

1 CHAIRPERSON:

2 DONOVAN W. ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MIKE SILVERSTEIN

8 JAMES SHORT

9

10

11

12

13

14

15

16

17

18

19

20

21

22

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

2 CHAIRPERSON ANDERSON: Are the licensees,
3 the applicant for MLK Mini Market here? All
4 right. Well, the hearing is supposed to start at
5 2 o'clock. So we'll take a break until the
6 licensee shows up.

7 (Off the record from 1:54 p.m. to 2:02
8 p.m.)

9 CHAIRMAN ANDERSON: Back on the record.
10 I want to call. We have a protest hearing, Case
11 No. 15-PRO-00117, MLK Mini Market, License No.
12 95905. I see the parties are at the table. Can
13 you please identify yourself for the record, and
14 also there's a paper in front of you that I would
15 like you to sign your name, please.

16 You can start.

17 MS. ASHETE: My name is Mekdes Ashete,
18 and I manage MLK Mini Market.

19 MS. KILFA: My name is Birk Kilfa. I'm
20 MLK Mini Market owner.

21 CHAIRMAN ANDERSON: And you're who?

22 MS. KILFA: Owner.

1 CHAIRMAN ANDERSON: You're the owner?

2 MS. ASHETE: Co-owner.

3 So she is one of the co-owners, and
4 you're the manager? And did you both sign your
5 name on the sign-in sheet there.

6 CHAIRMAN ANDERSON: Yes. Okay, fine.

7 Miss, if you -- Miss, if you know your
8 role here, you're supposed to come up when I call
9 the case.

10 You're what?

11 MS. DESTA: 2:30 assignment.

12 CHAIRMAN ANDERSON: Okay. All right. I
13 apologize, but the case it moved to 2 o'clock.

14 MS. DESTA: Okay. I'm sorry. I didn't
15 know that.

16 CHAIRMAN ANDERSON: And can you state
17 your name for the record.

18 MS. DESTA: Yes. My name is Elizabeth
19 Desta. I'm an interpreter.

20 CHAIRMAN ANDERSON: And hold on one
21 minute, please, before we -- yeah.

1 Do you solemnly swear that you will
2 faithfully and accurately interpret the
3 proceedings in this matter from Arabic into
4 English?

5 MS. DESTA: Amharic.

6 CHAIRMAN ANDERSON: Amharic into English
7 and from English into Amharic to the best of your
8 ability?

9 MS. DESTA: I do.

10 CHAIRMAN ANDERSON: Okay. Take a seat.
11 All right.

12 Yes. Go ahead. Introduce yourself.

13 MR. MCCOY: My name is Jeffrey McCoy.
14 I'm 8C Commissioner (inaudible).

15 MR. COLLIE: Professor Kelsey E. Collie,
16 teacher at Kuumba Learning Center.

17 MS. CUTHBERG: Mary Cuthberg. I'm the
18 Chair for Advisory Neighborhood Commission, 8C.
19 And I'm going to let my other commissioner come,
20 and give an overview of everything.

1 MR. RASHEED: I'm Maja Rasheed, the
2 principal of Kuumba Learning Center, also
3 resident of Ward 8.

4 MR. CHUBBS: My name is Edward Chubbs
5 (inaudible).

6 CHAIRMAN ANDERSON: I'm sorry. I didn't
7 hear you, sir.

8 MS. DESTA: Edward Chubbs.

9 MR. CHUBBS: C-H-U-B-B-S.

10 CHAIRMAN ANDERSON: All right. This is a
11 protest hearing, and the reason why we're here is
12 that the applicant is changing from a Class A --
13 I'm sorry -- from a Class B to a Class A, and the
14 neighborhood is challenging this application.
15 And the purpose of the hearing is basically to
16 elicit testimony whether or not the establishment
17 is appropriate for this neighborhood. And so
18 that's the issue that we should address.

19 So, therefore, the protestors will state
20 why they believe the class change, to change to a
21 Class A establishment, is not appropriate for
22 this residence, and the applicant will state why

1 they believe that it is appropriate for the
2 neighborhood.

3 The way the case will proceed is that I
4 will ask if there are any preliminary motions.
5 The applicant will then have an opportunity to
6 give an opening statement if they so choose.
7 Then the protestant will have an opportunity to
8 give an opening statement.

9 Then the board will call its witness, and
10 we'll call our investigator. The board will call
11 its investigator, who will provide us with a copy
12 of the report that was signed.

13 Once that's done, then the applicant will
14 present its case. Once the applicant presents
15 its case, if they have any witnesses, they'll
16 provide witnesses. The protestant will have an
17 opportunity to cross-examine the witnesses that
18 are called by the applicant. Once the applicant
19 presents its entire case, then the protestant
20 will then call its case.

21 And the way that this process is, it's
22 saying that you have 90 minutes each side to

1 present your case, but I believe that -- I'm not
2 going to keep to a strict rule in a sense, but my
3 expectation is that you state your case, you get
4 the point out. We don't need to beat a dead
5 horse. Once I get the point, I get the point, so
6 it's not necessary to have repeated or redundant
7 testimony.

