudice, I think the
12 board understands the problem when you're dealing
13 with a new project that's completely cordoned off
14 with fences where addresses haven't been
15 assigned. We do the best we can in terms of
16 providing notice as does the board. I think the
17 fact that the ANC has been in this process since
18 June shows that the notice was adequate. They
19 had a full opportunity to participate in this
20 proceeding so we don't think that's an issue.
21 So, we hope that after the board considers this
22 case and the evidence that you heard today that

1 you'll approve the license without restriction.

2 Thank you.

3 CHAIRPERSON ANDERSON: Thank you, Mr. Kline.
4 Dr. Farlee?

5 MS. FARLEE: Well, this may be outside the
6 point, but I think the reason this was submitted
7 so early before the street addresses, etc., were
8 ready is that there was a 250 cap on class A
9 stores and I believe that may be the reason that
10 this applicant wanted to get in under the 250
11 cap. So, that put us at a disadvantage as well
12 with the 690 Water Street makeup location which
13 had not been assigned. I guess my closing
14 statement is Andy got, and Mr. Litsky got, and
15 Mr. Kline, agreement on operating hours and
16 tasting hours. They're fine with us. We still
17 haven't discussed the lingo between 6:00 and 7:00
18 a.m. for deliveries. We prefer it later to not
19 disrupt the neighborhood for delivery between
20 6:00 and 7:00 a.m. and they claim their lease
21 allows for 6:00 to 10:00 a.m. We gave them great
22 flexibility, 7:00 to 7:00. Yes, we support

1 having a class A liquor store there and probably
2 they will do a good job, and I hope you prosper.
3 But we would like these -- our peace, order and
4 quiet issues -- addressed. The loitering we
5 would still consider because there is loitering a
6 little bit down the street. Who's to say that
7 they won't buy liquor there and still gather in
8 that park? And simply the hours of front
9 operating for the residences nearby and the boat
10 live-aboards, etc. Thank you.

11 CHAIRPERSON ANDERSON: Just for clarification
12 for me, what hours are you asking for?

13 MS. FARLEE: I'm so glad you asked me that
14 question. 9:00 a.m. opening, no earlier than
15 that. Mr. Litsky had suggested 10:00 p.m. Sunday
16 through Thursday and had agreed to midnight on
17 weekends, so that's what I have to go with. My
18 recommendation was earlier -- 10:00 a.m. -- 10:00
19 p.m. on the weekends. Tastings 12:00 noon to
20 9:00 p.m. which I believe the applicant agreed
21 to. And deliver hours 7:00 a.m. to 7:00 p.m. or
22 put it in their lease terms, 7:00 a.m. to 10:00

1 a.m. Thank you.

2 CHAIRPERSON ANDERSON: All right, thank you.

3 MR. KLINE: A rebuttal, briefly?

4 CHAIRPERSON ANDERSON: Yes, Mr. Kline?

5 MR. KLINE: The cutting of delivery hours by
6 eliminating 6:00 to 7:00 because of the lease
7 restriction effectively eliminates 25% of the
8 allowable delivery hours between what's required
9 by the lease as was testified to by the
10 applicant, and the restriction that's being
11 requested by the protestants. We would
12 respectfully request that you not cut this
13 business' delivery hours by 25%. With respect to
14 the issue of applying early. Yeah, it may be
15 that we wanted to get in under the cap of 250,
16 but it also may be that we had a requirement in
17 the lease that we had to get a license by a
18 certain time because obviously this business,
19 unlike some other businesses, is completely not
20 viable without any alcoholic beverage license.
21 So, I'll leave that for you to ponder in terms of
22 why it was necessary to apply early rather than

1 waiting until the building was constructed. But
2 again we would request that you approve the
3 license without conditions. Thank you.

4 CHAIRPERSON ANDERSON: Just for some
5 clarification, and I'm not saying I'll agree with
6 it. I'm confused -- I know they're saying that
7 the ANC is asking for delivery hours 7:00 a.m. to
8 10:00 a.m. and so you're saying -- what delivery
9 hours are you saying that we should not have.
10 Whether it should be not a restriction or you're
11 proposing delivery hours? I just want to be
12 clear. I'm not saying we're considering but I
13 just want to make sure that I know that.

14 MR. KLINE: I appreciate it. The testimony
15 was that the lease restricts the tenants' ability
16 to receive deliveries to the hours of 6:00 a.m.
17 to 10:00 a.m., so it's four hours a day. The
18 protestants have said that they would like the
19 delivery hours restricted from 7:00 a.m. to 7:00
20 p.m. I think. But the point is if the lease
21 restricts them to 6:00 a.m. to 10:00 a.m. then
22 between the protestants' requested restriction,

1 if the board were to adopt it, and what's
2 required by the lease, they would be limited to
3 three hours a day between 7:00 a.m. and 10:00
4 a.m. which right now they're restricted to
5 between 6:00 a.m. and 10:00 a.m. and the
6 testimony I think was pretty clear in terms of
7 deliveries we're not talking about tractor
8 trailers here. We're talking about a few cases,
9 I think the testimony was, at most, in one
10 delivery the largest, perhaps 20 cases, so we
11 would just request that the board not restrict
12 the delivery hours in that fashion.