8 I want you to state what your position
9 is, but you don't have to state it over a
10 thousand times. We will hear it, and we'll get
11 it. So I'll try to move the process along.

12 So we can be here until 5 o'clock. We
13 can do it because as each side will have an hour
14 and a half, so three hours, but we don't have to.
15 So we can get it out to state what the process
16 is, and then we can move on and make a decision.
17 Okay.

18 All right. So -- the co-owner, state
19 your name again, please.

20 MS. KILFA: Biruktayt Kilfa.

21 CHAIRMAN ANDERSON: How do you spell your
22 last name?

1 MS. KILFA: K-I-L-F-A.

2 CHAIRMAN ANDERSON: All right. Okay.

3 Is there any preliminary matters? Prior
4 to us doing the case, is there -- do you guys
5 want to say, you know, we've settled the case.
6 We've come to an agreement, so you'd already have
7 to have it here. So, no?

8 MS. ASHETE: No.

9 CHAIRMAN ANDERSON: Do you wish -- as the
10 applicant, do you wish to make an opening
11 statement? And basically an opening statement is
12 to explain to the board why is it that you're
13 requesting a class change from a B to an A, and
14 why you believe that you're appropriate for the
15 neighborhood. That's -- you can -- if you want,
16 you can tell us that.

17 What is it, Mr. Silverstein?

18 MR. SILVERSTEIN: I would add to what the
19 Chair says. Don't get into the real argument
20 itself. Tell us what you're going to tell us so
21 that when you have your case, then you will tell

1 us. But now it's like, we're going to tell you
2 this. That's all. Give us a roadmap.

3 MS. ASHETE: Okay. Good afternoon,
4 everybody. Good afternoon, ABC board. My name
5 is --

6 CHAIRMAN ANDERSON: Hold on, one minute.

7 Yes, sir.

8 MR. MCCOY: Is this speaker for us or
9 what?

10 CHAIRMAN ANDERSON: Huh?

11 MR. MCCOY: Is this speaker for us?

12 CHAIRMAN ANDERSON: It's --

13 MR. ALBERTI: If the light is on, it's
14 on.

15 CHAIRMAN ANDERSON: Yeah, yeah. It
16 amplifies your voice. That's all it does.

17 Yeah.

18 MS. ASHETE: My name is --

19 CHAIRMAN ANDERSON: No. You don't have
20 to do that.

21 MS. ASHETE: I just don't want my voice
22 to come --

1 CHAIRMAN ANDERSON: Yeah.

2 MS. ASHETE: All right. Good afternoon
3 to ABC board. My name is Mekdes Ashete, and I
4 manage MLK Mini Market.

5 First I want to thank all of you for
6 giving us the opportunity to voice our opinion
7 about this change application. MLK Mini Market
8 is a safe, stable neighborhood store that
9 provides community residents with great products
10 and choices in a convenient location. And some
11 of our customers have been asking us to get some
12 liquor so they don't have to walk farther away to
13 purchase these products. So that's the reason
14 why we are -- since we haven't had any problems
15 with selling beer and wine, that's why we decided
16 to apply for a class change.

17 CHAIRMAN ANDERSON: All right. Are you
18 guys -- you have any witnesses? Who's going to -
19 - you have any witnesses you're going to call, or
20 is it just both of you are going to testify.

21 MS. ASHETE: Just us.

1 CHAIRMAN ANDERSON: Okay. Just -- all
2 right.

3 All right. When you talk, since you
4 speak very softly, just bring the microphone
5 close to you, and so hopefully it will amplify
6 your voice.

7 All right. On behalf of the protestant,
8 who will be giving the opening statement? Who
9 will be making the opening statement?

10 MS. CUTHBERG: Good afternoon, Mary
11 Cuthberg, Chair of Advisory Neighborhood
12 Commission 8C.

13 CHAIRMAN ANDERSON: Yes.

14 MS. CUTHBERG: Can you hear me? Okay.
15 We are opposing the issuing of a liquor license
16 to MLK Mini Market. The area of concerns are
17 peace, order, safety, and traffic impact on the
18 community, as well as the presence of the market
19 in a residential area within 200 feet of various
20 schools, several schools.

1 CHAIRMAN ANDERSON: Right. No. You're
2 not protesting a liquor license. You're
3 protesting a change because --

4 MS. CUTHBERG: The change, yeah.

5 CHAIRMAN ANDERSON: -- they do have a
6 liquor license, so from a B --

7 MS. CUTHBERG: To an A.

8 CHAIRMAN ANDERSON: -- to an A.

9 MS. CUTHBERG: Thank you.

10 CHAIRMAN ANDERSON: Okay. All right.
11 The board will call its first witness. Is that
12 Mr. Townsend?

13 Can you raise your right hand, please.
14 Do you swear or affirm to tell the truth and
15 nothing but the truth?

16 MR. TOWNSEND: Yes.

17 CHAIRMAN ANDERSON: Thank you. Mr.
18 Townsend, were you able to provide a report for
19 this case?

20 MR. TOWNSEND: Yes.

21 CHAIRMAN ANDERSON: Can you share with us
22 what is in the report, sir?

1 MR. TOWNSEND: All right. I conducted a
2 protest investigation of MLK Mini Market, which
3 is located at 3333 Martin Luther King Junior
4 Avenue, Southeast. This establishment is located
5 on the first floor of a two-story brick building
6 with one main entrance located at the front of
7 the building. The substantial change application
8 for a class change from a B retail license to an
9 A retail license at this establishment was
10 protested by ANC 8C, being represented by
11 Advisory Neighborhood Commissioner, Mary
12 Cuthberg.

13 Protest issue is that the license class
14 change would have an adverse impact on the peace,
15 order, and quiet of the residents in the
16 surrounding area.

17 According to the GIS map, there is one
18 licensed establishment within 1,200 feet of MLK
19 Mini Market. According to ABRA record, MLK Deli,
20 which is within that 1,200 feet buffer of MLK
21 Mini Market, located at 3113 Martin Luther King

1 Junior Avenue, placed it's ABC license into
2 safekeeping on September 28, 2011.

3 According to the GIS map, no schools,
4 recreation centers, or libraries are within 400
5 feet of the establishment. Now with that being
6 said, the GIS map has listed Kuumba Learning
7 Center as a childcare facility on the GIS map,
8 which is located directly across the street from
9 MLK Mini Market. Their address is 3328 Martin
10 Luther King Junior Avenue.

11 The next closest school, according to
12 Google Maps is Center City Public Charter School,
13 which is located at 220 High View Place
14 Southeast, and that location, according to Google
15 Maps, is approximately 532 feet from MLK Mini
16 Market.

17 The National Children's Center Southeast
18 campus is located at 3400 Martin Luther King
19 Junior Avenue Southeast, but is not recognized as
20 a school on the GIS map. I was in contact with a
21 Ms. Taylor at this children's center just to get
22 a little more information about the facility.

1 Ms. Taylor stated that the campus consists of an
2 early learning center, inclusion program for
3 typically developed and special needs children.
4 Ms. Taylor stated that the age range is six weeks
5 old to five years old at this location. However,
6 kids are not permitted to leave the campus
7 without a parent or adult.

8 However, at the Kuumba Learning Center,
9 it was discovered that children do walk to and
10 from school and have direct access to the
11 establishment, MLK Mini Market.

12 On February 3, 2016, I spoke to
13 Commissioner Cuthberg regarding the protest. Ms.
14 Cuthberg stated that she currently resides within
15 close proximity of MLK Mini Market and is
16 concerned about the oversaturation of liquor
17 stores currently in Ward 8. Ms. Cuthberg stated
18 that other liquor stores currently have problems
19 with loitering and crime in Ward 8, and is
20 concerned that if the substantial change
21 application is approved for MLK Mini Market,

1 loitering and crime will resurface in the area,
2 in close proximity to MLK Mini Market.

3 Ms. Cuthberg also stated that she's
4 concerned about the amount of children that
5 frequent the establishment, and that the approval
6 of an A license retail for MLK Mini Market would
7 increase the amount of drunks in the close
8 proximity to MLK Mini Market.

9 Ms. Cuthberg stated that she has invited
10 the owner of MLK Mini Market to an ANC meeting to
11 discuss the establishment's substantial change
12 application, but Mr. Kinfa (phonetic), one of the
13 owners who she invited, did not appear and did
14 not follow up to reschedule.

15 On February 8, 2016, I met with Mr.
16 Kinfa, who is listed as an owner as well as his
17 finance, Ms. Ashete. Ms. Ashete served as a
18 translator during that meeting. Mr. Kinfa's
19 first language is Amharic, and he couldn't speak
20 English that well.

21 So during that meeting, Mr. Kinfa stated
22 that the establishment has applied for a change

1 to its license class from B to A due to several
2 patrons requesting the option to purchase spirits
3 at the establishment. Mr. Kinfa stated that
4 approximately 80 percent of his customers live in
5 the area and walk to the store. He also stated
6 that the closest A store to his establishment is
7 Mart Liquor, which is located at 2931 Martin
8 Luther King Junior Avenue, approximately a mile
9 away from MLK Mini Market.

10 Mr. Kinfa stated that children frequent
11 his store after 3:00 p.m. to buy snacks and sodas
12 after school during the week. He also stated
13 that he currently sells beer and wine and have
14 not had any problems with crime or loitering thus
15 far.

16 MLK Mini Market was monitored by ABRA
17 personnel a total of four times from January 31,
18 2016, to February 10, 2016. No ABRA violations
19 were observed. To date, I have not received a
20 response from the Office of Unified
21 Communications regarding MP calls for service at
22 this location. And that concludes my report.