13 CHAIRPERSON ANDERSON: All right, thank you.
14 I would like to thank both sides for their
15 presentation. It is 6:18 and the protest hearing
16 is over and I want to thank both sides for
17 keeping this matter within a reasonable time, so
18 I just want to thank you for your presentation.
19 Do the parties wish to do proposed findings of
20 facts and conclusions of law? Ms. Farlee shakes
21 her head no. Mr. Kline?

22 MR. KLINE: We'll waive that.

1 CHAIRPERSON ANDERSON: Mr. Kline shakes his
2 head, no.

3 As chairperson of the Alcoholic Beverage
4 Control Board for the District of Columbia and in
5 accordance with section 405 of the Open Meetings
6 Amendment Act of 2010, I move that the ABC Board
7 hold a closed meeting for the purpose of seeking
8 legal advice from our counsel on Case #16-PRO-
9 00079, Cordial Wine and Spirits, per section 405
10 B4 of the Open Meetings Amendment Act of 2010 and
11 deliberating upon case #16-PRO-00079, Cordial
12 Wine and Spirits, for the reasons cited in
13 section 405 B13 of the Open Meetings Amendment
14 Act of 2010. Is there a second?

15 MR. SHORT: Second.

16 CHAIRPERSON ANDERSON: Mr. Short has seconded
17 the motion. I will now take a roll call vote on
18 the motion before us now that it has been
19 seconded: Mr. Short?

20 MR. SHORT: I agree.

21 CHAIRPERSON ANDERSON: Mr. Alberti?

22 MR. ALBERTI: I agree.

1 CHAIRPERSON ANDERSON: Mr. Perry?

2 MR. PERRY: I agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson? I
4 agree. As it appears that the motion has passed,
5 I hereby give notice that the ABC Board will hold
6 a closed meeting in the ABC Board Conference Room
7 pursuant to the Open Meetings Amendment Act of
8 2010 and issue a position within 90 days. Thank
9 you very much for your presentation.

10 MR. ALBERTI: 60 or 90?

11 CHAIRPERSON ANDERSON: 90. But, wait it says
12 --

13 MR. ALBERTI: It's 60 days.

14 CHAIRPERSON ANDERSON: It's, well we will
15 comply with the statutory confines. We will
16 deliberate on this matter today and we will make
17 a decision today and it will take a minute to
18 write the decision so you'll get a decision
19 shortly.

20 MR. KLINE: Thank you, we appreciate that.

21 CHAIRPERSON ANDERSON: All right. Thank you.

22 As chairperson of the Alcoholic Beverage

1 Control Board for the District of Columbia and in
2 accordance with D.C. Official Code Section 2574 B
3 Closed Meetings and Section 2574 Notice of
4 Meetings of the Open Meetings Act, I move that
5 the ABC Board hold a closed meeting on November
6 2, 2016, for the purpose of discussing and
7 hearing reports concerning ongoing or planned
8 investigations of alleged criminal or civil
9 misconduct or violations of law or regulations
10 and seeking legal advice from our counsel on the
11 Board's investigative, legal and licensing agenda
12 for November 2nd, 2016, as published in the D.C.
13 Register on October 28, 2016. Is there a second?

14 MR. ALBERTI: Second.

15 CHAIRPERSON ANDERSON: Mr. Alberti has
16 seconded the motion. I will now take a roll call
17 vote on the motion before us now that it has been
18 seconded.

19 CHAIRPERSON ANDERSON: Mr. Perry?

20 MR. PERRY: I agree.

21 CHAIRPERSON ANDERSON: Mr. Alberti?

22 MR. ALBERTI: I agree.

1 CHAIRPERSON ANDERSON: Mr. Short?

2 MR. SHORT: I agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson? I
4 agree. As it appears that the motion has passed,
5 I hereby give notice that the ABC Board will hold
6 this aforementioned closed meeting. Pursuant to
7 the Open Meetings Act, notice will also be posted
8 on the ABC Board here on the room bulletin Board,
9 placed on the electronic calendar on ABRA's
10 website and published in the D.C. Register in as
11 timely a manner as practical. It is 6:22 and we
12 are adjourned for the day. Thank you.

13

14

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16 (Whereupon, the above-entitled matter was
17 concluded.)

18