1 CHAIRMAN ANDERSON: I'm sorry. There's -
2 - that's the end of your report?

3 MR. TOWNSEND: Yes, sir.

4 CHAIRMAN ANDERSON: I just have some
5 questions. I want you to go back to the National
6 Children's Center. How far -- you didn't put the
7 distance. How far is the National Children's
8 Center from the facility?

9 MR. TOWNSEND: It's across the street to
10 the right.

11 CHAIRMAN ANDERSON: But I meant how many
12 --

13 MR. TOWNSEND: I would say maybe 150
14 feet.

15 CHAIRMAN ANDERSON: Would it be less than
16 400 from the building?

17 MR. TOWNSEND: Yes.

18 CHAIRMAN ANDERSON: Now, so you're saying
19 that it's not -- it is not a school?

20 MR. TOWNSEND: It wasn't recognized on
21 the GIS map as a school. I think maybe we need
22 to do some further investigation on this matter

1 because it's my understanding that the National
2 Children's Center is a full time special
3 education school that works with ages up through
4 21. So what would it take for -- because since
5 the report does not define it as a school, so
6 what is it that would -- what would need to be
7 done to get further information to see whether or
8 not it is a school, or what is it classified as?

9 MR. TOWNSEND: I can take a trip to the
10 school and speak to someone there. I mean, when
11 I spoke to the compliance coordinator over the
12 phone, she explained to me exactly what I stated
13 in the report, and her direct words was that it's
14 an early learning center -- early learning center
15 inclusion program for typically developed and
16 special needs children. And she stated that he
17 age range was six weeks old to five years old.

18 CHAIRMAN ANDERSON: So you never spoke to
19 -- I think we need some further investigation
20 because I think there -- I think you probably
21 just spoke to -- and it's a full disclosure, and
22 that's one of the reasons why I'm asking for

1 further investigation because I'm confused. I'm
2 a special education attorney, and I'm very
3 familiar with the school.

4 MR. TOWNSEND: Okay.

5 CHAIRMAN ANDERSON: And I'm aware that it
6 is a school that works from ages 3 through 21.

7 MR. TOWNSEND: Okay.

8 CHAIRMAN ANDERSON: And I have clients
9 attending that school. So I think that we need
10 to supplement the report to get some further
11 information about exactly what is this -- what's
12 in the building. Is it a school, or is it not?

13 Yes, Mr. Silverstein.

14 MR. SILVERSTEIN: I would also ask -- Mr.
15 Townsend, I thank you for your report,
16 Investigator. Do the children attending that
17 school -- do any of them walk home or would any
18 of them be impacted by an interface with this
19 establishment?

20 MR. TOWNSEND: According to the person I
21 spoke to at the National Children's Center, she

1 stated that children are not permitted to leave
2 the campus without an adult or a parent.

3 MR. SILVERSTEIN: Very well.

4 MR. ALBERTI: May I just --

5 CHAIRMAN ANDERSON: Go ahead, Mr.
6 Alberti.

7 MR. ALBERTI: I'm going to add to the
8 Chair's comments. We, as a board, dealt with the
9 northwest campus in another case.

10 MR. TOWNSEND: Okay.

11 MR. ALBERTI: So you should ask your
12 supervisors, ask their director -- well, ask your
13 supervisors about that case. Martha Jenkins, our
14 general counsel, can give you more information.
15 So that will help in you doing further
16 investigation because we really do need to settle
17 that.

18 But while I've got the floor, the Kuumba
19 Learning Center, what do you know about that?

20 MR. TOWNSEND: So on the -- and again,
21 going back to the GIS map, it has it listed as a
22 childcare facility. In speaking to a teacher at

1 the Kuumba Learning Center, she stated that it
2 was from ages 1 years old to 16 years old and
3 approximately -- so it's an early learning center
4 and a school.

5 MR. ALBERTI: Okay. I'm not going to
6 grill you anymore on that.

7 MR. TOWNSEND: Okay.

8 MR. ALBERTI: But we hopefully will have
9 a witness from -- who knows about the center, and
10 I'll ask a lot of questions about how the school
11 functions at that time.

12 MR. TOWNSEND: Okay.

13 MR. ALBERTI: Thank you. I appreciate
14 it.

15 CHAIRMAN ANDERSON: And I apologize, Mr.
16 Townsend, that you feel like we're beating up on
17 you.

18 MR. TOWNSEND: Oh, no problem.

19 CHAIRMAN ANDERSON: I just had some
20 concern. That's why I was asking.

21 Go ahead, Mr. Short.

22 MR. SHORT: Good afternoon, Mr. Townsend.

1 MR. TOWNSEND: How you doing, sir?

2 MR. SHORT: Investigator, forgive me.

3 When you do your investigations of these stores
4 and obligations you have, did you go out to this
5 particular store? Did you go out in the area?

6 MR. TOWNSEND: Yes, sir.

7 MR. SHORT: Do you ever -- when you go to
8 these areas, go to the school? Do you actually
9 knock on the doors of the school to go to the
10 schools? I mean, as an investigator, do you
11 think that might be helpful in your
12 investigation?

13 MR. TOWNSEND: Yes. Yes. We do go out
14 to schools. I do go out to school and facilities
15 in the area that I think may be a concern. I did
16 not see -- during the times that I monitored this
17 establishment -- and, I believe, one time in
18 particular I was there for about an hour -- I did
19 not see children in the vicinity of the
20 establishment leaving or entering the Kuumba
21 Learning Center. In addition to that, it was
22 listed as a childcare facility on the GIS map, so

1 because I didn't see any activity going on around
2 the facility, I didn't go in the Kuumba Learning
3 Center.

4 MR. SHORT: What time of day was that?

5 MR. TOWNSEND: It was between 3:00 p.m.
6 and 4:00 p.m.

7 MR. SHORT: And no activity at the school
8 at all?

9 MR. TOWNSEND: No, sir.

10 MR. SHORT: And you could see it from the
11 store directly across the street from the
12 licensee's?

13 MR. TOWNSEND: Yes, sir. I actually took
14 a picture within that time frame because that's
15 the time I took all of the pictures in the
16 vicinity of the establishment.

17 MR. SHORT: And you made a phone call to
18 that -- also to that facility?

19 MR. TOWNSEND: Yes, sir.

20 MR. SHORT: And what was the information
21 you got again? I'm just trying to get my

1 thoughts together, sir. You might have answered
2 that already. But --

3 MR. TOWNSEND: That it's an early
4 learning center and a school, and the age range
5 is 1 years old to 16; and it goes up to 10th
6 grade.

7 MR. SHORT: Thank you. That's all I
8 have. Thank you.

9 That's all I have, Mr. Chair.

10 CHAIRMAN ANDERSON: Yes. Ms. Miller.

11 MS. MILLER: Good afternoon.

12 MR. TOWNSEND: Good afternoon.

13 MS. MILLER: So this isn't the first case
14 where the of what's the school has come up. So I
15 wanted to ask you when you're looking at this, is
16 there any definition that you look to what's a
17 school, or do you just look at how the GIS
18 indicates something on the map? Or how do you
19 decide how to classify it?

20 MR. TOWNSEND: In this case, I went off
21 of the GIS map.

22 MS. MILLER: Yeah.

1 MR. TOWNSEND: And I got -- in one case I
2 got clarification that, you know, Kuumba Learning
3 Center is, in fact, a school. But then the
4 National Children's Center, they stated that they
5 weren't particularly a school.

6 MS. MILLER: So you're saying you look at
7 the GIS map, but then you actually ask somebody
8 at the facility?

9 MR. TOWNSEND: Correct.

10 MS. MILLER: Okay. How long have you
11 been an investigator with ABRA?

12 MR. TOWNSEND: This is my second year.

13 MS. MILLER: Okay. I don't know if you
14 can answer this. This is kind of a broad
15 question, but I'm just throwing it out based on
16 whatever expertise you've developed over the
17 years. And that is, so in this case the
18 applicant is seeking to change the license from a
19 B to an A. This is how I see it without hearing
20 the whole, everybody's testimony yet, but in
21 general, and that I see that there are neighbors
22 concerned that, by that change, there are going

1 to be changes in the neighborhood that will
2 adversely impact them such as more crime, or
3 loitering, or perhaps children being endangered.

4 So I just want to ask you: Are there any
5 factors that you see in this particular
6 neighborhood or circumstances that would lead you
7 to believe that, that's likely or that you can
8 compare to other neighborhoods where there's been
9 that kind of a change, and either there has been
10 a problem or there hasn't been a problem?

11 MR. TOWNSEND: It's hard for me to --

12 MS. MILLER: That's okay. I know it was
13 a pretty broad question.

14 MR. TOWNSEND: What I can say is Mart
15 Liquor, which is -- it is located at 2931 Martin
16 Luther King Junior Avenue, over the past two
17 years that I've been here, I've always noticed
18 that there was a loitering and a crime problem
19 directly in front of the establishment.

20 MS. MILLER: Okay.

21 MR. TOWNSEND: And that is the closest A
22 store to this establishment, to MLK Mini Market.

1 MS. MILLER: And how far away is that?

2 MR. TOWNSEND: Approximately a mile.

3 MS. MILLER: A mile, okay.

4 MR. TOWNSEND: Maybe a little more than a
5 mile, give or take, but it's -- I mean, it's not
6 within walking distance.

7 MS. MILLER: Does that mean -- it's hard
8 here because it's speculative. So you know, like
9 what might happen if they change?

10 MR. TOWNSEND: This MLK Mini Market is
11 primarily in a residential area.

12 MS. MILLER: Okay.

13 MR. TOWNSEND: I don't know the zone of
14 Mart Liquor, but it has a lot more -- there are a
15 few more stores, you know, there's a gas station
16 close by. There's a park directly across the
17 street.

18 MS. MILLER: Okay.

19 MR. TOWNSEND: So it's a little -- the
20 makeup of the vicinity around the two
21 establishments are a little different.

1 MS. MILLER: Okay. That's helpful.

2 Thank you. All right. Thank you very much.

3 CHAIRMAN ANDERSON: Any other questions
4 by any other board members?

5 Now, you have the opportunity to ask the
6 investigator any questions that you wish to ask
7 him regarding his testimony in the report that he
8 just gave.

9 MS. ASHETE: How you doing?

10 MR. TOWNSEND: Hello.

11 MS. ASHETE: Hi. During your
12 investigation when you were at the store, did you
13 see anybody standing around our store, in front
14 of our store?

15 MR. TOWNSEND: I did not.

16 MS. ASHETE: Were you able to see --
17 3:00 p.m. to 4:00 p.m., you said you were
18 there. Did you see like, you know, students
19 going in and out of the store buying some things?

20 MR. TOWNSEND: Yes.

21 MS. ASHETE: Did you feel like there was
22 anybody in front of -- you know, anything they

1 would witness that would hurt them or, you know,
2 cause them any problems in front of our store?

3 MR. TOWNSEND: In my opinion, no.

4 MS. ASHETE: And also you mentioned that
5 in front of the other liquor store there's a lot
6 of loitering, a lot of people standing around.
7 But I just wanted you to state the difference
8 between the areas, how they look. Like, for
9 example, in front of our store, you know, we
10 don't have no bus stations or like -- describe
11 the area of the other different store because
12 maybe --

13 MR. TOWNSEND: Well, there's -- I mean,
14 like I stated, the MLK Mini Market is located
15 primarily in a residential neighborhood, and
16 surrounding Mart Liquors, there are other stores.
17 So I mean, I'm not sure.

18 MS. ASHETE: Okay. Did you see any, you
19 know, double parkings, or parking problems when
20 you were in front of the store?

21 MR. TOWNSEND: No. I did not.

1 MS. ASHETE: Was there a lot of traffic
2 going by MLK Mini Market?

3 MR. TOWNSEND: Martin Luther King Junior
4 Avenue typically is a busy, busy street.

5 MS. ASHETE: Yeah. All right. That's
6 all.

7 CHAIRMAN ANDERSON: Who is -- would you
8 ask? You have an opportunity to ask the
9 investigator a question. So who is going to ask
10 the investigator questions?

11 MS. CUTHBERG: I will start. Is that
12 okay?

13 CHAIRMAN ANDERSON: Sure. Go ahead, Ms.
14 Cuthberg.

15 MS. CUTHBERG: Mr. Townsend, I do recall
16 when you called me.

17 MR. TOWNSEND: Yes, ma'am.

18 MS. CUTHBERG: (Inaudible) application.
19 Now, I'm concerned when you said cannot walk from
20 MLK Mini Market to Mart Liquor, which is only
21 three blocks away. I am an amputee, and I walk
22 that every day.

1 MR. ALBERTI: Is there a question?

2 MS. CUTHBERG: The question is how come
3 you say we can't walk from 3333 Martin Luther
4 King Junior Avenue to 2930 Martin Luther King
5 Junior Avenue, the distance?

6 MR. TOWNSEND: It's not impossible. I
7 mean --

8 MS. CUTHBERG: It's three blocks, three
9 city blocks.

10 MR. TOWNSEND: I don't know how many
11 blocks it is, but I drove from MLK Mini Market to
12 Martin Luther King Junior Avenue and Malcolm X.
13 I can't tell you the distance exactly. I didn't
14 measure it. I didn't go online and check the
15 distance exactly.

16 MS. CUTHBERG: And my next question is
17 school. You were there around 3 o'clock, and I
18 think our schools now let out about 3:30, 4
19 o'clock.

20 CHAIRMAN ANDERSON: No. You can't --
21 hold on. Hold on one minute. One person needs
22 to ask a question, and I can't have -- she has to

1 ask the question. Later on if you're here and
2 testify, then you can, in the presentation of
3 your case, you can present whatever information
4 you want about your school and your house, okay.

5 Go ahead.

6 MS. CUTHBERG: I'll let someone else
7 speak.

8 CHAIRMAN ANDERSON: All right. Yes, sir.
9 Identify yourself for the record, please.

10 MR. CHUBBS: I'd like to --

11 CHAIRMAN ANDERSON: I need you to
12 identify yourself for the record before you ask
13 the question.

14 MR. CHUBBS: My name is Edward Chubbs.

15 CHAIRMAN ANDERSON: Yes, sir.

16 MR. CHUBBS: (Inaudible) I live directly
17 across the street from the store. I have been
18 there since 1981.

19 CHAIRMAN ANDERSON: All right. Do you
20 have -- do you have a question for him in
21 response to the report that he just gave?

22 MR. CHUBBS: Yes.

1 CHAIRMAN ANDERSON: Okay. You can ask
2 the question, sir.

3 MR. CHUBBS: My question to the
4 investigating officer: Did you knock on any
5 doors, or did you investigate any homeowners on
6 how they feel about this change?

7 MR. TOWNSEND: No, sir.

8 MR. CHUBBS: You didn't. That's no
9 respect to the resident there if you didn't do a
10 check on that to see how we felt that, that would
11 interfere with our livelihood or our (inaudible)
12 because, like I say, I've been there since 1981.
13 So I know what it would do.

14 MR. SHORT: Do you have any more
15 questions?

16 MR. CHUBBS: I just didn't understand why
17 he didn't --

18 MR. SHORT: Sir, that's not a question.

19 MR. SILVERSTEIN: You have to have a
20 question. You have a question?

21 MR. CHUBBS: No.

1 CHAIRMAN ANDERSON: Anybody else have any
2 questions?

3 Hold on. Just hold on one minute,
4 please. Just hold on a minute. There's -- and
5 let me apologize to everyone back there. I'm
6 doing too many things because there are a lot of
7 questions going through my mind. So I'm -- all
8 right.

9 I can't have everyone ask him a question.
10 So one of the things that I'll do, and I guess
11 what, Ms. Cuthberg, you said that both you and
12 this gentleman would ask questions.

13 MS. CUTHBERG: Yes.

14 CHAIRMAN ANDERSON: If you have -- if
15 someone has to have a question, why don't you
16 just write a note, give it to either of them to
17 ask the question. I can't have everyone ask him
18 questions. So I'll just have -- both persons can
19 ask questions, but then if you have -- if anyone
20 else on the panel -- you are also going to have
21 an opportunity to speak, but in a sense of us
22 asking questions to the investigation -- and what

1 I'm going to do, moving forward, I'm just going
2 to have one person ask questions of the
3 witnesses. So you need to identify the person
4 who is going to ask the questions. And then if
5 other people have questions, just write it and
6 pass it to that person, and so we'll just have
7 one person ask questions, okay.

8 MS. CUTHBERG: Mr. Townsend?

9 MR. TOWNSEND: Yes, ma'am.

10 MS. CUTHBERG: What was the weather
11 conditions when you visited MLK -- I'm sorry.

12 MR. TOWNSEND: Mini Market?

13 MS. CUTHBERG: Mini Mart.

14 MR. TOWNSEND: It was a sunny day. It
15 wasn't -- it was about 40, 50 degrees.

16 MR. SILVERSTEIN: No further questions?

17 CHAIRMAN ANDERSON: Yeah. Hold on a
18 minute. What is the matter, sir?

19 UNIDENTIFIED MALE: Can some of these
20 questions go to the establishment also?

21 CHAIRMAN ANDERSON: Hold on. Okay. This
22 is what's going on. They're going to present

1 their case, and when they're presenting their
2 case, then you can ask questions. Remember
3 that's what -- you can ask questions.

4 Now the only person who is on the table
5 is the investigator. The investigator gave his
6 report, which you have a copy of the report, and
7 so basically what's going on here now is that
8 you're asking questions of the investigator of
9 his report. Once the investigator has presented
10 -- because the way the process goes is that we're
11 the board, and he's our witness. So he goes out.
12 He collects information. He tells us what's
13 going on.

14 After he presents his testimony, then the
15 applicant will put on their case in chief, and
16 then you will have an opportunity to cross-
17 examine. Well, one person will have an
18 opportunity to cross-examine the applicant.

19 And once -- after they present their
20 case, then the protestant will present its case,
21 and then the applicant will have its

1 opportunities to cross-examine. Okay. So that's
2 basically where we are right now.

3 All right. So that's the reason I'm
4 saying, just to have some clarity, I'll just have
5 one person asking questions. You can pass notes.
6 If it's a question that's important, you can pass
7 a note, but again, it's directly regarding his
8 testimony. All right.

9 Are there any other questions for the
10 investigator? No?

11 All right. This is what I'm going to do.
12 We're being -- because we're being -- there's
13 some inconsistencies here. I'll be clear. I
14 mean, we're just trying to find out whether or
15 not National Children Center is a school, and so
16 that's one of the things that you're hearing all
17 this confusion back here. So I'm going to do
18 this, and then I'm going to take a short recess.
19 So at least I will be --

20 Yes, ma'am?

21 MR. RASHEED: I don't know if it's proper
22 at this time, but I'm also affiliated with

1 National Children's Center. I hold a license for
2 the insurance for the property for the
3 playground. So you -- I don't know if it would
4 be customary for you to ask me any questions.
5 I'm very familiar with the program.

6 CHAIRMAN ANDERSON: As I said -- -- and
7 as I said as full disclosure, in my other life
8 I'm a special education attorney. I'm very
9 familiar with the school. And so that's one of
10 the reasons why it was -- I am aware of the
11 school, but it's not on the record. I can't --

12 All I'm doing is I'm asking questions of
13 the investigator. If you'll notice, I'd ask the
14 questions about what is it that the system said
15 about National Children's Center. I can't use my
16 knowledge of what the building is to make a
17 decision on that. Whatever decision I make, it
18 has to be on the record. And so, therefore,
19 although I might know, the only thing I can do is
20 to say, well, you know what, because there's some
21 inconsistencies here, maybe we need to postpone
22 the hearing and send the investigator to go back

1 and do further investigation, so he can bring
2 information here to put it on the record. So
3 since you're not -- now if you were an employee
4 of National Children's Center, then we wouldn't
5 have to do an investigation because I would call
6 you as a witness, and you could state on the
7 record what it is. But we don't have that here,
8 and so let me -- let me do this so we can get
9 some clarification, okay.

10 So as Chairperson of the Alcoholic
11 Beverage Control Board for the District of
12 Columbia in accordance with Section 45 of the
13 Open Meetings Amendment Act of 2010, I move that
14 ABC Board hold a closed meeting for the purpose
15 of seeking legal advice from our counsel on Case
16 No. 15-PRO-00117, MLK Mini Market.

17 And is there a second?

18 MR. SHORT: Second.

19 CHAIRMAN ANDERSON: Mr. Short has
20 seconded the motion.

21 I'll now take a roll call motion before
22 us now that it's been seconded.

1 Ms. Miller?
2 MS. MILLER: Agree.
3 CHAIRMAN ANDERSON: Mr. Alberti?
4 MR. ALBERTI: I agree.
5 CHAIRMAN ANDERSON: Mr. Short?
6 MR. SHORT: I agree.
7 CHAIRMAN ANDERSON: Mr. Silverstein?
8 MR. SILVERSTEIN: I agree.
9 CHAIRMAN ANDERSON: Mr. Anderson?
10 As it appears that the motion has passed
11 5 to nothing, I hereby give notice that the ABC
12 Board will hold a closed meeting in the ABC
13 conference room pursuant to the Open Meetings
14 Amendment Act of 2010.
15 I should be back no later than 15
16 minutes, okay. We're in recess for about 15
17 minutes to get some legal advice. I'll be back.
18 When we come back, you're not going to
19 have this back and forth. So I apologize.
20 (Recess was taken from 2:44 p.m. to 2:54
21 p.m.)

1 CHAIRMAN ANDERSON: We're back on the
2 record. The board took a break to get some legal
3 advice from our counsel, and pursuant -- and
4 basically what's going on is that pursuant to
5 D.C. Official Code Section 25-341(b)(1), it
6 prohibits the board from issuing a license within
7 400 feet of a private -- public, private, or
8 parochial, primary elementary, or a high school,
9 or recreation area operated by the District
10 Department of Public Works.

11 So the board needs further clarification
12 whether or not the National Children's Center,
13 the southeast branch, and whether the Kuumba
14 Learning Center, whether or not they fall under
15 this criteria.

16 Therefore, what the board will do, we
17 will suspend this hearing to have the
18 investigator go back and get further
19 qualifications, further explanation whether or
20 not these two schools that are within 400 feet of
21 the establishment, whether or not they are
22 recognized public, private, or parochial schools.

1 What that means, however, is that if the
2 investigation comes back and states that they are
3 a private -- a public, private, or parochial
4 school it states that we cannot grant the license
5 because of the regulations. But we don't have
6 enough information right now to make the
7 determination.

8 So this hearing will be suspended, and I
9 think that -- we're going to suspend this hearing
10 for about two weeks, and we will contact -- we
11 will contact you to give you a date when it will
12 be rescheduled for. So we'll try to schedule it
13 for the next -- the next available date, but we
14 need to give our investigator an opportunity to
15 investigate this matter and to make a decision.

16 You understand why is it that we are
17 suspending the --

18 MS. ASHETE: Yes.

19 CHAIRMAN ANDERSON: Okay. All right. So
20 we -- so this case is in a suspension status for
21 approximately two weeks, and we'll contact you

1 for the date and time when it will be
2 rescheduled. Okay. Thank you.

3 MS. ASHETE: Thank you.

4 (Recess was taken from 2:58 p.m. to 4:03
5 p.m.)

6 We'll now be discussing the legal agenda.
7 The first matter on the legal agenda is to review
8 a second request for motion reinstatement of
9 protests for Rose Queen Liquors, License
10 No. 06082. I make a motion that we deny this
11 second motion for reinstatement. Is there a
12 second?

13 MR. SHORT: Second.

14 CHAIRMAN ANDERSON: Mr. Short has
15 seconded the motion. Those in favor, say aye.

16 [Chorus of Ayes.]

17 Those opposed.

18 MS. MILLER: Oppose.

19 CHAIRMAN ANDERSON: The matter passes
20 3-1.

21 The second matter on our agenda is review
22 motion for reinstatement of protest dated

1 February 7, 2000, filed by Mike's -- Trinidad
2 Market, License No. 100653. I make a motion that
3 we deny this request. Is there a second?

4 MR. ALBERTI: I second.

5 CHAIRMAN ANDERSON: Mr. Alberti has
6 seconded the motion. Those in favor, say aye.

7 [Chorus of Ayes.]

8 Those opposed.

9 MS. MILLER: Oppose.

10 The matter passes 3-1 with Ms. Miller in
11 opposition.

12 [Whereupon, the above-entitled
13 matter was concluded.]

14
15
16
17
18
19
20
21
22